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ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION ACT, 1999

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THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION ACT, 1999

No. 8 of 1999

ARRANGEMENT OF SECTIONS

Sections

Part I—Preliminary

1—Short title.
2—Interpretation.

Part II—General Principles

3—Entitlement to a clean and healthy environment.

Part III—Administration

The National Environment Council

4—Establishment of the National Environment Council.
5—Functions of the Council.
6—Procedure of the Council.

The Authority

7—Establishment of the National Environment Management Authority.
8—Headquaters.
9—Objects and functions of the Authority.
10—Board of the Authority.
11—Powers of the Authority.
12—Powers in respect of Lead Agencies.
13—Conduct of business and affairs of the Authority.
14—Remuneration of Director General and Directors.
15—Delegation by the Authority.
16—Staff of the Authority.
17—The common seal of the Authority.
18—Protection from personal liability.
19—Liability of the Authority for damages.
20—General Fund.
21—Financial year.
22—Annual estimates.
23—Accounts and audit.
24—National Environment Trust Fund.

Sections

25—National Environment Restoration Fund.
26—Investment of funds and disposal of assets.
27—Annual Financial Report.
28—Deposit Bonds.

Provincial and District Environment Committees

29—Provincial and District Environment Committees.
30—Functions of Provincial and District Environment Committees.
31—Public Complaints Committees.
32—Functions of the Complaints Committee.
33—Powers of the Complaints Committee.
34—Proceedings of the Complaints Committee priviledged.
35—Disclosure of interest.
36—Remuneration and other expenses of the Complaints Committee.

PART IV—ENVIRONMENTAL PLANNING

37—National Environment Action Plan Committee.
38—Provisions of the National Environment Action Plan.
39—Provincial Environment Action Plans.
40—District Environment Action Plans.
41—Contents of Provincial and District Environment Action Plans.

PART V—PROTECTION AND CONSERVATION OF THE ENVIRONMENT

42—Protection of rivers, lakes and wetlands.
43—Protection of traditional interests.
44—Protection of hill tops, hill sides, mountain areas and forests.
45—Identification of hilly and mountaneous areas.
46—Re-forestation and afforestation of hill tops, hill slopes and mountaneous areas.
47—Other measures for management of hill tops, hill sides and mountaneous areas.
48—Protection of forests.
49—Conservation of energy and planting of trees or woodlots.
50—Conservation of biological diversity.
51—Conservation of biological resources *in situ*.
52—Conservation of biological resources *ex situ*.
53—Access to genetic resources of Kenya.
54—Protection of environmentally significant areas.
55—Protection of the coastal zone.
56—Protection of the ozone layer.
57—Fiscal incentives.

Sections

PART VI—ENVIRONMENTAL IMPACT ASSESSMENT

58—Application for an Environmental Impact Assessment Licence.
59—Publication of Environmental Impact Assessment.
60—Comments on Environmental Impact Assessment report by Lead Agencies.
61—Technical Advisory Committee on Environmental Impact Assessment.
62—Further Environmental Impact Assessment.
63—Environmental Impact Licence.
64—Submission of fresh Environmental Impact Assessment report after Environmental Impact Assessment License issued.
65—Transfer of Environmental Impact Assessment Licence.
66—Protection in respect of an Environmental Impact Assessment Licence.
67—Revocation, suspension or cancellation of Environmental Impact Assessment Licence.

PART VII—ENVIRONMENTAL AUDIT AND MONITORING

68—Environmental audit.
69—Environmental monitoring.

PART VIII—ENVIRONMENTAL QUALITY STANDARDS

70—Establishment of Standards and Enforcement Review Committee.
71—Functions of Standards and Enforcement Review Committee.
72—Water pollution prohibition.
73—Duty to supply plant information to the Authority.
74—Effluents to be discharged only into sewerage system.
75—Licence to discharge effluents.
76—Cancellation of effluent discharge licence.
77—Register of effluent discharge licences.
78—Air quality standards.
79—Controlled areas.
80—Licensing emissions.
81—Issue of emission licence.
82—Emissions by motor vehicles and other conveyances.
83—Additional licensing procedures.
84—Cancellation of emission licence.
85—Register of emission of licences.
86—Standards for waste.
87—Prohibition against dangerous handling and disposal of wastes.

Sections

88—Application for waste licences.
89—Licences for existing wastes disposal sites and plants.
90—Court Orders to cease operation.
91—Hazardous Wastes.
92—Regulations of toxic and hazardous materials etc.
93—Prohibition of discharge of hazardous substances, chemicals and materials or oil into the environment and spiller's liability.
94—Standards of pesticides and toxic substances.
95—(*Repealed*).
96—(*Repealed*).
97—Registration of pesticides and toxic substances.
98—Offences relating to pesticides and toxic substances.
99—Seizure of pesticides and toxic substances.
100—Regulations regarding registration of pesticides and toxic substances.
101—Standards for noise.
102—Noise in excess of established standards prohibited.
103—Exemptions in respect of noise standards.
104—(*Repealed*).
105—(*Repealed*).
106—(*Repealed*).
107—(*Repealed*).

PART IX—ENVIRONMENTAL RESTORATION ORDERS, ENVIRONMENTAL CONSERVATION ORDERS AND ENVIRONMENTAL EASEMENTS

108—Issue of environmental restoration orders.
109—Contents of environmental restoration orders.
110—Reconsideration of environmental restoration order.
111—Issue of environmental restoration order by a court.
112—Environmental easements and environmental conservation orders.
113—Application to court for environmental easement.
114—Enforcement of environmental easements.
115—Registration of environmental easements.
116—Compensation for environmental easements.

PART X—INSPECTION, ANALYSIS AND RECORDS

117—Appointment of Environmental Inspectors.
118—Environmental Inspector's powers to prosecute.
119—Procedures for laboratories analysis of samples.
120—Certificate of analysis and its effect.
121—Records to be kept.
122—Transmission of records to the Authority.
123—Public Access to records transmitted to the Authority.

Sections

PART XI—INTERNATIONAL TREATIES, CONVENTIONS AND AGREEMENTS

124—Conventions, agreements and treaties on environment.

PART XII—NATIONAL ENVIRONMENT TRIBUNAL

125—Establishment of the National Environment Tribunal.
126—Proceedings of the Tribunal.
127—Awards of the Tribunal.
128—Quorum for determination by Tribunal.
129—Appeals to the Tribunal.
130—Appeals to the High Court.
131—Power to appoint Environment Assessors.
132—Power to seek the directions of the Tribunal in complex matters, etc.
133—Immunity.
134—Remuneration of members of Tribunal.
135—Appointment of a Secretary to the Tribunal.
136—Powers to establish other Tribunals.

PART XIII—ENVIRONMENTAL OFFENCES

137—Offences relating to inspection.
138—Offences relating to Environmental Impact Assessment.
139—Offences relating to records.
140—Offences relating to standards.
141—Offences relating to hazardous wastes, materials, chemicals and radioactive substances.
142—Offences relating to pollution.
143—Offences relating to environmental restoration orders, easements, and conservation orders.
144—General Penalty.
145—Offences by bodies corporate, Partnerships, Principals and Employers.
146—Forfeiture, cancellation and other orders.
147—Power to make regulations.
148—Existing laws relative to the environment.

FIRST SCHEDULE

SECOND SCHEDULE

THIRD SCHEDULE

THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION ACT, 1999

6 of 2006,
17 of 2006,
5 of 2007,
6 of 2009.

No. 8 of 1999

Date of Assent: *6th January, 2000*

Commencement: *14th January, 2000*

AN ACT of Parliament to provide for the establishment of an appropriate legal and institutional framework for the management of the environment and for matters connected therewith and incidental thereto

WHEREAS it is desirable that a framework environmental legislation be promulgated so as to establish an appropriate legal and institutional framework for the management of the environment;

AND WHEREAS it is recognised that improved legal and administrative co-ordination of the diverse sectoral initiatives is necessary in order to improve the national capacity for the management of the environment;

AND WHEREAS the environment constitutes the foundation of national economic, social, cultural and spiritual advancement;

NOW THEREFORE BE IT ENACTED by the Parliament of Kenya, as follows:—

PART I—PRELIMINARY

Short title.

1. This Act may be cited as the Environmental Management and Co-ordination Act, 1999.

Interpretation.

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

"air quality" means the concentration prescribed under or pursuant to this Act of a pollutant in the atmosphere at the point of measurement;

"ambient air" means the atmosphere surrounding the earth but does not include the atmosphere within a structure or within any underground space;

"analysis" means the testing or examination of any matter, substance or process for the purpose of determining its composition or qualities or its effect (whether physical, chemical or biological) on any segment of the environment or examination of emissions or recording of noise or sub-sonic vibrations to determine the level or other characteristics of the noise or sub-sonic vibration or its effect on any segments of the environment;

"Analyst" means an analyst appointed or designated under section 119;

"annual report on the state of the environment" means the report prepared and issued under section 9;

"Authority" means the National Environment Management Authority established under section 7;

"beneficial use" means a use of the environment or any element or segment of the environment that is conducive to public health, welfare or safety and which requires protection from the effects of wastes, discharges, emissions and deposits;

"benefited environment" means that environment which has benefited through the imposition of one or more obligations on the burdened land;

"biological diversity" means the variability among living organisms from all sources including, terrestrial ecosystems, aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, among species, and of ecosystems;

"biological resources" include genetic resources organisms or parts thereof, populations, or any other biotic component or ecosystems with actual or potential use or value for humanity;

"burdened land" means any land upon which an environmental easement has been imposed;

"chemical" means a chemical substance in any form whether by itself or in a mixture or preparation, whether manufactured or derived from nature and for the purposes of this Act includes industrial chemicals, pesticides, fertilizers and drugs;

"coastal zone" means any area declared to be a protected coastal zone under section 55;

Cap. 371.

"Continental Shelf" means the exclusive economic zone established under section 4 of the Maritime Zones Act;

"controlled area" means any area designated as such by the Minister under this Act;

"Deposit Bond" means a deposit bond paid under section 28;

"developer" means a person who is developing a project which is subject to an environmental impact assessment process under this Act;

"Director" means a Director appointed under section 10;

"Director-General" means the Director-General of the Authority appointed under section 10;

"District Environment Action Plan" means the District Environment Action Plan prepared under section 40;

"District Environment Committee" means the District Environment Committee appointed under section 29;

"ecosystem" means a dynamic complex of plant, animal, micro-organism communities and their non-living environment interacting as a functional unit;

"effluent" means gaseous waste, water or liquid or other fluid of domestic, agricultural, trade or industrial origin treated or untreated and discharged directly or indirectly into the aquatic environment;

"element" in relation to the environment means any of the principal constituent parts of the environment including water, atmosphere, soil, vegetation, climate, sound, odour, aesthetics, fish and wildlife;

"environment" includes the physical factors of the surroundings of human beings including land, water, atmosphere, climate, sound, odour, taste, the biological factors of animals and plants and the social factor of aesthetics and includes both the natural and the built environment;

"environmental audit" means the systematic, documented, periodic and objective evaluation of how well environmental organisation, management and equipment are performing in conserving or preserving the environment;

"environmental easement" means an easement imposed under section 112;

"environmental education" includes the process of recognising values and clarifying concepts in order to develop skills and attitudes

necessary to understand and appreciate the inter-relatedness among man, his culture and his biophysical surroundings;

"environmental impact assessment" means a systematic examination conducted to determine whether or not a program, activity or project will have any adverse impacts on the environment;

"Environmental Inspector" means any environmental inspector appointed or designated under section 117;

"environmental management" includes the protection, conservation and sustainable use of the various elements or components of the environment;

"environmental monitoring" means the continuos or periodic determination of actual and potential effects of any activity or phenomenon on the environment whether short-term or long term;

"environmental planning" means both long-term and short-term planning that takes into account environmental exigencies;

"environmental resources" includes the resources of the air, land, flora, fauna and water together with their aesthetical qualities;

"environmental restoration order" means an order issued under section 108;

"environmentally friendly" includes any phenomenon or activity that does not cause harm or degradation to the environment;

"*ex-situ* conservation" means conservation outside the natural ecosystem and habitat of the biological organism;

"exclusive economic zone" means the exclusive economic zone established and delimited under section 4 of the Maritime Zones Act; Cap. 371.

"financial year" means the period of twelve months ending on the thirtieth June in every year;

"General Fund" means the General Fund established under section 20;

"genetic resources" means genetic material of actual or potential value;

"good environmental practice" means practice that is in accordance with the provisions of this Act or any other relevant law;

"hazardous substance" means any chemical, waste, gas, medicine, drug, plant, animal or microorganism which is likely to be injurious to human health or the environment;

"hazardous waste" means any waste which has been determined by the Authority to be hazardous waste or to belong to any other category of waste provided for in section 91;

"*in-situ* conservation" means conservation within the natural ecosystem and habitat of the biological organism;

"intergenerational equity" means that the present generation should ensure that in exercising its rights to beneficial use of the environment the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations;

"intragenerational equity" means that all people within the present generation have the right to benefit equally from the exploitation of the environment, and that they have an equal entitlement to a clean and healthy environment;

"lead agency" means any Government ministry, department, parastatal, state corporation or local authority, in which any law vests functions of control or management or any element of the environment or natural resource;

"local authority" has the meaning assigned to it in section 2 of the Local Government Act; Cap. 265.

"Minister" means the Minister for the time being responsible for matters relating to the environment;

"mixture containing oil" means a mixture of substances or liquids with such oil content as may be specified under this Act or, if such oil content is not specified, a mixture with an oil content of one hundred parts or more in one million parts of the mixture;

"National Council of Non-Governmental Organisations" means the Council established by section 23 of the Non-Governmental Organizations Co-ordination Act, 1990; No. 19 of 1990.

"National Environment Action Plan" means the plan referred to in section 37;

"natural resources" include resources of the air, land, water, animals and plants including their aesthetic qualities;

"noise" means any undesirable sound that is intrinsically objectionable or that may cause adverse effects on human health or the environment;

"occupational air quality" means the concentration prescribed under or pursuant to this Act of a substance or energy in the atmosphere within a structure or under-ground space in which human activities take place;

"occupier" means a person in occupation or control of premises, and in relation to premises different parts of which are occupied by different persons, means the respective persons in occupation or control of each part;

"oil" includes—

(*a*) crude oil, refined oil, diesel oil, fuel oil and lubricating oil; and

(*b*) any other description of oil which may be prescribed;

"owner" in relation to any premises means—

(*a*) the registered proprietor of the premises;

(*b*) the lessee, including a sub-lessee of the premises;

(*c*) the agent or trustee of any other owners described in paragraphs (*a*) and (*b*) of this interpretation section or where such owner as described in paragraphs (*a*) and (*b*) cannot be traced or has died, his legal personal representative;

(*d*) the person for the time being receiving the rent of the premises whether on his own account or as agent or trustee for any other person or as receiver or who would receive the rent if such premises were let to a tenant; and

in relation to any ship means the person registered as the owner of the ship or in the absence of registration, the person owning the ship; except that in the case of a ship owned by any country and operated by a company which in that country is registered as the ship's operator, "owner" shall include such country and the master of the ship;

"ozone layer" means the layer of the atmospheric zone above the planetary boundary layer as defined in the Vienna Convention for the Protection of the Ozone Layer, 1985;

"pollutant" includes any substance whether liquid, solid or gaseous which—

(*a*) may directly or indirectly alter the quality of any element of the receiving environment;

(*b*) is hazardous or potentially hazardous to human health or the environment; and

includes objectionable odours, radio-activity, noise, temperature change or physical, chemical or biological change to any segment or element of the environment;

"polluter-pays principle" means that the cost of cleaning up any element of the environment damaged by pollution, compensating victims of pollution, cost of beneficial uses lost as a result of an act of pollution and other costs that are connected with or incidental to the foregoing, is to be paid or borne by the person convicted of pollution under this Act or any other applicable law;

"pollution" means any direct or indirect alteration of the physical, thermal, chemical, biological, or radio-active properties of any part of the environment by discharging, emitting, or depositing wastes so as to affect any beneficial use adversely, to cause a condition which is hazardous or potentially hazardous to public health, safety or welfare, or to animals, birds, wildlife, fish or aquatic life, or to plants or to cause contravention of any condition, limitation, or restriction which is subject to a licence under this Act;

"practicable" means reasonably practicable having regard, among other things, to local conditions and knowledge and the term "practicable means" include the provision and the efficient maintenance of plants and the proper use thereof, and the supervision by or on behalf of the occupier of any process or operation;

"precautionary principle" is the principle that where there are threats of damage to the environment, whether serious or irreversible, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation;

"premises" include mesuages, buildings, lands, and hereditaments in every tenure and machinery, plant or vehicle used in connection with any trade carried on at any premises;

"project" includes any project, program or policy that leads to projects which may have an impact on the environment;

"project report" means a summary statement of the likely environmental effects of a proposed development referred to in section 58;

"proponent" means a person proposing or executing a project, program or an undertaking specified in the Second Schedule;

"proprietary information" means information relating to any manufacturing process, trade secret, trade mark, copyright, patent or formula protected by law in Kenya or by any international treaty to which Kenya is a party;

"Provincial Director of Environment" means the Provincial Director of Environment appointed under section 16;

"Provincial Environment Committee" means the Provincial Environment Committee appointed under section 29;

"Public Complaints Committee" means the Public Complaints Committee established under section 31;

"radiation" includes ionising radiation and any other radiation likely to have adverse effects on human health and the environment;

"regional development authority" means a regional development authority established by an Act of Parliament;

"regulations" mean regulations made under this Act;

"Restoration Fund" means the National Environment Restoration Fund established under section 25;

"segment" in relation to the environment means any portion or portions of the environment expressed in terms of volume, space, area, quantity, quality or time or any combination thereof;

"ship" includes every description of vessel or craft or floating structure;

"soil" includes earth, sand, rock, shales, minerals, vegetation, and the flora and fauna in the soil and derivatives thereof such as dust;

"standard" means the limits of discharge or emissions established under this Act or under regulations made pursuant to this Act or any other written law;

"sustainable development" means development that meets the needs of the present generation without compromising the ability of future generations to meet their needs by maintaining the carrying capacity of the supporting ecosystems;

"sustainable use" means present use of the environment or natural resources which does not compromise the ability to use the same by future generations or degrade the carrying capacity of supporting ecosystems;

"territorial waters" means territorial waters provided for under section 3 of the Maritime Zones Act; Cap. 371.

"trade" means any trade, business or undertaking whether originally carried on at fixed premises or at varying places which may result in the discharge of substances and energy and includes any activity prescribed to be a trade, business or undertaking for the purposes of this Act;

"Tribunal" means the National Environment Tribunal established under section 125;

"Trust Fund" means the National Environment Trust Fund established under section 24;

"waste" includes any matter prescribed to be waste and any matter whether liquid, solid, gaseous or radioactive, which is discharged, emitted or deposited in the environment in such volume, composition or manner likely to cause an alteration of the environment;

"water" includes drinking water, river, stream, water-course, reservoir, well, dam, canal, channel, lake swamp, open drain, or underground water;

"wetland" means areas permanently or seasonally flooded by water where plants and animals have become adapted.

Part II—General Principles

Entitlement to a clean and healthy environment.

3. (1) Every person in Kenya is entitled to a clean and healthy environment and has the duty to safeguard and enhance the environment.

(2) The entitlement to a clean and healthy environment under subsection (1) includes the access by any person in Kenya to the various public elements or segments of the environment for recreational, educational, health, spiritual and cultural purposes.

(3) If a person alleges that the entitlement conferred under subsection (1) has been, is being or is likely to be contravened in relation to him, then without prejudice to any other action with respect to the same matter which is lawfully available, that person may apply to the High Court for redress and the High Court may make such orders, issue such writs or give such directions as it may deem appropriate to—

(*a*) prevent, stop or discontinue any act or omission deleterious to the environment;

(*b*) compel any public officer to take measures to prevent or discontinue any act or omission deleterious to the environment;

(*c*) require that any on-going activity be subjected to an environment audit in accordance with the provisions of this Act;

(*d*) compel the persons responsible for the environmental degradation to restore the degraded environment as far as practicable to its immediate condition prior to the damage; and

(*e*) provide compensation for any victim of pollution and the cost of beneficial uses lost as a result of an act of pollution and other losses that are connected with or incidental to the foregoing.

(3) A person proceeding under subsection (3) of this section shall have the capacity to bring an action notwithstanding that such a person cannot show that the defendant's act or omission has caused or is likely to cause him any personal loss or injury provided that such action—

(*a*) is not frivolous or vexatious; or

(*b*) is not an abuse of the court process.

(5) In exercising the jurisdiction conferred upon it under subsection (3), the High Court shall be guided by the following principles of sustainable development;

(*a*) the principle of public participation in the development of policies, plans and processes for the management of the environment;

(*b*) the cultural and social principles traditionally applied by any community in Kenya for the management of the environment

or natural resources in so far as the same are relevant and are not repugnant to justice and morality or inconsistent with any written law;

(*c*) the principle of international co-operation in the management of environmental resources shared by two or more states;

(*d*) the principles of intergenerational and intragenerational equity;

(*e*) the polluter-pays principle; and

(*f*) the pre-cautionary principle.

PART III—ADMINISTRATION

The National Environment Council

Establishment of the National Environment Council.

4. (1) There is established a council to be known as the National Environment Council (hereinafter referred to as the "Council") which shall consist of—

(*a*) the Minister who shall be the chairman;

(*b*) the Permanent Secretaries in the Ministries for the time being responsible for the matters specified in the First Schedule;

(*c*) two representatives of public universities in Kenya to be appointed by the Minister;

(*d*) two representatives of specialised research institutions in Kenya to be appointed by the Minister;

(*e*) three representatives of the business community, to be appointed by the Minister, one of whom shall be a representative of oil marketing companies;

(*f*) two representatives of Non-Governmental organisations active in the environmental field to be appointed by the Minister;

(*g*) the Director-General who shall be the secretary; and

(*h*) such number of other members as may, from time, be co-opted by the Minister to be members of the Council;

(2) Every appointment under paragraph (*f*) of subsection (1) shall

be made from a list of nominees submitted by the Non-Governmental Organizations Council.

(3) Every appointment under paragraphs (*c*), (*d*), (*e*), (*f*) and (*h*) of subsection (1) shall be by name and by notice in the Gazette and shall be for a renewable period of three years, but shall cease if the appointee—

(*a*) Serves the Minister with a written notice of resignation; or

(*b*) is absent from three consecutive meetings of the Council without the permission of the Minister; or

(*c*) is convicted of an offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding ten thousand shillings; or

(*d*) is incapacitated by prolonged physical or mental illness from performing his duties as a member of the Council; or

(*e*) conducts himself in a manner deemed by the Minister, in consultation with the Council, to be inconsistent with membership of the Council; or

(*f*) is adjudged bankrupt or has entered into a scheme or arrangement with his creditors.

Functions of the Council.

5. The Council shall—

(*a*) be responsible for policy formulation and directions for purposes of this Act;

(*b*) set national goals and objectives and determine policies and priorities for the protection of the environment;

(*c*) promote co-operation among public departments, local authorities, private sector, Non-Governmental Organisations and such other organisations engaged in environmental protection programmes; and

(*d*) perform such other functions as are assigned under this Act.

Procedure of the Council.

6. (1) The Council shall meet at least four times in every financial year, at such place as it may deem appropriate for the transaction of its business.

(2) TheMinister shall preside at all meetings of the Council but in his absence a person appointed by him shall preside on his behalf

at such a meeting.

(3) The secretary to the Council shall prepare and keep all the records of the business conducted at the meetings of the Council.

(4) The powers of the Council shall not be affected by any vacancy in the membership thereof nor by any defect in the appointment of a person purporting to be a member of the Council.

(5) Subject to this section, the Council shall regulate its own procedure.

The Authority

Establishment of the National Environment Management Authority.

7. (1) There is established an Authority to be known as the National Environment Management 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, charging and disposing of movable and immovable property;

(*c*) borrowing money;

(*d*) entering into contracts; and

(*e*) doing or performing all such other things or acts for the proper administration of this Act, which may lawfully be performed by a body corporate.

Headquaters.

8. The Headquaters of the Authority shall be in Nairobi.

Objects and functions of the Authority.

9. (1) The object and purpose for which the Authority is established is to exercise general supervision and co-ordination over all matters relating to the environment and to be the principal instrument of Government in the implementation of all policies relating to the environment.

(2) Without prejudice to the generality of the foregoing, the Authority shall—

(*a*) co-ordinate the various environmental management activities being undertaken by the lead agencies and

promote the integration of environmental considerations into development policies, plans, programmes and projects with a view to ensuring the proper management and rational utilization of environmental resources on a sustainable yield basis for the improvement of the quality of human life in Kenya;

(*b*) take stock of the natural resources in Kenya and their utilisation and conservation;

(*c*) establish and review in consultation with the relevant lead agencies, land use guidelines;

(*d*) examine land use patterns to determine their impact on the quality and quantity of natural resources;

(*e*) carry out surveys which will assist in the proper management and conservation of the environment;

(*f*) advise the Government on legislative and other measures for the management of the environment or the implementation of relevant international conventions, treaties and agreements in the field of environment, as the case may be;

(*g*) advise the Government on regional and international environmental conventions, treaties and agreements to which Kenya should be a party and follow up the implementation of such agreements where Kenya is a party;

(*h*) undertake and co-ordinate research, investigation and surveys in the field of environment and collect, collate and disseminate information about the findings of such research, investigation or survey;

(*i*) mobilise and monitor the use of financial and human resources for environmental management;

(*j*) identify projects and programmes or types of projects and programmes, plans and policies for which environmental audit or environmental monitoring must be conducted under this Act;

(*k*) initiate and evolve procedures and safeguards for the prevention of accidents which may cause environmental degradation and evolve remedial measures where accidents occur;

(*l*) monitor and assess activities, including activities being carried out by relevant lead agencies, in order to ensure that the environment is not degraded by such activities, environmental management objectives are adhered to and adequate early warning on impending environmental emergencies is given;

(*m*) undertake, in co-operation with relevant lead agencies, programmes intended to enhance environmental education and public awareness about the need for sound environmental management as well as for enlisting public support and encouraging the effort made by other entities in that regard;

(*n*) publish and disseminate manuals, codes or guidelines relating to environmental management and prevention or abatement of environmental degradation;

(*o*) render advice and technical support, where possible, to entities engaged in natural resources management and environmental protection so as to enable them to carry out their responsibilities satisfactorily;

(*p*) prepare and issue an annual report on the state of the environment in Kenya and in this regard may direct any lead agency to prepare and submit to it a report on the state of the sector of the environment under the administration of that lead agency;

(*q*) perform such other functions as the Government may assign to the Authority or as are incidental or conducive to the exercise by the Authority of any or all of the functions provided under this Act.

(3) The Minister shall lay every annual report on the state of the environment prepared under subsection (2) (*p*) before the National Assembly as soon as reasonably practicable after its publication where the National Assembly is in session, or where not in session, within twenty-one days of the day the National Assembly next sits after such publication.

Board of the Authority.

10. (1) The Authority shall be managed by a Board, which shall consist of—

(*a*) a chairman appointed by the President;

(*b*) the Permanent Secretary of the Ministry for the time being responsible for matters relating to the Authority or an officer

of that Ministry designated in writing by the Permanent Secretary;

(*c*) a Director-General appointed by the President;

(*d*) three Directors who shall be officers of the Authority;

(*e*) seven members, not being public officers, appointed by the Minister in consultation with the Council; and

(*f*) the Secretary to the Board, who shall be appointed by the Authority.

(2) No person shall be appointed under subsections (1) (*a*), (*c*), (*d*) or (*e*) unless such person holds at least a post-graduate degree from a recognized university in the fields of environmental law, environmental science, natural resource management or a relevant social science and in the case of the Director-General, has at least fifteen years' working experience in the relevant field.

(3) The members referred to under subsection (1) (*a*) and (*e*) shall be appointed at different times so that the respective expiry dates of their terms of office shall fall at different times.

(4) The members appointed under paragraphs (*a*), (*c*) and (*e*) of subsection (1) shall hold office for a term of four years and shall be eligible for reappointment for one further term of four years.

(5) The Board shall elect a Vice-Chairman from among the members appointed under paragraph (*e*) of subsection (1).

(6) The Board shall meet at least four times in every financial year.

(7) The Chairman shall preside at every meeting of the Board at which he is present, but in his absence the Vice-Chairman shall preside, and in his absence, the members present shall elect one of their number who shall, in respect to that meeting and the business transacted thereat have all the powers of the Chairman.

(8) Unless a unanimous decision is reached, a decision on any matter before the Board shall be by a majority of votes of the members present and in the case of an equality of votes, the chairman or person presiding shall have a casting vote.

(9) The quorum for the transaction of the business of the Board shall be seven members including the person presiding; and all acts, matters or things authorised or required to be done by the Board, shall

be effected by a resolution passed by a majority of the members present and voting.

(10) The Secretary to the Board shall not be entitled to vote on any matter before the Board.

(11) The appointment of a member of the Board may be terminated by the appointing authority where the member—

(*a*) is adjudged bankrupt or enters into a composition or scheme of arrangement with his creditors;

(*b*) is convicted of an offence and sentenced to imprisonment for a term of six months or more without the option of a fine;

(*c*) is incapacitated by prolonged physical or mental illness from performing his duties as a member of the Board; or

(*d*) becomes, for any reason, incapable or incompetent of properly performing the functions of his office.

(12) Where a member of the Board dies or resigns or otherwise vacates office before the expiry of his term of office, the appointing authority shall appoint another person in the place of such member.

(13) Where the Director-General is unable to perform the functions of his office due to any temporary incapacity which is likely to be prolonged, the President may appoint a substitute therefor to act with the full powers of the Director-General until such time as the President determines that the incapacity has ceased.

(14) (*a*) The Director-General shall be the chief executive of the Authority and shall subject to this Act, be responsible for the day to day management of the affairs of the Authority;

(*b*) A Director shall perform such functions as are conferred by this Act and such additional duties as may be assigned by the Director-General;

(*c*) The Director-General and the Directors of the Authority shall be paid such salaries and allowances as may, from time to time, be determined by the President.

(15) Subject to subsections (6), (7), (8) and (9) the Board shall regulate its own procedure.

Powers of the Authority.

11. The Authority shall have all powers necessary for the proper performance of its functions under this Act and in particular, but without

prejudice to the generality of the forgoing, the Authority shall have power to—

(*a*) control, supervise and administer the assets of the Authority in such manner as best promotes the purpose for which the Authority is established;

(*b*) determine the provisions to be made for capital and recurrent expenditure and for reserves of the Authority;

(*c*) receive any grants, gifts, donations or endowments and make legitimate disbursements therefrom;

(*d*) enter into association with other bodies or organisations within or outside Kenya as the Authority may consider desirable or appropriate and in furtherance of the purpose for which the Authority is established;

(*e*) open a banking account or banking accounts for the funds of the Authority; and

(*f*) invest any funds of the Authority not immediately required for its purposes in the manner provided in section 26.

Powers in respect of lead agencies.

12. The Authority may after giving reasonable notice of its intention so to do, directly lead agency to perform, within such time and in such manner as it shall specify, any of the duties imposed upon the lead agency by or under this Act or any other written law, in the field of environment and if the lead agency fails to comply with such directions, the Authority may itself perform or cause to be performed the duties in question, and the expense incurred by it in so doing shall be a civil debt recoverable by the Authority from the lead agency.

Conduct of business and affairs of the Authority.

13. (1) Subject to this Act, the Authority shall regulate its own procedure.

Remuneration of Director-General and Directors.

14. The Authority shall pay the Director-General and the Directors such salaries and allowances as may, from time to time, be determined by the President, but those salaries and allowances shall not be altered to their detriment during their term of office.

Delegation by the Authority.

15. Subject to this Act, the Authority may, by resolution either generally or in any particular case, delegate to any committee of the Authority or to any member, officer, employee or agent of the Authority, the exercise of any of the powers or the performance of any of the functions or duties of the Authority under this Act.

Staff of the Authority.

16. The Authority may appoint such officers or other staff of the Authority as are necessary for the proper discharge of its functions under this Act or any other written law, upon such terms and conditions of service as the Authority may determine.

The common seal of the Authority.

17. The common seal of the authority shall be kept in such custody as the Authority may direct and shall not be used except on the order of the Authority.

Protection from personal liability.

18. No matter or thing done by a member of the Authority 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 or any person acting on his directions personally liable to any action, claim or demand whatsoever.

Liability of the Authority for damages.

19. The provisions of section 18 shall not relieve the Authority 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 the powers conferred on the Authority by this Act or by any other written law or by the failure, whether wholly or partially, or any works.

General Fund.

20. (1) There shall be a general fund of the Authority which shall vest in the Authority.

(2) There shall be paid into the general fund—

(*a*) Such monies or assets as may accrue to or vest in the Authority in the course of the exercise of its powers or the performance of its functions under this Act;

(*b*) Such sums as may be granted to the Authority by the Minister pursuant to subsection (3); and

(*c*) all monies from any other source provided for or donated or lent to the Authority.

(3) There shall be made to the Authority out of monies provided by Parliament for that purpose, grants towards the expenditure incurred by the Authority in the exercise of its powers or the performance of its functions under this Act.

(4) There shall be paid out of the general fund all sums required to defray the expenditure incurred by the Authority in the exercise, discharge and performance of its objectives, functions and duties.

Financial year.

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

Annual estimates.

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

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

(*a*) the payment of the salaries, allowances and other charges in respect of the staff of the Authority;

(*b*) the payment of pensions, gratuities and other charges in respect of the staff of the Authority;

(*c*) the proper maintenance of the buildings and grounds of the Authority;

(*d*) the maintenance, repair and replacement of the equipment and other property of the Authority; and

(*e*) the creation of such reserve funds to meet future contingent liabilities in respect of retirement benefits, insurance or replacement of buildings or equipment, or in respect of such other matter as the Authority may deem appropriate.

(3) The annual estimates shall be approved by the Authority 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 Authority shall not increase the annual estimates without the consent of the Minister.

Accounts and audit.

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

(2) Within a period of four months from the end of each financial year, the Authority shall submit to the Auditor-General (Corporation) 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 statement of the assets and liabilities 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 sections 29 and 30A of the Exchequer and Audit Act, by the Auditor-General (Corporations), or by an auditor appointed by the Authority with the approval of the Auditor-General (Corporations) given in accordance with section 29 (2) (*b*) of the Exchequer and Audit Act. Cap. 412.

24. (1) There is hereby established a fund to be known as the National Environment Trust Fund, (hereinafter referred to as the "Trust Fund"). National Environment Trust Fund.

(2) The Trust Fund shall consist of—

(*a*) such sums of money as may be received by the Trust Fund in the form of donations, endowments, grants and gifts from whatever source and specifically designated for the Trust Fund;

(*b*) such sums of money or other assets as may be specifically designated to the Trust Fund by the Authority out of its General Fund.

(3) The Trust Fund shall be vested in the Authority and, subject to this Act, shall be administered by a Board of five Trustees to be appointed by the Minister by a notice in the Gazette on such terms and conditions as he deems fit. The trustees shall be persons holding at least post-graduate degree from a recognised university in the fields of environmental law, economics, environmental science or natural resource management at the time of their appointment.

(4) The object of the Trust Fund shall be to facilitate research intended to further the requirements of environmental management, capacity building, environmental awards, environmental publications, scholarships and grants.

(5) The Board of Trustees may, on the recommendation of the Council, determine that certain donations to the Trust Fund shall be applied specifically and reserved only for prizes and awards for exemplary services to the environment. Such prizes and awards shall be applied by the recipient exclusively to the management of the environment.

25. (1) There is hereby established a fund to be known as the National Environment Restoration Fund, (hereinafter referred to as "The Restoration Fund"). National Environment Restoration Fund.

(2) The Restoration Fund shall consist of:—

(*a*) such proportion of fees or deposit bonds as may be determined by the Authority from time to time;

(*b*) such sums as may be donated or levied from industries and other projects proponents as a contribution towards the Restoration Fund.

(3) The Restoration Fund shall be vested in the Authority and, subject to this Act, shall be administered by the Director-General.

(4) The object of the Restoration Fund shall be as supplementary insurance for the mitigation of environmental degradation where the perpetrator is not identifiable or where exceptional circumstances require the Authority to intervene towards the control or mitigation of environmental degradation.

(5) The Minister may, by notice in the Gazette, issue orders for the levying of funds from project proponents towards the Restoration Fund.

Investment of funds and disposal of assets.

26. (1) Subject to this Act, the Authority may, invest any of its funds in securities in which trustees may, for the time being, invest trust funds or in any other securities which the Treasury may, from time to time, approve for that purpose.

(2) Subject to this Act, the Authority may place on deposit with such bank or banks as it may determine, any moneys not immediately required for its purposes.

(3) The assets of the Authority may be disposed of:—

(*a*) if they are current assets, in the normal course of business carried on by the Authority;

(*b*) where the disposal and the utilization of the proceeds have been taken into account in an annual estimate prepared and approved in accordance with section 22;

(*c*) by way of sale or otherwise with the approval of the Minister and the Treasury where such disposal has not been taken into account in the estimates.

Annual Financial Report.

27. (1) As soon as practicable and not later than three months after the expiry of the financial year, the Director-General shall submit to the Council a financial report concerning the activities of the Authority during such financial year.

(2) The Report of the Director-General under subsection (1) shall include information on the financial affairs of the Authority and shall be appended to the Report:—

(*a*) An audited statement of income and expenditure of the previous financial year;

(*b*) Estimates of income and expenditure of the Authority for the next ensuing financial year.

(3) The Minister shall not later than fourteen days after the sitting of the National Assembly next after receipt of the Report referred to in subsection (1) lay it before the National Assembly.

Deposit Bonds.

28. (1) The Authority shall create a register of those activities and industrial plants and undertakings which have or are most likely to have significant adverse effects on the environment when operated in a manner that is not in conformity with good environmental practices.

(2) The Minister responsible for finance may, on the recommendations of the Council, prescribe that persons engaged in activities or operating industrial plants and other undertakings identified under subsection (1) pay such deposit bonds as may constitute appropriate security for good environmental practice.

(3) The deposit bond determined in accordance with subsection (2) shall be refunded to the operator of the activity, industrial plant or any other undertaking by the Authority after such duration not exceeding twenty-four months without interest where the operator has observed good environmental practices to the satisfaction of the Authority.

(4) The Authority may, after giving the operator an opportunity to be heard, confiscate a deposit bond where the operator is responsible for environmental practice that is in breach of the provisions of this Act, and the Authority may in addition cancel any license issued to the operator under this Act if the Authority is satisfied that the operator has become a habitual offender.

(5) Where an operator is dissatisfied with the confiscation of his deposit bond under this Act, he may refer the matter to a competent court of law.

(6) The proceeds of every refundable deposit bond levied under this section shall be paid into the Restoration Fund and shall be treated as part of the Restoration Fund until refunded to the depositor subject to subjection (3) or confiscated by the Authority.

(7) Any interest accruing from monies deposited into the Restoration Fund under this section shall be for the benefit of the Authority.

Provincial and District Environment Committees

Provincial and District Environment Committees.

29. (1) The Minister shall by notice in the Gazette, appoint Provincial and District Environment Committees of the Authority in respect of every province and district respectively.

(2) Every Provincial Environment Committee shall consist of—

(*a*) the Provincial Commissioner of the Province who shall be the Chairman;

(*b*) the Provincial Director of Environment of the Province who shall be the Secretary;

(*c*) one representative each of the Ministries responsible for the matters specified in the First Schedule at the provincial level;

(*d*) a representative of every local authority whose area of jurisdiction falls wholly or partly within the province;

(*e*) two representatives of farmers or pastoralists within the province to be appointed by the Minister;

(*f*) two representatives of the business community operating within the concerned Province appointed by the Minister;

(*g*) two representatives of the non-governmental organisations engaged in environmental management programmes within the province appointed by the Minister in consultation with the National Council of Non-Governmental Organisations; and

(*h*) a representative of every regional development authority whose area of jurisdiction falls wholly or partially within the province.

(3) Every District Environment Committee shall consist of—

(*a*) the District Commissioner of the district who shall be the chairman;

(*b*) the District Environment Officer of the district who shall

be the secretary;

(*c*) one representative each of the Ministries for the time being responsible for the matters specified in the First Schedule at the district level;

(*d*) a representative of every local authority whose area of jurisdiction falls wholly or partially within the district;

(*e*) four representatives of farmers, women, youth and pastoralists within the district, to be appointed by the Minister;

(*f*) two representatives of the business community in the district to be appointed by the Minister;

(*g*) two representatives of the non-governmental organisations engaged in environmental management programmes, operating in the district, to be appointed by the Minister in consultation with the National Council of Non-Governmental Organisation; and

(*h*) two representatives of the community-based organisations engaged in environmental programmes operating in the district, to be appointed by the Minister.

Functions of Provincial and District Environment Committees.

30. The Provincial and District Environment Committees shall—

(*a*) be responsible for the proper management of the environment within the province or district in respect of which they are appointed;

(*b*) perform such additional functions as are prescribed by this Act or as may, from time to time, be assigned by the Minister by notice in the Gazette.

Public Complaints Committees.

31. (1) There is hereby established a committee of the Authority to be known as the Public Complaints Committee (hereinafter referred to as "the Complaints Committee") which shall consist of—

(*a*) a chairman appointed by the Minister and who shall be a person qualified for appointment as a judge of the High Court of Kenya;

(*b*) a representative of the Attorney-General;

(*c*) a representative of the Law Society of Kenya;

(*d*) a representative of non-governmental organisations appointed by the National Council of Non-Governmental Organisations and who shall be the secretary of the Complaints Committee;

(*e*) a representative of the business community appointed by the Minister;

(*f*) two members appointed by the Minister for their active role in environmental management.

(2) The members of the Complaints Committee, other than the members appointed under subsection (1) (*b*), shall hold office for a period of three years but shall be eligible for reappointment:

Provided that no member shall hold office for more than two terms.

(3) A member of the Complaints Committee other than the member appointed under subsection (1) (*b*) may—

(*a*) at anytime resign from office by notice in writing to the Minister through the chairman;

(*b*) be removed from office by the Minister if the member—

(i) has been absent from three consecutive meetings of the Committee without permission from the chairman;

(ii) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding ten thousand shillings;

(iii) is incapacitated by prolonged physical or mental illness; or

(iv) is otherwise unable or unfit to discharge his functions.

(4) If a member of the Complaints Committee vacates office before the expiry of his term, the appointing authority shall appoint a suitable replacement therefor.

(5) Where a member of the Complaints Committee is unable to perform the functions of his office due to any temporary incapacity which may be prolonged, the appointing authority may appoint a substitute for the member until such time as the Minister determines the incapacity has ceased.

(6) Subject to this Act, the Complaints Committee shall regulate its own procedure.

Functions of the Complaints Committee.

32. The functions of the Complaints Committee shall be—

(*a*) to investigate—

(i) any allegations or complaints against any person or against any person or against the Authority in relation to condition of the environment in Kenya;

(ii) on its own motion, any suspected case of environmental degradation,

and to make a report of its findings together with its recommendations thereon to the Council;

(*b*) to prepare and submit to the Council, periodic reports of its activities which report shall form part of the annual report on the state of the environment under section 9 (3); and

(*c*) to perform such other functions and exercise such powers as may be assigned to it by the Council.

Powers of the Complaints Committee.

33. (1) The Complaints Committee may, by notice in writing, require any person to—

(*a*) give to the Complaints Committee all reasonable assistance in connection with the investigation of any complaint under section 32; or

(*b*) appear before the Complaints Committee for examination concerning matters relevant to the investigation of any complaint under section 32.

(2) A person who—

(*a*) refuses or fails to comply with the requirement of the Complaints Committee which is applicable to him, to the extent to which he is able to comply with it; or

(*b*) obstructs or hinders the Complaints Committee in the exercise of his powers under this Act; or

(*c*) furnishes information or makes a statement to the Complaints Committee which he knows to be false or misleading in any material particular; or

(*d*) when appearing before the Complaints Committee for examination, makes a statement which he knows to be false or misleading in any material particular,

commits an offence.

(3) A person convicted of an offence under subsection (2) shall be liable to a fine not exceeding fifty thousand shillings.

(4) Where an offence under subsection (2) is a continuing offence, the person convicted shall, in addition to the penalty prescribed in subsection (3), be liable to a fine of one thousand shillings for each day during which the offence continues.

Proceedings of the Complaints Committee priviledged.

34. No proceedings shall lie against the chairman or any member of the Complaints Committee in respect of anything done *bonafide* in the performance of the duties of the Complaints Committee under this Act.

Disclosure of interest.

35. (1) If a member of the Complaints Committee is directly or indirectly interested in any matter before the Complaints Committee and is present at a meeting of the Complaints Committee at which the matter is the subject of investigation, he shall, at the meeting and as soon as reasonably practicable after the commencement thereof, disclose the fact and shall not take part in the consideration or discussion of, or vote on, any questions in respect of the matter, or be counted in the quorum of the meeting during the consideration of the matter.

(2) A disclosure of interest made under subsection (1) shall be recorded in the minutes of the meeting at which it is made.

Remuneration and other expenses of the Complaints Committee.

36. (1) There shall be paid to the chairman and members of the Complaints Committee, such remuneration, fees or allowances for expenses as the Council may determine.

(2) The remuneration fees or allowances referred to in subsection (1) together with any other expenses incurred by the Complaints Committee in the execution of its functions under this Act shall be paid out of monies provided by Parliament for that purpose.

Part IV—Environmental Planning

National Environment Action Plan Committee.

37. (1) There is established a committee of the Authority to be known as the National Environment Action Plan Committee and which shall consist of—

(*a*) the Permanent Secretary in the Ministry for the time being

responsible for national economic planning and development who shall be the chairman;

(*b*) the Permanent Secretaries in the Ministries responsible for the matters specified in the First Schedule or their duly nominated representatives;

(*c*) four representatives of the business community to be appointed by the Minister;

(*d*) representatives of each of the institutions specified in the Third Schedule;

(*e*) five representatives of non-governmental organizations nominated by the National Council of Non-Governmental Organisation;

(*f*) representatives of specialized research institutions that are engaged in environmental matters as may be determined by the Minister; and

(*g*) a Director of the Authority who shall be the secretary.

(2) The National Environment Action Plan Committee shall, after every five years, prepare a national environment action plan for consideration and adoption by the National Assembly.

Provisions of the National Environment Action Plan.
6 of 2006, s. 77.

38. The national environment action plan shall—

(*a*) contain an analysis of the natural resources of Kenya with an indication as to any pattern of change in their distribution and quantity over time;

(*b*) contain an analytical profile of the various uses and value of the natural resources incorporating considerations of intergenerational and intragenerational equity;

(*c*) recommend appropriate legal and fiscal incentives that may be used to encourage the business community to incorporate environmental requirements into their planning and operational processes;

(*d*) recommend methods for building national awareness through environmental education on the importance of sustainable use of the environment and natural resources for national development;

(*e*) set out operational guidelines for the planning and management of the environment and natural resources;

(*f*) identify actual or likely problems as may affect the natural resources and the broader environment context in which they exist;

(*g*) identify and appraise trends in the development of urban and rural settlements, their impacts on the environment, and strategies for the amelioration of their negative impacts;

(*h*) propose guidelines for the integration of standards of environmental protection into development planning and management;

(*i*) identify and recommend policy and legislative approaches for preventing, controlling or mitigating specific as well as general adverse impacts on the environment;

(*j*) prioritise areas of environmental research and outline methods of using such research findings;

(*jj*) take into account and record all monuments and protected areas declared or deemed to have been declared by the Minister under the National Museums and Heritage Act;

(*k*) without prejudice to the foregoing, be reviewed and modified from time to time to incorporate emerging knowledge and realities; and

(*l*) be binding on all persons and all government departments, agencies, state corporations or other organs of Government upon adoption by the National Assembly.

Provincial Environment Action Plans.

39. Every Provincial Environment Committee shall, every five years, prepare a provincial environment action plan in respect of the province for which it is appointed, incorporating the elements of the relevant district environment action plans prepared under section 40 and shall submit such plan to the chairman of the National Environmental Action Plan Committee for incorporation into the national environment action plan.

District Environment Action Plans.

40. Every District Environment Committee shall, every five years, prepare a district environment action plan in respect of the district for which it is appointed and shall submit such plan to the chairman of the Provincial Environment Action Plan Committee for incorporation into the provincial environment action plan proposed under section 39.

Contents of Provincial and District Environment Action Plans.

41. Every provincial environment action plan and every district environment action plan prepared under sections 39 and 40 respectively shall contain provisions dealing with matters contained in section 38 (*a*), (*b*), (*c*), (*d*), (*e*), (*f*), (*g*), (*h*), (*i*), and (*j*) in relation to their respective province or district.

PART V—PROTECTION AND CONSERVATION OF THE ENVIRONMENT

Protection of rivers, lakes and wetlands. 5 of 2007, s. 77, 6 of 2009, Sch.

42. (1) No person shall, without the prior written approval of the Director-General given after an environmental impact assessment, in relation to a river, lake or wetland in Kenya, carry out any of the following activities—

(*a*) erect, reconstruct, place, alter, extend, remove or demolish any structure or part of any structure in, or under the river, lake or wetland;

(*b*) excavate, drill, tunnel or disturb the river, lake or wetland;

(*c*) introduce any animal, whether alien or indigenous, dead or alive, in any river, lake or wetland;

(*d*) introduce or plant any part of a plant specimen, whether alien or indigenous, dead or alive, in any river, lake or wetland;

(*e*) deposit any substance in a lake, river or wetland or in, on or under its bed, if that substance would or is likely to have adverse environmental effects on the river, lake or wetland;

(*f*) direct or block any river, lake or wetland from its natural and normal course; or

(*g*) drain any lake, river or wetland.

(2) The Minister may, by notice in the Gazette, declare a lake shore, wetland, coastal zone or river bank to be a protected area and impose such restrictions as he considers necessary, to protect the lake shore, wetland, coastal zone and river bank from environmental degradation and shall, in doing so, take into consideration the following factors—

(*a*) the geographical size of the lake shore, wetland, coastal zone or river bank; and

(*b*) the interests of the communities resident around the lake shore, wetland, coastal zone or river bank concerned.

(3) The Minister may, by notice in the Gazette, issue general and specific orders, regulations or standards for the management of river banks, lake shores, wetlands or coastal zones and such orders, regulations or standards may include management, protection, or conservation measures in respect of any area at risk of environmental degradation and shall provide for—

(*a*) the development of an overall environmental management plan for a lake, river, wetland or coastal area, taking into account the relevant sectoral interest;

(*b*) measures for the prevention or control of coastal erosion;

(*c*) the conservation of mangrove and coral reef ecosystems;

(*d*) plans for the harvesting of minerals within the coastal zone, including strategies for the restoration of mineral sites;

(*e*) contingency plans for the prevention and control of all deliberate and accidental discharge of pollutions into the sea, lakes or rivers;

(*f*) plans for the protection of wetlands;

(*g*) the regulation of harvesting of aquatic living and non-living resources to ensure optimum sustainable yield;

(*h*) special guidelines for access to and exploitation of living and non-living resources in the continental shelf, territorial sea and the Exclusive Economic Zone;

(*i*) promotion of environmentally friendly tourism; and

(*j*) the management of biological resources.

(4) The Authority shall, in consultation with the relevant lead agencies, issue guidelines for the management of the environment of lakes and rivers.

(5) Any person who contravenes or fails to comply with any orders, regulations or standards issued under this section shall be guilty of an offence.

Protection of traditional interests.

43. The Minister may, by notice in the Gazette, declare the traditional interests of local communities customarily resident within or around a lake shore, wetland, coastal zone or river bank or forest to be protected interests.

44. The Authority shall, in consultation with the relevant lead agencies, develop, issue and implement regulations, procedures, guidelines and measures for the sustainable use of hill sides, hill tops, mountain areas and forests and such regulations, guidelines, procedures and measures shall control the harvesting of forests and any natural resources located in or on a hill side, hill top or mountain area so as to protect water catchment areas, prevent soil erosion and regulate human settlement.

Protection of hill tops, hill sides, mountain areas and forests.

45. (1) Every District Environment Committee shall identify the hilly and mountainous areas under their jurisdiction which are at risk from environmental degradation.

Identification of hilly and mountaneous areas.

(2) A hilly or mountainous area is at risk from environmental degradation if—

(*a*) it is prone to soil erosion;

(*b*) landslides have occurred in such an area;

(*c*) vegetation cover has been removed or is likely to be removed from the area at a rate faster than it is being replaced; or

(*d*) any other land use activity in such an area is likely to lead to environmental degradation.

(3) Each District Environment Committee shall notify the Director-General of the hilly and mountainous areas it has identified as being at risk from environmental degradation under subsection (1).

(4) The Director-General shall maintain a register of hilly and mountainous areas identified under subsection (1) to be at risk from environmental degradation.

46. (1) Every District Environment Committee shall specify which of the areas identified in accordance with section 45 (1) are to be targeted for afforestation or reforestation.

Re-forestation and afforestation of hill tops, hill slopes and mountaneous areas.

(2) Every District Environment Committee shall take measures, through encouraging voluntary self-help activities in their respective local community, to plant trees or other vegetation in any area specified under subsection (1) which are within the limits of its jurisdiction.

(3) Where the areas specified under subsection (1) are subject to leasehold or any other interest in land including customary tenure, the holder of that interest shall implement measures required to be

implemented by the District Environment Committee including measures to plant trees and other vegetation in those areas.

Other measures for management of hill tops, hill sides and mountaneous areas.

47. (1) The Authority shall, in consultation with the relevant lead agencies, issue guidelines and prescribe measures for the sustainable use of hill tops, hill slides and mountainous areas.

(2) The guidelines issued and measures prescribed by the Authority under subsection (1) shall be by way of Gazette Notice and shall include those relating to—

(*a*) appropriate farming methods;

(*b*) carrying capacity of the areas described in subsection (1) in relation to animal husbandry;

(*c*) measures to curb soil erosion;

(*d*) disaster preparedness in areas prone to landslides;

(*e*) the protection of areas referred to in subsection (1) from human settlements;

(*f*) the protection of water catchment areas; and

(*g*) any other measures the Authority considers necessary.

(3) The District Environment Committees shall be responsible for ensuring that the guidelines issued and measures prescribed under subsection (2) in respect of their districts are implemented.

(4) Any person who contravenes any measure prescribed by the Authority under this section or who fails to comply with a lawful direction issued by a District Environment Committee under this section shall be guilty of an offence.

Protection of forests.

48. (1) Subject to subsection (2) the Director-General may, after consultation with the Chief Conservator of Forests, enter into any contractual arrangement with a private owner of any land on such terms and conditions as may be mutually agreed for purposes of registering such land as forest land.

(2) The Director-General shall not take any action, in respect of any forest or mountain area, which is prejudicial to the traditional interests of the local communities customarily resident within or around such forest or mountain area.

Conservation of energy and planting of trees or woodlots.

49. (1) The Authority shall, in consultation with the relevant lead agencies, promote the use of renewable sources of energy by—

(*a*) promoting research in appropriate renewable sources of energy;

(*b*) creating incentives for the promotion of renewable sources of energy;

(*c*) promoting measures for the conservation of non-renewable sources of energy; and

(*d*) taking measures to encourage the planting of trees and woodlots by individual land users, institutions and by community groups.

Conservation of biological diversity.

50. The Authority shall, in consultation with the relevant lead agencies, prescribe measures necessary to ensure the conservation of biological diversity in Kenya and in this respect the Authority shall—

(*a*) identify, prepare and maintain an inventory of biological diversity of Kenya;

(*b*) determine which components of biological diversity are endangered, rare or threatened with extinction;

(*c*) identify potential threats to biological diversity and devise measures to remove or arrest their effects;

(*d*) undertake measures intended to integrate the conservation and sustainable utilization ethic in relation to biological diversity in existing government activities and activities by private persons;

(*e*) specify national strategies, plans and government programmes for conservation and sustainable use of biological diversity;

(*f*) protect indigenous property rights of local communities in respect of biological diversity; and

(*g*) measure the value of unexploited natural resources in terms of watershed protection, influences on climate, cultural and aesthetic value, as well as actual and potential genetic value thereof.

Conservation of biological resources *in situ*.

51. The Authority shall, in consultation with the relevant lead agencies, prescribe measures adequate to ensure the conservation of biological resources *in-situ* and in this regard shall issue guidelines for—

(*a*) land use methods that are compatible with conservation of biological diversity;

(*b*) the selection and management of protected areas so as to promote the conservation of the various terrestrial and aquatic ecosystems under the jurisdiction of Kenya;

(*c*) selection and management of buffer zones near protected areas;

(*d*) special arrangements for the protection of species, ecosystems and habitats threatened with extinction;

(*e*) prohibiting and controlling the introduction of alien species into natural habitats; and

(*f*) integrating traditional knowledge for the conservation of biological diversity with mainstream scientific knowledge.

Conservation of biological resources *ex- situ*.

52. The Authority shall, in consultation with the relevant lead agencies—

(*a*) prescribe measures for the conservation of biological resources *ex-situ* especially for those species threatened with extinction;

(*b*) issue guidelines for the management of:—

(i) germplasm banks;

(ii) botanical gardens;

(iii) zoos or aquaria;

(iv) animal orphanages; and

(v) any other facilities recommended to the Authority by any of its Committees or considered necessary by the Authority.

(*c*) ensure that species threatened with extinction which are conserved *ex-situ* are re-introduced into their native habitats and ecosystems where:—

(i) the threat to the species has been terminated; or

(ii) a viable population of the threatened species has been achieved.

Access to genetic resources of Kenya.

53. (1) The Authority shall, in consultation with the relevant lead agencies, issue guidelines and prescribe measures for the sustainable management and utilisation of genetic resources of Kenya for the benefit of the people of Kenya.

(2) Without prejudice to the general effect of subsection (1), the guidelines issued or measures prescribed under that subsection shall specify—

(*a*) appropriate arrangements for access to genetic resources of Kenya by non-citizens of Kenya including the issue of licences and fees to be paid for that access;

(*b*) measures for regulating the import or export of germplasm;

(*c*) the sharing of benefits derived from genetic resources of Kenya;

(*d*) biosafety measures necessary to regulate biotechnology;

(*e*) measures necessary to regulate the development, access to and transfer of biotechnology; and

(*f*) any other matter that the Authority considers necessary for the better management of the genetic resources of Kenya.

Protection of environmentally significant areas.

54. (1) The Minister may, in consultation with the relevant lead agencies, by notice in the Gazette, declare any area of land, sea, lake or river to be a protected natural environment for the purpose of promoting and preserving specific ecological processes, natural environment systems, natural beauty or species of indigenous wildlife or the preservation of biological diversity in general.

(2) Without prejudice to subsection (1), the Authority may, in consultation with the relevant lead agencies, issue guidelines and prescribe measures for the management and protection of any area of environmental significance declared to be a protected natural environment area under this section.

Protection of the coastal zone.

55. (1) The Minister may, by notice in the Gazette, declare an area to be a protected coastal zone.

(2) As soon as practicable upon the commencement of this Act, the Authority shall, in consultation with the relevant lead agencies, prepare a survey of the coastal zone and prepare an integrated national coastal zone management plan based on the report of such survey.

(3) The Authority shall, from time to time, not exceeding every two years, review the national coastal zone management plan prepared under subsection (2).

(4) The report of the survey of the coastal zone shall contain:—

(*a*) an inventory of all structures, roads, excavations, harbours, outfalls, dumping sites and other works located in the coastal zone;

(*b*) an inventory of the state of the coral reefs, mangroves and marshes found within the coastal zone;

(*c*) an inventory of all areas within the coastal zone of scenic value or of value for recreational and cultural purposes;

(*d*) an inventory of areas within the coastal zone of special value for research in respect of fisheries, erosion, littorals movement and such other similar subjects;

(*e*) an estimate of the quantities of sand, coral sea shells and other substances being removed from the coastal zone;

(*f*) an estimate of the impacts of erosion on the coastal zone; and

(*g*) an estimate of the extent, nature, cause and sources of coastal pollution and degradation;

(*h*) an estimate of freshwater resources available in the coastal zone; and

(*i*) any other relevant data or information that may be deemed appropriate.

(5) Any person who releases or causes to be released into the coastal zone any polluting or hazardous substances contrary to the provisions of this Act shall be guilt of an offence and liable upon conviction to a fine of not less than one million shillings or to imprisonment for a period not exceeding two years or to both such fine and imprisonment.

(6) The Minister shall, in consultation with the relevant lead agencies, issue appropriate regulations to prevent, reduce and control pollution or other form of environmental damage in the coastal zone.

(7) Notwithstanding the generality of subsection (6) of this section, the regulations made thereunder shall provide for the control and prevention of pollution—

(*a*) of the marine environment from land based sources including rivers, estuaries, pipelines and outfall structures;

(*b*) from vessels, aircrafts and other engines used in the coastal zone;

(*c*) from installations and devices used in the exploration or exploitation of the natural resources of the seabed and subsoil of the exclusive economic zone; and

(*d*) of the marine environment arising from or in connection with seabed activities and from artificial islands installations and other structures in the exclusive economic zone.

Protection of the ozone layer.

56. (1) The Authority shall, in consultation with the relevant lead agencies, undertake or commission other persons to undertake national studies and give due recognition to developments in scientific knowledge relating to substances, activities and practices that deplete the ozone layer to the detriment of public health and the environment.

(2) The Authority shall, in consultation with the relevant lead agencies, issue guidelines and institute programmes concerning the:—

(*a*) elimination of substances that deplete the stratospheric ozone layer;

(*b*) controlling of activities and practices likely to lead to the degradation of the ozone layer and the stratosphere;

(*c*) reduction and minimisation of risks to human health created by the degradation of the ozone layer and the stratosphere; and

(*d*) formulate strategies, prepare and evaluate programmes for phasing out ozone depleting substances.

Fiscal incentives.

57. (1) Notwithstanding the provisions of any relevant revenue Act, the Minister responsible for finance may, on the recommendation of the Council, propose to Government tax and other fiscal incentives,

disincentives or fees to induce or promote the proper management of the environment and natural resources or the prevention or abatement of environmental degradation.

(2) Without prejudice to the generality of subsection (1) the tax and fiscal incentives, disincentives or fees may include—

(*a*) customs and excise waiver in respect of imported capital goods which prevent or substantially reduce environmental degradation caused by an undertaking;

(*b*) tax rebates to industries or other establishments that invest in plants, equipment and machinery for pollution control, re-cycling of wastes, water harvesting and conservation, prevention of floods and for using other energy resources as substitutes for hydrocarbons;

(*c*) tax disincentives to deter bad environmental behavior that leads to depletion of environmental resources or that cause pollution; or

(*d*) user fees to ensure that those who use environmental resources pay proper value for the utilization of such resources.

PART VI—ENVIRONMENTAL IMPACT ASSESSMENT

Application for an Environmental Impact Assessment Licence.

58. (1) Notwithstanding any approval, permit or license granted under this Act or any other law in force in Kenya, any person, being a proponent of a project, shall, before financing, commencing, proceeding with, carrying out, executing or conducting or causing to be financed, commenced, proceeded with, carried out, executed or conducted by another person any undertaking specified in the Second Schedule to this Act, submit a project report to the Authority, in the prescribed form, giving the prescribed information and which shall be accompanied by the prescribed fee.

(2) The proponent of a project shall undertake or cause to be undertaken at his own expense an environmental impact assessment study and prepare a report thereof where the Authority, being satisfied, after studying the project report submitted under subsection (1), that the intended project may or is likely to have or will have a significant impact on the environment, so directs.

(3) The environmental impact assessment study report prepare under this subsection shall be submitted to the Authority in the prescribed form, giving the prescribed information and shall be accompanied by

the prescribed fee.

(4) The Minister may, on the advice of the Authority given after consultation with the relevant lead agencies, amend the Second Schedule to this Act by notice in the Gazette.

(5) Environmental impact assessment studies and reports required under this Act shall be conducted or prepared respectively by individual experts or a firm of experts authorised in that behalf by the Authority. The Authority shall maintain a register of all individual experts or firms of all experts duly authorised by it to conduct or prepare environmental impact assessment studies and reports respectively. The register shall be a public document and may be inspected at reasonable hours by any person on the payment of a prescribed fee.

(6) The Director-General may, in consultation with the Standards Enforcement and Review Committee, approve any application by an expert wishing to be authorised to undertake environmental impact assessment. Such application shall be made in the prescribed manner and accompanied by any fees that may be required.

(7) Environmental impact assessment shall be conducted in accordance with the environmental impact assessment regulations, guidelines and procedures issued under this Act.

(8) The Director-General shall respond to the applications for environmental impact assessment license within three months.

(9) Any person who upon submitting his application does not receive any communication from the Director-General within the period stipulated under subsection (8) may start his undertaking.

Publication of Environmental Impact Assessment.

59. (1) Upon receipt of an environmental impact assessment study report from any proponent under section 58(2), the Authority shall cause to be published for two successive weeks in the Gazette and in a newspaper circulating in the area or proposed area of the project a notice which shall state—

(*a*) a summary description of the project;

(*b*) the place where the project is to be carried out;

(*c*) the place where the environmental impact assessment study, evaluation or review report may be inspected; and

(*d*) a time limit of not exceeding sixty days for the submission of oral or written comments environmental impact assessment

study, evaluation or review report.

(2) The Authority may, on application by any person extend the period stipulated in sub-paragraph (d) so as to afford reasonable opportunity for such person to submit oral or written comments on the environmental impact assessment report.

Comments on Environmental Impact Assessment report by Lead Agencies.

60. A lead agency shall, upon the written request of the Director-General, submit written comments on an environmental impact assessment study, evaluation and review report within thirty days from the date of the written request.

Technical Advisory Committee on Environmental Impact Assessment.

61. The Authority may set up a technical advisory committee to advise it on environmental impact assessment related reports and the Director-General shall prescribe the terms of reference and rules of procedure for the technical advisory committee appointed hereunder.

Further Environmental Impact Assessment.

62. The Authority may require any proponent of a project to carry out at his own expense further evaluation or environmental impact assessment study, review or submit additional information for the purposes of ensuring that the environmental impact assessment study, review or evaluation report is as accurate and exhaustive as possible.

Environmental Impact Licence.

63. The Authority may, after being satisfied as to the adequacy of an environmental impact assessment study, evaluation or review report, issue an environmental impact assessment licence on such terms and conditions as may be appropriate and necessary to facilitate sustainable development and sound environmental management.

Submission of fresh Environmental Impact Assessment report after Environmental Impact Assessment License issued.

64. (1) The Authority may, at any time after the issue of an environmental impact assessment licence direct the holder of such licence to submit at his own expense a fresh environmental impact assessment study, evaluation or review report within such time as the Authority may specify where—

(*a*) there is a substantial change or modification in the project or in the manner in which the project is being operated;

(*b*) the project poses environmental threat which could not be reasonably foreseen at the time of the study, evaluation or review; or

(*c*) it is established that the information or data given by the proponent in support of his application for an environmental impact assessment licence under section 58 was false, inaccurate or intended to mislead.

(2) Any person who fails, neglects or refuses to comply with the directions of the Authority issued under subsection (1) shall be guilty of an offence.

Transfer of Environmental Impact Assessment Licence.

65. (1) An environmental impact assessment licence may be transferred by the holder to another person only in respect of the project in relation to which such licence was issued.

(2) Where an environmental impact assessment licence is transferred under this section, the person to whom it is transferred and the person transferring it shall jointly notify the Director-General in writing of the transfer, not later than thirty days after the transfer.

(3) Where no joint notification of a transfer is given in accordance with subsection (2), the registered holder of the licence shall be deemed for the purposes of this Act to be the owner or the person having charge or management or control of the project as the case may be.

(4) Any transfer of an environmental impact assessment licence, under this section shall take effect on the date the Director-General is notified of the transfer.

(5) Any person who contravenes any provisions of this section, shall be guilty of an offence.

Protection in respect of an Environmental Impact Assessment Licence.

66. (1) No civil or criminal liability in respect of a project or consequences resulting from a project shall be incurred by the Government, the Authority or any public officer by reason of the approval of an environmental impact assessment study, evaluation or review report or grant of an environmental impact assessment licence or by reason of any condition attached to such licence.

(2) The issuance of an environmental impact assessment licence in respect of a project shall afford no defence to any civil action or to a prosecution that may be brought or preferred against a proponent in respect of the manner in which the project is executed, managed or operated.

Revocation, suspension or cancellation of Environmental Impact Assessment licence.

67. (1) The Authority shall, on the advice of the Standards and Enforcement Review Committee, cancel, revoke or suspend any environment impact assessment licence for such time not exceeding twenty four months where the licensee contravenes the provisions of the licence.

(2) Whenever an environmental impact assessment licence is revoked, suspended or cancelled, the holder thereof shall not proceed with the project which is the subject of the licence until a new licence is issued by the Authority.

(3) The Authority shall maintain a register of all environmental impact assessment licences issued under this Act. The register shall be a public document and may be inspected at reasonable hours by any person on the payment of a prescribed fee.

PART VII—ENVIRONMENTAL AUDIT AND MONITORING

Environmental audit.

68. (1) The Authority shall be responsible for carrying out environmental audit of all activities that are likely to have significant effect on the environment.

(2) An environmental inspector appointed under this Act may enter any land or premises for the purposes of determining how far the activities carried out on that land or premises conform with the statements made in the environmental impact assessment study report issued in respect of that land or those premises under section 58(2).

(3) The owner of the premises or the operator of a project for which an environmental impact assessment study report has been made shall keep accurate records and make annual reports to the Authority describing how far the project conforms in operation with the statements made in the environmental impact impact assessment study report submitted under section 58(2).

(4) The owner of premises or the operator of a project shall take all reasonable measures to mitigate any undesirable effects not contemplated in the environmental impact assessment study report submitted under section 58(2) and shall prepare and submit an environmental audit report on those measures to the Authority annually or as the Authority may, in writing, require.

Environmental monitoring.

69. (1) The Authority shall, in consultation with the relevant lead agencies, monitor:—

(*a*) all environmental phenomena with a view to making an assessment of any possible changes in the environment and their possible impacts; or

(*b*) the operation of any industry, project or activity with a view of determining its immediate and long-term effects on the environment.

(2) An environmental inspector appointed under this Act may enter upon any land or premises for the purposes of monitoring the effects upon the environment of any activities carried on that land or premises.

PART VIII—ENVIRONMENTAL QUALITY STANDARDS

Establishment of a Standards and Enforcement Review Committee.

70. (1) There is hereby established a Standards and Enforcement Review Committee to be a committee of the Authority.

(2) The Standards and Enforcement Review Committee shall consist of the members set out in the Third Schedule to this Act.

(3) The permanent secretary under the Minister shall be the Chairman of the Standards and Enforcement Review Committee.

(4) The Director-General shall appoint a Director of the Authority to be a member of the Standards and Enforcement Review Committee who shall be the secretary to the Committee and shall provide the secretarial services to the Committee.

(5) The Standards and Enforcement Review Committee shall regulate its own procedure.

(6) The Standards and Enforcement Review Committee may co-opt any person to attend its meetings and a person so co-opted shall participate at the deliberations of the Committee but shall have no vote.

(7) The Standards and Enforcement Review Committee shall meet at least once every three months for the transaction of its business.

Functions of Standards and Enforcement Review Committee.

71. The Standards and Enforcement Review Committee shall, in consultation with the relevant lead agencies:—

(*a*) advise the Authority on how to establish criteria and procedures for the measurement of water quality;

(*b*) recommend to the Authority minimum water quality standards for all the waters of Kenya and for different uses, including—

(i) drinking water;

(ii) water for industrial purposes;

(iii) water for agricultural purposes;

(iv) water for recreational purposes;

(v) water for fisheries and wildlife;

(vi) and any other prescribed water use.

(*c*) analyse and submit to the Director-General conditions for discharge of effluents into the environment.

(*d*) prepare and recommend to the Director-General guidelines or regulations for the preservation of fishing areas, aquatic areas, water sources and reservoirs and other areas where water may need special protection.

(*e*) identify and recommend to the Authority areas of research on the effects of water pollution on the environment, human beings, flora and fauna;

(*f*) advise the Authority to carry out investigations of actual or suspected water pollution including the collection of data;

(*g*) advise the Authority to take steps or authorise any works to be carried out which appear to be necessary to prevent or abate water pollution from natural causes or from abandoned works or undertakings;

(*h*) document the analytical methods by which water quality and pollution control standards can be determined and appoint laboratories for the analytical services required or request the Director-General to establish such laboratories;

(*i*) collect, maintain and interpret data from industries and local authorities on the pretreatment nature and levels of effluents;

(*j*) recommend to the Director-General measures necessary for the treatment of effluents before being discharged into the sewerage system;

(*k*) recommend to the Director-General works necessary for the treatment for the treatment of effluents before being discharged into the water;

(*l*) submit to the Director-General all such recommendations as may appear necessary for the monitoring and control of water pollution.

Water pollution prohibition.

72. (1) Any person, who upon the coming into force of this Act, discharges or applies any poison, toxic, noxious or obstructing matter, radioactive waste or other pollutants or permits any person to dump or discharge such matter into the Aquatic environment in contravention of water pollution control standards established under this Part shall be guilty of an offence and liable to imprisonment for a term not exceeding

two years or to a fine not exceeding one million shillings or to both such imprisonment and fine.

(2) A person found guilty under subsection (1) shall, in addition to any sentence or fine imposed on him:—

(*a*) pay the cost of the removal of any poison, toxic, noxious or obstructing matter, radioactive waste or other pollutants, including the costs of restoration of the damaged environment, which may be incurred by a Government agency or organ in that respect;

(*b*) pay third parties reparation, cost of restoration, restitution or compensation as may be determined by a court of law on application by such third parties.

Duty to supply plant information to the Authority.

73. All owners or operators of irrigation project schemes, sewerage systems, industrial production workshops or any other undertaking which may discharge effluents or other pollutants or have been discharging effluents or other pollutants shall within ninety days upon the coming into force of this Act or as may be demanded from time to time by the Authority, submit on demand, to the Authority accurate information about the quantity and quality of such effluent or other pollutant.

Effluents to be discharged only into sewerage system.

74. (1) Every owner or operator of a trade or industrial undertaking shall discharge any effluents or other pollutants originating from the trade or industrial undertaking only into existing sewerage systems and the relevant Local Authority operating or supervising such sewerage system shall issue, at a prescribed fee, the necessary licence for discharge.

(2) The proponent or owner of a trade or an industrial undertaking shall, prior to being granted a licence to discharge effluents into the environment, install an appropriate plant for the treatment of such effluents before they are discharged into the environment.

Licence to discharge effluents.

75. (1) No Local Authority operating a sewerage system or owner or operator of any trade or industrial undertaking shall discharge any effluents or other pollutants into the environment without an effluent discharge licence issued by the Authority.

(2) Every owner or operator of a trade or an industrial undertaking discharging any effluents or other pollutants into the environment before the commencement of this Act shall, within twelve months of such commencement apply to the Authority for an effluent discharge licence.

(3) Every application for an effluent discharge licence shall be in the prescribed form and accompanied by the prescribed fee.

(4) Before the issuance of a licence under subsections (1) and (2), the Authority shall—

(*a*) solicit the comments of local authorities concerned and organizations and persons as he may deem fit;

(*b*) take into consideration the possible effects of effluents or pollutants to be discharged on the quality of an affected water course or other source of water;

(*c*) take into consideration the existing licences affecting the concerned water course or other source; and

(*d*) take into consideration the water requirements of riparian residents and ecosystems, human settlements, and agricultural schemes which depend on the affected water course.

(5) Where the Authority rejects an application for the grant of an effluent discharge licence it shall within twenty one days notify the applicant of its decision and state in writing its reasons for so rejecting the application.

(6) An affluent discharge licence issued under this Act shall be in a prescribed form, be subject to such conditions as may be prescribed or as may be specified in the licence and shall remain valid for such period and may be renewed for such further periods as may be prescribed or specified in the licence.

Cancellation of effluent discharge licence.

76. (1) The Authority may in writing, cancel any effluent discharge licence:—

(*a*) if the holder of the licence contravenes any provision of this Act or any regulations made thereunder;

(*b*) if the holder fails to comply with any condition specified in the licence; or

(*c*) if the Authority considers it in the interest of the environment or in the public interest so to do.

Register of effluent discharge licences.

77. The Authority shall maintain a register of all effluent discharge licences issued under this Act. The register shall be a public document and may be inspected at any reasonable hour by any person on the payment of the prescribed fee.

78. (1) The Standards and Enforcement Review Committee shall, in consultation with the relevant lead agencies:— Air quality standards.

(*a*) advise the Authority on how to establish criteria and procedures for the measurement of air quality;

(*b*) recommend to the Authority—

(i) ambient air quality standards;

(ii) occupational air quality standards;

(iii) emission standards for various sources;

(iv) criteria and guidelines for air pollution control for both mobile and stationary sources;

(v) any other air quality standards.

(*c*) advise the Authority on measures necessary to reduce existing sources of air pollution by requiring the redesign of plants or the installation of new technology or both, to meet the requirements of standards established under this section;

(*d*) recommend to the Authority guidelines to minimize emissions of green house gases and identify suitable technologies to minimize air pollution;

(*e*) advise the Authority on emissions concentration and nature of pollutants emitted;

(*f*) recommend to the Authority the best practicable technology available in controlling pollutants during the emission process;

(*g*) determine for consideration by the Authority the analytical methods for monitoring air contaminants and recommend to the Director-General the establishment of such number of laboratories for analytical services as may be needed;

(*h*) request the Authority to carry out investigations of actual or suspected air pollution including pollution produced by aircrafts and other self propelled vehicles and by factories and power generating stations;

(*i*) request the Authority to order any industry or other source of

air pollution to file such returns and provide such information as it may require; and

(*j*) do all such things as appear necessary for the monitoring and controlling of air pollution.

(2) Any person who emits any substances which cause air pollution in contravention of emission standards established under this Part shall be guilty of an offence and liable to imprisonment for a term of not more than two years or to a fine of not more than five hundred thousand shillings or to both such fine and imprisonment.

(3) A person found guilty under subsection (2) shall, in addition to any sentence or fine imposed on him;

(*a*) pay the cost of the removal of the pollution, including any costs which may be incurred by any Government agency or organ in the restoration of the environment damaged or destroyed as a result of the emission; and

(*b*) the cost to third parties in the form of reparation, restoration, restitution or compensation as may be determined by a competent court upon application by such third parties.

Controlled areas.

79. (1) The Minister, may on the advice of the Authority, by Gazette Notice, declare any area to be a controlled area for the purposes of this Part.

(2) The Minister may, on the advice of the Authority, in regulations, prescribe the air emission standards in respect of any controlled areas.

Licensing emissions.

80. (1) An owner or operator of a trade, industrial undertaking or an establishment which after the commencement of this Act, is emitting a substance or energy which is causing or is likely to cause air pollution shall apply to the Authority for an emission licence.

(2) In the case of any trade, industrial undertaking or establishment existing before the commencement of this Act, such application shall be made within twelve months after this Act has come into operation.

(3) Every application for an emission licence shall be in the prescribed form and be accompanied by the prescribed fee.

Issue of emission licence.

81. (1) Before issuing a licence in respect of emissions, the Authority shall:—

(*a*) consider the possible effects of the emissions on the quality of ambient air;

(*b*) consider existing licences affecting the same air resource;

(*c*) give due regard to the requirements for the residents, human settlements and other industrial and commercial activities;

(*d*) solicit the comments of relevant Local Authorities and concerned organizations;

(*e*) where the information accompanying the application appears inadequate, require the applicant to furnish further information relating to the undertaking in question, its location, materials, technology design or other appropriate matters;

(*f*) where it appears necessary to conduct an environmental impact study, require the applicant to conduct an environmental impact assessment study in respect of the undertaking in question in accordance with the provisions of Part VI.

(2) An emission licence issued under this Act shall be in a prescribed form, be subject to such conditions as may be prescribed or as may be specified in the licence and shall remain valid for such period and may be renewed for such further periods as may be prescribed or specified in the licence.

(3) Where the Authority rejects an application for the grant of an emission licence, it shall within twenty one days of its decision, notify the applicant in writing of its reasons for such refusal.

Emissions by motor vehicles and other conveyances.

82. No owner or operator of a motor-vehicle, train, ship, aircraft or other similar conveyance shall—

(*a*) operate it in such a manner as to cause air pollution in contravention of the established emission standards; or

(*b*) import any machinery, equipment, device or similar thing that will cause emissions into the ambient air in contravention of prescribed emission standards.

Additional licensing procedures.

83. The Authority may establish additional procedures for the application and grant of any licence under this Act and impose such conditions as it may deem appropriate.

Cancellation of emission Licence.

84. The Authority may, in writing, cancel any emission licence:—

(*a*) if the holder of the licence contravenes any provisions of this Act or of any regulations made under it;

(*b*) if the holder fails to comply with any condition specified in the licence; or

(*c*) if the Authority considers it in the interest of the environment or in the public interest so to do;

Register of emission Licences.

85. The Authority shall maintain a register of all emission licences issued under this Act. The register shall be a public document and may be inspected at reasonable hours by any person on the payment of a prescribed fee.

Standards for waste.

86. The Standards and Enforcement Review Committee shall, in consultation with the relevant lead agencies, recommend to the Authority measures necessary to:—

(1) identify materials and processes that are dangerous to human health and the environment;

(2) issue guidelines and prescribe measures for the management of the materials and processes identified under subsection (1);

(3) prescribe standards for waste, their classification and analysis, and formulate and advise on standards of disposal methods and means for such wastes; or

(4) issue regulations for the handling, storage, transportation, segregation and destruction of any waste.

Prohibition against dangerous handling and disposal of wastes.

87. (1) No person shall discharge or dispose of any wastes, whether generated within or outside Kenya, in such manner as to cause pollution to the environment or ill health to any person.

(2) No person shall transport any waste other than—

(*a*) in accordance with a valid licence to transport wastes issued by the Authority; and

(*b*) to a wastes disposal site established in accordance with a licence issued by the Authority.

(3) No person shall operate a wastes disposal site or plant without a licence issued by the Authority.

(4) Every person whose activities generate wastes shall employ measures essential to minimize wastes through treatment, reclamation and recycling.

(5) Any person who contravenes any provisions of this section shall be guilty of an offence and liable to imprisonment for a term of not more than two years or to a fine of not more than one million shillings or to both such imprisonment and fine.

Application for waste licence.

88. Any person intending to transport wastes within Kenya, operate a wastes disposal site or plant or to generate hazardous waste, shall prior to transporting the wastes, commencing with the operation of a wastes disposal site or plant or generating hazardous wastes, as the case may be, apply to the Authority in writing for the grant of an appropriate licence.

(2) A licence to operate a waste disposal site or plant may only be granted subject to the payment of the appropriate fee and any other licence that may be required by the relevant Local Authority.

(3) Where the Authority rejects an application made under this section, it shall within twenty one days of its decision, notify the applicant of the decision specifying the reasons therefor.

Licences for existing wastes disposal sites and plants.

89. (1) Any person who, at the commencement of this Act, owns or operates a waste disposal site or plant or generated hazardous waste, shall apply to the Authority for a licence under this part, within six months after the commencement of this Act.

Court Orders to cease operation.

90. (1) The Authority may apply to a competent court for orders compelling any person to immediately stop the generation, handling, transportation, storage or disposal of any wastes where such generation, handling, transportation, storage or disposal presents an imminent and substantial danger to public health, the environment or natural resources.

Hazardous Wastes.

91. (1) The Standards and Enforcement Review Committee shall, in consultation with the relevant lead agencies, recommend to the Authority standard criteria for the classification of hazardous wastes with regard to determining—

(*a*) hazardous waste;

(*b*) corrosive waste;

(*c*) carcinogenic waste;

(*d*) flammable waste;

(*e*) persistent waste;

(*f*) toxic waste;

(*g*) explosive waste;

(*h*) radioactive waste;

(*i*) wastes, reactive otherwise than as described in the foregoing paragraphs of this subsection;

(*j*) any other category of waste the Authority may consider necessary.

(2) The Authority shall, on the recommendation of the Standards and Enforcement Review Committee issue guidelines and regulations for the management of each category of hazardous wastes determined under subsection (1).

(3) No person shall import into Kenya any hazardous waste falling under any category determined under subsection (1).

(4) No hazardous waste shall be exported to any country from Kenya without a valid permit granted by the Authority and written consent given by a competent authority of the receiving country.

(5) No harzadous waste shall be transported within or through Kenya without a valid permit granted by the Authority.

(6) Any person who contravenes any provision of this section or who withholds, falsifies or otherwise tampers with information relating to trafficking in hazardous or other waste shall be guilty of an offence and liable to imprisonment for a term of not less than two years or to a fine of not less than one million shillings or to both such imprisonment and fine.

(7) A person found guilty under subsection (6) shall be responsible for the removal of the waste from Kenya and for its safe disposal.

Regulation of toxic and hazardous materials etc.

92. (1) The Minister may, on the advise of the Authority make regulations prescribing the procedure and criteria for—

(*a*) classification of toxic and hazardous chemicals and materials in accordance with their toxicity and the hazard they present to the human health and to the environment;

(*b*) registration of chemicals and materials;

(*c*) labeling of chemicals and materials;

(*d*) packaging for chemicals and materials;

(*e*) advertising of chemicals and materials;

(*f*) control of imports and exports of toxic and hazardous chemicals and materials permitted to be so imported or exported;

(*g*) distribution, storage, transportation and handling of chemicals and materials;

(*h*) monitoring of the effect of chemicals and their residue on human health and the environment;

(*i*) disposal of expired and surplus chemicals and materials; and

(*j*) restriction and banning of toxic and hazardous substances and energy.

Prohibition of discharge of hazardous substances, chemicals and materials or oil into the environment and spiller's liability.

93. (1) No person shall discharge any hazardous substance, chemical, oil or mixture containing oil into any waters or any other segments of the environment contrary to the provisions of this Act or any regulations thereunder.

(2) A person who discharges a hazardous substance, chemical, oil or a mixture containing oil into any waters or other segments of the environment contrary to subsection (1) commits an offence.

(3) A person convicted of an offence under subsection (2) shall, in addition to any other sentence imposed by the court:—

(*a*) pay the cost of the removal of the hazardous substance, chemical, oil or a mixture containing oil including any costs which may be incurred by any Government agency or organ in the restoration of the environment damaged or destroyed as a result of the discharge; and

(*b*) the costs of third parties in the form of reparation, restoration, restitution or compensation as may be determined by a competent court on application by such third parties.

(4) The owner or operator of a production or storage facility, motor vehicle or vessel from which a discharge occurs contrary to this section shall mitigate the impact of the discharge by—

(*a*) giving immediate notice of the discharge to the Authority

and other relevant Government officers;

(*b*) immediately beginning clean-up operations using the best available clean-up methods;

(*c*) complying with such directions as the Authority may, from time to time, prescribe.

(5) Where the owner or operator of a production or storage facility, motor vehicle or vessel has refused, neglected and/or failed to take the mitigation measures prescribed in subsection (4), the Authority may seize the production or storage facility, motor vehicle or vessel.

(6) Where the owner or operator fails to take the necessary measures under subsection (4) after the passage of a reasonable time not exceeding six months in all the circumstances, the Authority may, upon an order of court, dispose of the production or storage facility, motor vehicle or vessel to meet the costs of taking the necessary measures under subsection (4) and other remedial and restoration measures.

(7) The Court in convicting a person of an offence under this section shall take into account the measures taken by that person to comply with subsection (4).

Standards of pesticides and toxic substances.

94. The Standards and Enforcement Review Committee, in consultation with the relevant lead agencies shall—

(*a*) prepare and submit to the Authority draft standards for the concentration of pesticides residues in raw agricultural commodities, processed foods and animal feed and

for the purposes of this paragraph raw agricultural commodities:—

(i) include fresh or frozen fruit and vegetables in their raw state, grains, nuts, eggs, raw milk, meat and other agricultural produce;

(ii) do not include any agricultural produce or good which is processed, fabricated or manufactured by cooking, dehydrating, milling, or by any other similar means;

(*b*) establish, revisit, modify and submit to the Authority draft standards to regulate the importation, exportation, manufacture, storage, distribution, sale, use, packaging, transportation disposal and advertisement of pesticides and toxic substances with the relevant organizations;

(*c*) establish and submit to the Authority draft procedures for the registration of pesticides and toxic substances;

(*d*) establish and submit to the Authority draft measures to ensure proper labeling and packaging of pesticides and toxic substances;

(*e*) constantly review the use and efficacy of pesticides and toxic substances and submit the findings of such review to the Authority.

(*f*) recommend to the Authority measures for monitoring the effects of pesticides and toxic substances on the environment;

(*g*) recommend to the Authority measures for the establishment and maintenance of laboratories to operate as standards laboratories for pesticides and toxic substances;

(*h*) recommend to the Authority measures for the establishment of enforcement procedures and regulations for the storage, packaging and transportation of pesticides and toxic substances;

(*i*) constantly collect data from industries on the production, use and health effects of pesticides and toxic substances and avail such data to the Authority;

(*j*) keep up-to-date records and reports necessary for the proper regulation of the administration of pesticides and toxic substances;

(*k*) do all other things as appear necessary for the monitoring and control of pesticides and toxic substances.

95. (*Repealed by 17 of 2006, s. 117*).

96. (*Repealed by 17 of 2006, s. 118*).

Registration of pesticides and toxic substances.

97. (1) The Authority may, upon application, register a pesticide or toxic substance subject to such existing conditions and any other conditions that the Authority may determine.

(2) Every pesticide or toxic substance shall be registered for ten years unless some other period is specified by the Authority, and may be renewed for a like period.

(3) Where the Authority refuses to register any pesticide or toxic

substance, the notice of refusal shall state the reasons for such refusal.

Offences relating to pesticides and toxic substances.

98. (1) No person shall—

(*a*) detach, alter or destroy any labelling on a pesticide or toxic substance contrary to the provisions of this Act;

(*b*) change the composition of a pesticide or toxic substance, contrary to the provisions of this Act; or

(*c*) use or dispose into the environment a pesticide or toxic substance in contravention of the provisions of this Act.

(2) No person shall distribute, sell, offer for sale, hold for sale, import, deliver for importation to, or receive from, deliver or offer to deliver to any other person any unregistered pesticide or toxic substance.

(3) Any person who contravenes any of the provisions of this section shall be guilty of an offence and shall be liable upon conviction to a fine of not more than one million shillings or to imprisonment for a term of not more than two years or to both such fine and imprisonment.

Seizure of pesticides and toxic substances.

99. (1) Any pesticide or toxic substance which the Authority reasonably suspects to be the subject matter of an offence under this Act shall be liable to seizure by the Authority.

(2) Whenever any pesticide or toxic substance is seized under subsection (1), the Authority shall serve a notice of seizure on the owner of the pesticide or toxic Substance as soon as practicable.

(4) Where any pesticide or toxic substance is seized under this section, the pesticide or toxic substance shall be placed under the custody of the Authority.

(5) Any pesticide or toxic substance placed under the custody of the Authority under subsection (3) shall be released, if after six months—

(*a*) no prosecution under the Act has been instituted with regard to the pesticide or toxic substance;

(*b*) no person is convicted of an offence under this Act.

Regulations regarding registration of pesticides and toxic substances.

100. The Minister shall, in consultation with the relevant lead agencies, make regulations prescribing the contents of any application and the conditions for the registration of pesticides and toxic substances under this Act.

101. The Standards and Enforcement Review Committee shall, in consultation with the relevant lead agencies— Standards for noise.

(*a*) recommend to the Authority minimum standards for emissions of noise and vibration pollution into the environment as are necessary to preserve and maintain public health and the environment;

(*b*) establish and submit to the Authority criteria and procedures for the measurement of noise and vibration pollution into the environment;

(*c*) establish and submit to the Authority criteria and procedures for the measurement of subsonic vibrations;

(*d*) establish and submit to the Authority standards for the emission of sub-sonic vibrations which are likely to have a significant impact on the environment;

(*e*) recommend to the Authority guidelines for the minimisation of sub-sonic vibrations, referred to in paragraph (*d*) from existing and future sources;

(*f*) establish and submit to the Authority noise level and noise emission standards applicable to construction sites, plants, machinery, motor vehicles, aircraft including sonic bonus, industrial and commercial activities;

(*g*) recommend to the Authority measures necessary to ensure the abatement and control of noise from sources referred to in paragraph (*f*);

(*h*) measure the levels of noise emanating from the sources referred to in paragraph (f) details of which measurements shall be given to the owner or occupier of the premises from which the measurement was taken; and

(*j*) recommend to the Authority guidelines for the abatement of unreasonable noise and vibration pollution emitted into the environment from any source.

102. Subject to the provisions of the Civil Aviation Act, any person who emits noise in excess of the noise emission standards established under this Part commits an offence. Noise in excess of established standards prohibited. Cap. 394.

103. (1) Notwithstanding the provisions of section 102, the Authority may on request grant a temporary permit not exceeding three Exemptions in respect of noise standards.

months, allowing emission of noise in excess of established standards for such activities as fireworks, demolitions, firing ranges and specific heavy industry on such terms and conditions as the Authority may determine.

(2) Where an exemption has been granted under subsection, (1), workers exposed to excessive levels of noise shall be adequately protected in accordance with the directives issued by the Authority.

104. (*Repealed by 5 of 2007, s. 78*).

105. (*Repealed by 5 of 2007, s. 79*).

106. (*Repealed by 5 of 2007, s. 80*).

107. (*Repealed by 5 of 2007, s. 81*).

PART IX—ENVIRONMENTAL RESTORATION ORDERS, ENVIRONMENTAL CONSERVATION ORDERS AND ENVIRONMENTAL EASEMENTS

Issue of Environmental Restoration Orders.

108. (1) Subject to any other provisions of this Act, the Authority may issue and serve on any person in respect of any matter relating to the management of the environment an order in this Part referred to as an environmental restoration order.

(2) An environmental restoration order issued under subsection (1) or section 111 shall be issued to—

(*a*) require the person on whom it is served to restore the environment as near as it may be to the state in which it was before the taking of the action which is the subject of the order;

(*b*) prevent the person on whom it is served from taking any action which would or is reasonably likely to cause harm to the environment;

(*c*) award compensation to be paid by the person on whom it is served to other persons whose environment or livelihood has been harmed by the action which is the subject of the order;

(*d*) levy a charge on the person on whom it is served which in the opinion of the Authority represents a reasonable estimate of the costs of any action taken by an authorised person or organisation to restore the environment to the state in which it was before the taking of the action which is the subject of the order.

(3) An environmental restoration order may contain such terms and conditions and impose such obligations on the persons on whom it is served as will, in the opinion of the Authority, enable the order to achieve all or any of the purposes set out in subsection (2).

(4) Without prejudice to the general effect of the purposes set out in subsection (2) an environmental restoration order may require a person on whom it is served to—

(*a*) take such action as will prevent the commencement or continuation or cause of pollution;

(*b*) restore land, including the replacement of soil, the replanting of trees and other flora and the restoration as far as may be, of outstanding geological, archaeological or historical features of the land or the area contiguous to the land or sea as may be specified in the particular order;

(*c*) take such action to prevent the commencement or continuation or cause of environmental hazard;

(*d*) cease to take any action which is causing or may contribute to causing pollution or an environmental hazard;

(*e*) remove or alleviate any injury to land or the environment or to the amenities of the area;

(*f*) prevent damage to the land or the environment, aquifers beneath the land and flora and fauna in, on or under or about the land or sea specified in the order or land or the environment contiguous to the land or sea specified in the order;

(*g*) remove any waste or refuse deposited on the land or sea specified in the order and dispose of the same in accordance with the provisions of the order;

(*h*) pay any compensation specified in the order.

(5) In exercising the powers under this section, the Authority shall—

(*a*) be guided by the principles of good environmental management in accordance with the provisions of this Act; and

(*b*) explain the right of appeal of the persons against whom

the order is issued to the Tribunal or if dissatisfied with the decision of the Tribunal, to superior courts.

Contents of Environmental restoration orders.

109. (1) An environmental restoration order shall specify clearly and in a manner which may be easily understood—

(*a*) the activity to which it relates;

(*b*) the person or persons to whom it is addressed;

(*c*) the time at which it comes into effect;

(*d*) the action which must be taken to remedy the harm to the environment and the time, being not more than thirty days or such further period as may be prescribed in the order within which the action must be taken.

(*e*) the powers of the Authority to enter any land and undertake the action specified in paragraph (d);

(*f*) the penalties which may be imposed if the action specified in paragraph (d) is not undertaken;

(*g*) the right of the person served with an environmental restoration order to appeal to the Tribunal against that order, except where the order is issued by a court of competent jurisdiction, in which case the right of appeal shall lie with superior courts.

(2) An Environmental Inspector of the Authority may inspect or cause to be inspected any activity to determine whether that activity is harmful to the environment and may take into account the evidence obtained from that inspection in any decision on whether or not to serve an environmental restoration order.

(3) The Authority may seek and take into account any technical, professional and scientific advice which it considers to be desirable for a satisfactory decision to be made on an environmental restoration order.

(4) An environmental restoration order shall continue to apply to the activity in respect of which it was served notwithstanding that it has been complied with.

(5) A person served with an environmental restoration order shall, subject to the provisions of this Act, comply with all the terms and conditions of the order that has been served on him.

(6) It shall not be necessary for the Authority or its Inspectors

in exercising the powers under subsection (2), to give any person conducting or involved in the activity which is the subject of the inspection or residing or working on or developing land on which the activity which is the subject of the inspection is taking place, an opportunity of being heard by or making representations to the person conducting the inspection.

Reconsideration of environmental restoration order.

110. (1) At any time within twenty-one days after the service of an environmental restoration order, a person upon whom the order has been served may, by giving reasons in writing, request the Authority to re-consider that order.

(2) Where the Authority exercises the power under subsection (1), the expenses necessarily incurred by it in the exercise of that power shall be a civil debt recoverable summarily by it from the person referred to in subsection (1).

Issue of environmental restoration order by a court.

111. (1) Without prejudice to the powers of the Authority under this Act, a court of competent jurisdiction may, in proceedings brought by any person, issue an environmental restoration order against a person who has harmed, is harming or is reasonably likely to harm the environment.

(2) For the avoidance of doubt, it shall not be necessary for a plaintiff under this under this section to show that he has a right or interest in the property, environment or land alleged to have been or likely to be harmed.

Environmental easements and environmental conservation Orders.

112. (1) A court may, on an application made under this Part, grant an environmental easement or an environmental conservation order subject to the provisions of this Act.

(2) The object of an environmental easement is to further the principals of environmental management set out in this Act by facilitating the conservation and enhancement of the environment, in this Act referred to as the benefited environment, through the imposition of one or more obligations in respect of the use of land, in this Act referred to as the burdened land, being the land in the vicinity of the benefited environment.

(3) An environmental easement may be imposed on and shall thereafter attach to the burdened land in perpetuity or for a term of years or for an equivalent interest under customary law as the court may determine.

(4) Without prejudice to the general effect of subsection (2), an environmental conservation order may be imposed on burdened land so as to—

(*a*) preserve flora and fauna;

(*b*) preserve the quality and flow of water in a dam, lake, river or acquifer;

(*c*) preserve any outstanding geological, physiographical, ecological, archeological or historical features of the burdened land;

(*d*) preserve scenic view;

(*e*) preserve open space;

(*f*) permit persons to walk in a defined path across the burdened land;

(*g*) preserve the natural contours and features of the burdened land;

(*h*) prevent or restrict the scope of any activity on the burdened land which has as its object the mining and working of mineral aggregates;

(*i*) prevent or restrict the scope of an agricultural activity on the burdened land;

(*j*) create and maintain works on burdened land so as to limit or prevent harm to the environment; or

(*k*) create or maintain migration corridors for wildlife.

(5) Where an environmental easement is imposed on burdened land on which any person has at the time of the imposition of the easement, any existing right or interest to the land and that environmental easement will restrict that right or interest, there shall be paid to that person, by the applicant for the environmental easement such compensation as may be determined in accordance with section 116.

(6) An environmental easement may exist in gross; that is to say, the validity and enforceability of the easement shall not be dependent on the existence of a plot of land in the vicinity of the burdened land which can be benefited or, of a person with an interest in that plot of land who can be benefited by the environmental easement.

Application to court for environmental easement.

113. (1) A person or a group of persons may make an application to the court for the grant of one or more environmental easements.

(2) The court may impose such conditions on the grant of an environmental easement as it considers to be best calculated to advance the object of an environmental easement.

Enforcement of environmental easements.

114. (1) Proceedings to enforce an environmental easement may be commenced only by the person in whose name the environmental easement has been issued.

(2) Proceedings to enforce an environmental easement may request the court to:—

(*a*) Grant an environmental restoration order;

(*b*) Grant any remedy available under the law relating to easements in respect of land.

(3) The court shall have a discretion to adapt and adjust, so far as seems necessary to it, the law and procedures relating to the enforcement of the requirements of an environmental easement.

Registration of environmental easements.

115. (1) Where an environmental easement is imposed on land, the title of which is registered under a particular system of land registration, the environmental easement shall be registered in accordance with the provisions of the Act applicable to that particular system of registration for easements.

(2) Where an environmental easement is imposed on any land other than land referred to in subsection (1), the District Environment Committee of the area in which that land is situated shall register the environmental easement on a register maintained for that purpose in accordance with the provisions of this Act.

(3) In addition to any matter which may be required by any law relating to the registration of easements in respect of land, the registration of an environmental easement shall include the name of the applicant for the environmental easement as the person in whose name the environmental easement is registered.

Compensation for environmental easements.

116. (1) Any person who has a legal interest in the land which is the subject of an environmental easement, shall, in accordance with the provisions of this Act, be entitled to compensation commensurate with the lost value of the use of the land.

(2) A person described in subsection (1) may apply to the court that granted the environmental easement for compensation stating the nature of his legal interest in the burdened land and the compensation sought.

(3) The court may require the applicant for the environmental easement to bear the cost of compensating the person described in subsection (1).

(4) The court may, if satisfied that the environmental easement sought is of national importance, order that the Government compensates the person described in subsection (1).

(5) The court in determining the compensation due under this section shall take into account the relevant provisions of the Constitution and any other laws relating to compulsory acquisition of land.

Part X—Inspection, Analysis and Records

Appointment of Environmental Inspectors.

117. (1) The Director-General shall, by Gazette Notice, appoint duly qualified persons whether public officers or otherwise, whether by name or by title of office, to be environmental inspectors of the Authority for such jurisdiction units as shall be specified in the Gazette Notice appointing them.

(2) An environmental inspector shall:—

(*a*) monitor compliance with the environmental standards established under this Act;

(*b*) monitor the activities of other sector-specific environmental inspectorates;

(*c*) monitor the pattern of use of environmental resources;

(*d*) conduct environmental audits; and

(*e*) perform such other functions as may be required under this Act or under the Gazette Notice appointing him.

(3) An environmental inspector may, in the performance of his duties under this Act or any regulations made thereunder, at all reasonable times and without a warrant—

(*a*) enter any land, premises, vessel, motor vehicle or ox-drawn trailer and make examinations and enquiries to determine whether the provisions of this Act are being complied with;

(*b*) require the production of, inspect, examine and copy licences, registers, records and other documents relating to this Act or any other law relating to the environment and the management of natural resources;

(*c*) take samples of any articles and substances to which this Act relates and, as may be prescribed, submit such samples for test and analysis;

(*d*) carry out periodic inspections of all establishments and undertakings within their respective jurisdictional limits which manufacture, produce as by-products, import, export, store, sell, distribute or use any substances that are likely to have significant impact on the environment, to ensure that the provisions of this Act are complied with;

(*e*) seize any article, vessel, motor vehicle, plant, equipment, substance or any other thing which he reasonably believes has been used in the commission of an offence under this Act or the regulations made thereunder;

(*f*) with the written approval of the Director-General order the immediate closure of any manufacturing plant or other establishment or undertaking which pollutes or is likely to pollute the environment contrary to the provisions of this Act and to require the owner or operator of such establishment or under-taking to implement any remedial measures that the environmental inspector may direct in the notice closing down the establishment or undertaking. Any establishment or undertaking closed down under this paragraph may resume its operations only with the written approval of the Director-General;

(*g*) with the approval of the Director-General issue an improvement notice requiring the owner or operator of any manufacturing plant, vessel, motor vehicle or other establishment or undertaking to cease any activities deleterious to the environment and to take appropriate remedial measures, including the installation of new plant and machinery if necessary, within such reasonable time as the Director-General may determine;

(*h*) with an arrest warrant and the assistance of a police officer, arrest any person whom he reasonably believes has committed an offence under this Act; and

(*i*) install any equipment on any land, premise, vessel or motor vehicle for purposes of monitoring compliance with the provisions of this Act, or the regulations made thereunder upon giving the owner or occupier of the land three months written notice.

(4) In exercising his powers under this Act, the environmental inspector shall suitably identify himself.

Environmental Inspector's powers to prosecute.

118. Subject to the Constitution and the directions and control of the Attorney-General, an environmental inspector may, in any case in which he considers it desirable so to do:—

(*a*) institute and undertake criminal proceedings against any person before a court of competent jurisdiction (other than a court-martial) in respect of any offence alleged to have been committed by that person under this Act; and

(*b*) discontinue at any stage with the approval of the Attorney-General, before judgement is delivered any such proceedings instituted or undertaken by himself.

Procedures for laboratories analysis of samples.

119. (1) The Director-General may, by Notice in the Gazette, designate such number of laboratories as he may consider necessary, analytical or reference laboratories for the purposes of this Act.

(2) A notice under subsection (1) shall state the specific functions of the laboratory, local limits or subject matter which the laboratory shall serve and the persons appointed as analysts in respect of that laboratory.

(3) The Authority shall, on the advice of the Standards Enforcement Review Committee, prescribe the form and manner in which samples will be taken for analysis.

Certificate of analysis and its effect.

120. (1) A laboratory designated as an analytical or reference laboratory under section 119 shall issue a certificate of analysis of any substance submitted to it under this Act.

(2) The certificate of analysis shall state the methods of analysis followed and shall be signed by the analyst or the reference analyst, as the case may be.

(3) A certificate issued under subsection (1) and complying with subsection (2) shall be sufficient evidence of the facts stated in the certificate for all purposes under this Act.

(4) The results of any analysis made by the laboratory shall be open to inspection by all interested parties.

Records to be kept.

121. (1) The Director-General shall, by notice in the Gazette, prescribe the activities for which records shall be kept for the purposes of this Act, the contents of such records and the manner in which they shall be kept.

(2) The records kept in accordance with subsection (1) of this section and any other records available at the site of an establishment or undertaking shall be made available at such reasonable time to any environmental inspector for the purpose of—

(*a*) an environmental audit;

(*b*) environmental monitoring and evaluation;

(*c*) pollution control;

(*d*) inspection;

(*e*) any other purpose that may be prescribed by the Director-General from time to time.

Transmission of records to the Authority.

122. The records kept under section 121 shall be transmitted annually to the Authority or its designated representative to be received not later than one month after the end of each calendar year. The Authority shall keep all records transmitted hereunder and may maintain their confidentiality if the applicable circumstances so require.

Public Access to records transmitted to the Authority.

123. (1) Subject to the provisions of section 122, any person may have access to any records transmitted to the Authority under this Act.

(2) A person desiring access to such records referred to in subsection (1) may on application to the Authority, be granted access to the said records on the payment of a fee prescribed by the Authority.

PART XI—INTERNATIONAL TREATIES, CONVENTIONS AND AGREEMENTS

Conventions, agreements and treaties on environment.

124. (1) Where Kenya is a party to an international treaty, convention or agreement, whether bilateral or multilateral, concerning the management of the environment, the Authority shall, subject to the direction and control of the Council, in consultation with relevant lead agencies:—

(*a*) initiate legislative proposals for consideration by the Attorney-General, for purposes of giving effect to such treaty, convention or agreement in Kenya or for enabling Kenya to perform her obligations or exercise her rights under such treaty, convention or agreement; and

(*b*) identify other appropriate measures necessary for the national implementation of such treaty, convention or agreement.

(2) The Authority shall, in relation to the formation of international treaties, conventions or agreements on the environment, assist the relevant lead agencies negotiating such treaties, conventions or agreements.

(3) The Authority shall keep a register of all international treaties, agreements or conventions in the field of the environment to which Kenya is a party.

PART XII—NATIONAL ENVIRONMENT TRIBUNAL

Establishment of the National Environment Tribunal.

125. (1) There is established a Tribunal to be known as the National Environment Tribunal which shall consist of the following members—

(*a*) a chairman nominated by the Judicial Service Commission, who shall be a person qualified for appointment as a judge of the High Court of Kenya;

(*b*) an advocate of the High Court of Kenya nominated by the Law Society of Kenya;

(*c*) a lawyer with professional qualifications in environmental law appointed by the Minister; and

(d) two persons who have demonstrated exemplary academic competence in the field of environmental management appointed by the Minister.

(2) All appointments to the Tribunal shall be by name and by Gazette Notice issued by the Minister.

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

(4) The office of a member of the Tribunal shall become vacant:—

(*a*) at the expiration of three years from the date of his appointment;

(*b*) if he accepts any office the holding of which, if he were not a member of the Tribunal, would make him ineligible for appointment to the office of a member of the Tribunal;

(*c*) if he is removed from membership of the Tribunal by the

Minister for failure to discharge the functions of his office (whether arising from infirmity of body or mind or from any other cause) or for misbehavior; and

(*d*) if he resigns the office of member of the Tribunal.

Proceedings of the Tribunal. Cap. 80.

126. (1) The Tribunal shall not be bound by the rules of evidence as set out in Evidence Act.

(2) The Tribunal shall, upon an appeal made to it in writing by any party or a referral made to it by the Authority on any matter relating to this Act, inquire into the matter and make an award, give directions, make orders or make decisions thereon, and every award, direction, order or decision made shall be notified by the Tribunal to the parties concerned, the Authority or any relevant committee thereof, as the case may be.

(3) The Tribunal shall sit at such times and in such places as it may appoint.

(4) The proceedings of the Tribunal shall be open to the public save where the Tribunal, for good cause, otherwise directs.

(5) Except as expressly provided in this Act or any regulations made thereunder, the Tribunal shall regulate its proceedings as it deems fit.

Awards of the Tribunal.

127. (1) The Tribunal may:—

(*a*) make such orders for the purposes of securing the attendance of any person at any place where the Tribunal is sitting, discovery or production of any document concerning a matter before the Tribunal or the investigation of any contravention of this Act as it deems necessary or expedient;

(*b*) take evidence on oath and may for that purpose administer oaths; or

(*c*) on its own motion summon and hear any person as witness;

(2) Any person who—

(*a*) fails to attend the Tribunal after having been required to do so under subsection (1) (*a*);

(*b*) refuses to take oath or affirmation before the Tribunal or being a public officer refuses to produce any article or

document when lawfully required to do so by the Tribunal;

(*c*) knowingly gives false evidence or information which he knows to be misleading before the Tribunal; or

(*d*) at any sitting of the Tribunal—

(i) wilfully insults any member or officer of the Tribunal;

(ii) wilfully interrupts the proceedings or commits any contempt of the Tribunal;

(*e*) fails or neglects to comply with a decision order, direction or notice confirmed by the Tribunal commits an offence under this Act.

Quorum for determination by Tribunal.

128. (1) For the purposes of hearing and determining any cause or matter under this Act, the Chairman and two members of the Tribunal shall form a quorum.

(2) A member of the Tribunal who has a direct interest in any matter which is the subject of the proceedings before the Tribunal shall not take part in those proceedings.

Appeals to the Tribunal.

129. (1) Any person who is aggrieved by:—

(*a*) a refusal to grant a licence or to the transfer of his licence under this Act or regulations made thereunder;

(*b*) the imposition of any condition, limitation or restriction on his licence under this Act or regulations made thereunder;

(*c*) the revocation, suspension or variation of his licence under this Act or regulations made thereunder;

(*d*) the amount of money which he is required to pay as a fee under this Act or regulations made thereunder;

(*e*) the imposition against him of an environmental restoration order or environmental improvement order by the Authority under this Act or regulations made thereunder;

may within sixty days after the occurrence of the event against which he is dissatisfied, appeal to the Tribunal in such manner as may be prescribed by the Tribunal.

(2) Unless otherwise expressly provided in this Act, where this

Act empowers the Director-General, the Authority or Committees of the Authority to make decisions, such decisions may be subject to an appeal to the Tribunal in accordance with such procedures as may be established by the Tribunal for that purpose.

(3) Upon any appeal, the Tribunal may:—

(*a*) confirm, set aside or vary the order or decision in question;

(*b*) exercise any of the powers which could have been exercised by the Authority in the proceedings in connection with which the appeal is brought; or

(*c*) make such other order, including an order for costs, as it may deem just.

(4) Upon any appeal to the Tribunal under this section, the status quo of any matter or activity, which is the subject of the appeal, shall be maintained until the appeal is determined.

Appeals to the High Court.

130. (1) Any person aggrieved by a decision or order of the Tribunal may, within thirty days of such decision or order, appeal against such decision or order to the High Court.

(2) No decision or order of the Tribunal shall be enforced until the time for lodging an appeal has expired or, where the appeal has been commenced, until the appeal has been determined.

(3) Notwithstanding the provisions of subsection (2), where the Director-General is satisfied that immediate action must be taken to avert serious injuries to the environment, the Director-General shall have the power to take such reasonable action to stop, alleviate or reduce such injury, including the powers to close down any undertaking, until the appeal is finalised or the time for appeal has expired.

(4) Upon the hearing of an appeal under this section, the High Court may:—

(*a*) confirm, set aside or vary the decision or order in question;

(*b*) remit the proceedings to the Tribunal with such instructions for further consideration, report, proceedings or evidence as the court may deem fit to give;

(*c*) exercise any of the powers which could have been exercised by the Tribunal in the proceedings in connection with which the appeal is brought; or

(*d*) make such other order as it may deem just, including an order as to costs of the appeal or of earlier proceedings in the matter before the Tribunal.

(5) The decision of the High Court on any appeal under this section shall be final.

Power to appoint Environment Assessors.

131. The Chairman of the Tribunal may appoint any persons with special skills or knowledge on environmental issues which are the subject matter of any proceedings or inquiry before the Tribunal to act as assessors in an advisory capacity in any case where it appears to the Tribunal that such special skills or knowledge are required for proper determination of the matter.

Power to seek the directions of the Tribunal in complex matters, etc.

132. (1) When any matter to be determined by the Authority under this Act appears to it to involve a point of law or to be of unusual importance or complexity, it may, after giving notice to the concerned parties, refer the matter to the Tribunal for direction.

(2) Where any matter has been referred to the Tribunal under subsection (1), the Authority and the parties thereto shall be entitled to be heard by the Tribunal before any decision is made in respect of such matter and may appear personally or be represented by an Advocate.

(3) Any person who is a party to proceedings before the Tribunal may appear in person or be represented by an Advocate before the Tribunal.

Immunity.

133. (1) The Chairman or other members of the Tribunal shall not be liable to be sued in a civil court for an act done or omitted to be done or ordered to be done by them in the discharge of their duty as members of the Tribunal, whether or not within the limits of their 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.

(2) It shall be an offence for any person to engage in acts or make omissions amounting to contempt of the Tribunal and the Tribunal may punish such person for contempt in accordance with the provisions of this Act.

Remuneration of members of Tribunal.

134. There shall be paid to the Chairman and the members of the Tribunal such remuneration and allowances as the Minister shall determine.

135. The Minister shall appoint a public officer to be the Secretary to the Tribunal who shall be paid such allowances as the Minister shall determine.

Appointment of a Secretary to the Tribunal.

136. (1) The Ministry may establish such other Tribunals in any part of Kenya as he deems appropriate.

Powers to establish other Tribunals.

(2) The provisions of section 126-135 shall apply *mutatis mutandis* to any Tribunal established under subsection (1).

PART XIII—ENVIRONMENTAL OFFENCES

137. Any person who—

Offences relating to inspection.

(*a*) hinders or obstructs an environmental inspector in the exercise of his duties under this Act or regulations made thereunder;

(*b*) fails to comply with a lawful order or requirement made by an environmental inspector in accordance with this Act or regulations made thereunder;

(*c*) refuses an environmental inspector entry upon any land or into any premises, vessel or motor vehicle which he is empowered to enter under this Act or regulations made thereunder;

(*d*) impersonates an environmental inspector;

(*e*) refuses an environmental inspector access to records or documents kept pursuant to the provisions of this Act or regulations made thereunder;

(*f*) fails to state or wrongly states his name or address to an environmental inspector in the cause of his duties under this Act or regulations made thereunder;

(*g*) misleads or gives wrongful information to an environmental inspector under this Act or regulations made thereunder;

(*h*) fails, neglects or refuses to carry out an improvement order issued under this Act by an environmental inspector;

commits an offence and shall, on conviction be liable to imprisonment for a term not exceeding twenty four months, or to a fine of not more than five hundred thousand shillings, or both.

Offences relating to Environmental Impact Assessment.

138. Any person who—

(*a*) fails to submit a project report contrary to the requirements of section 58 of this Act;

(*b*) fails to prepare an environmental impact assessment report in accordance with the requirements of this Act or regulations made thereunder;

(*c*) fraudulently makes false statements in an environmental impact assessment report submitted under this Act or regulations made thereunder;

commits an offence and is liable on conviction to imprisonment for a term not exceeding twenty four months or to a fine of not more than two million shillings or to both such imprisonment and fine.

Offences relating to records.

139. Any person who—

(*a*) fails to keep records required to be kept under this Act;

(*b*) fraudulently alters any records required to be kept under this Act;

(*c*) fraudulently makes false statements in any records required to be kept under this Act;

commits an offence and is liable upon conviction to a fine of not more than five hundred thousand shillings or to imprisonment for a term of not more than eighteen months or to both such fine and imprisonment.

Offences relating to Standards.

140. Any person who—

(*a*) contravenes any environmental standard prescribed under this Act;

(*b*) contravenes any measure prescribed under this Act;

(*c*) uses the environment or natural resources in a wasteful and destructive manner contrary to measures prescribed under this Act;

commits an offence and shall be liable upon conviction, to a fine of not more than five hundred thousand shillings or to imprisonment for a term of not more than twenty four months or to both such fine and imprisonment.

Offences relating to hazardous wastes, materials, chemicals and radioactive substances.

141. Any person who—

(*a*) fails to manage any hazardous waste and materials in accordance with this Act;

(*b*) imports any hazardous waste contrary to this Act;

(*c*) knowingly mislabels any waste, pesticide, chemical, toxic substance or radioactive matter;

(*d*) fails to manage any chemical or radioactive substance in accordance with this Act;

(*e*) aids or abets illegal trafficking in hazardous waste, chemicals, toxic substances and pesticides or hazardous substances;

(*f*) disposes of any chemical contrary to this Act or hazardous waste within Kenya;

(*g*) withholds information or provides false information about the management of hazardous wastes, chemicals or radioactive substances;

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

Offences relating to pollution.

142. (1) Any person who—

(*a*) discharges any dangerous materials, substances, oil, oil mixtures into land, water, air, or aquatic environment contrary to the provisions of this Act;

(*b*) pollutes the environment contrary to the provisions of this Act;

(*c*) discharges any pollutant into the environment contrary to the provisions of this Act;

commits an offence and shall on conviction, be liable to a fine not exceeding five hundred thousand shillings.

(2) In addition to any sentence that the Court may impose upon a polluter under subsection (1) of this Section, the Court may direct that person to—

(*a*) pay the full cost of cleaning up the polluted environment and of removing the pollution;

(*b*) clean up the polluted environment and remove the effects of pollution to the satisfaction of the Authority.

(3) Without prejudice to the provisions of subsections (1) (2) of this section, the court may direct the polluter to meet the cost of the pollution to any third parties through adequate compensation, restoration or restitution.

Offences relating to Environmental restoration orders, easements, and conservation orders.

143. Any person who:—

(*a*) fails, neglects or refuses to comply with an environmental restoration order made under this Act;

(*b*) fails, neglects or refuses to comply with an environmental easement, issued under this Act;

(*c*) fails, neglects or refuses to comply with an environmental conservation order made under this Act;

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

General Penalty.

144. Any person who commits an offence against any provision of this Act or of regulations made thereunder for which no other penalty is specifically provided is liable, upon conviction, to imprisonment for a term of not more than eighteen months or to a fine of not more than three hundred and fifty thousand shillings or to both such fine and imprisonment.

Offences by bodies corporate, Partnerships, Principals and Employers.

145. (1) When an offence against this Act, is committed by a body corporate the body corporate and every director or officer of the body corporate who had knowledge of the commission of the offence and who did not exercise due diligence, efficiency and economy to ensure compliance with this Act, shall be guilty of an offence.

(2) Where an offence is committed under this Act by a partnership, every partner or officer of the partnership who had knowledge or who should have had knowledge of the commission of the offence and who did not exercise due diligence, efficiency and economy to ensure compliance with this Act, commits an offence.

(3) A person shall be personally liable for an offence against this Act, whether committed by him on his own account or as an agent or

servant of another person.

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

Forfeiture, cancellation and other orders.

146. (1) The Court before which a person is charged for an offence under this Act or any regulations made thereunder may, in addition to any other order:—

(*a*) upon the conviction of the accused; or

(*b*) if it is satisfied that an offence was committed notwithstanding that no person has been convicted of the offence;

order that the substance, motor vehicle, equipment and appliance or other thing by means whereof the offence concerned was committed or which was used in the commission of the offence be forfeited to the State and be disposed of as the court may direct.

(2) In making the order to forfeit under subsection (1) the Court may also order that the cost of disposing of the substance, motor vehicle, equipment, appliance or any other thing provided for in that subsection be borne by the person convicted thereunder.

(3) The Court may further order that any licence, permit or any authorisation given under this Act, and to which the offence relates, be cancelled.

(4) The Court may further issue an order requiring that a convicted person restores at his own cost, the environment to as near as it may be to its original state prior to the offence.

(5) The court may in addition issue an environmental restoration order against the person convicted in accordance with the provisions of this Act.

Part XIV—Regulations

Powers to make regulations.

147. (1) The Minister may, on the recommendation of the Authority and upon consultation with the relevant lead agencies, make regulations prescribing for matters that are required or permitted by this Act to be prescribed or are necessary or convenient to be prescribed for giving full effect to the provisions of this Act.

(2) Regulations made under subsection (2) may—

(*a*) make provisions for the issue, amendment and revocation of any licence;

(*b*) provide for the charging of fees and levying of charges;

(*c*) adopt wholly or in part or with modifications any rules, standards, guidelines, regulations, by-laws, codes, instructions, specifications, or administrative procedures prescribed by any lead agency either in force at the time of prescription or publication or as amended from time.

Existing Laws.

148. Any written law, in force immediately before the coming into force of this Act, relating to the management of the environment shall have effect subject to modifications as may be necessary to give effect to this Act, and where the provisions of any such law conflict with any provisions of this Act, the provisions of this Act shall prevail.

FIRST SCHEDULE (s. 4 (1) (*b*), 29 (1) (*c*), (3) (*b*), 37 (1) (*b*))

Agriculture.

Economic Planning and Development.

Education.

Energy.

Environment.

Finance.

Fisheries.

Foreign Affairs.

Health.

Industry.

Law or Law Enforcement.

Local Government.

Natural Resources.

Public Administration.

Public Works.

Research and Technology.

Tourism.

Water Resources.

SECOND SCHEDULE (s. 58 (1), (4))

PROJECTS TO UNDERGO ENVIRONMENTAL IMPACT ASSESSMENT

1. General—

(*a*) an activity out of character with its surrounding;

(*b*) any structure of a scale not in keeping with its surrounding;

(*c*) major changes in land use.

2. Urban Development including:—

(*a*) designation of new townships;

(*b*) establishment of industrial estates;

(*c*) establishment or expansion of recreational areas;

(*d*) establishment or expansion of recreational townships in mountain areas, national parks and game reserves;

(*e*) shopping centres and complexes.

3. Transportation including—

(*a*) all major roads;

(*b*) all road in scenic, wooded or mountainous areas and wetlands;

(*c*) railway lines;

(*d*) airports and airfields;

(*e*) oil and gas pipelines;

(*f*) water transport.

4. Dams, rivers and water resources including—

(*a*) storage dams, barrages and Piers;

(*b*) river diversions and water transfer between catchments;

(*c*) flood control schemes;

(*d*) drilling for the purpose of utilising ground water resources including geothermal energy.

5. Aerial spraying.

6. Mining, including quarrying and open-cast extraction of—

(*a*) precious metals;

(*b*) gemstones;

(*c*) metalliferous ores

(*d*) coal;

(*e*) phosphates;

(*f*) limestone and dolomite;

(*g*) stone and slate;

(*h*) aggregates, sand and gravel;

(*i*) clay;

(*j*) exploration for the production of petroleum in any form.

(*k*) extracting alluvial gold with use of mercury.

7. Forestry related activities including—

(*a*) timber harvesting;

(*b*) clearance of forest areas;

(*c*) reforestation and afforestation.

8. Agriculture including—

(*a*) large-scale agriculture;

(*b*) use of pesticide;

(*c*) introduction of new crops and animals;

(*d*) use of fertilizers;

(*e*) irrigation.

9. Processing and manufacturing industries including—

(*a*) mineral processing, reduction of ores and minerals;

(*b*) smelting and refining of ores and minerals;

(*c*) foundries;

(*d*) brick and earthware manufacture;

(*e*) cement works and lime processing;

(*f*) glass works

(*g*) fertilizer manufacture or processing;

(*h*) explosive plants;

(*i*) oil refineries and petro-chemical works;

(*j*) tanning and dressing of hides and skins;

(*k*) abattoirs and meat-processing plants;

(*l*) chemical works and process plants;

(*m*) brewing and malting;

(*n*) bulk grain processing plants;

(*o*) fish-processing plants;

(*p*) pulp and paper mills;

(*q*) food-processing plants;

(*r*) plants for the manufacture of assembly of motor vehicles;

(*s*) plant for the construction or repair of aircraft or railway equipment;

(*t*) plants for the manufacture or assembly of motor vehicles;

(*u*) plants for the manufacture of tanks, reservoirs and sheet-metal containers;

(*v*) plants for the manufacture of coal briquettes;

(*w*) plant for manufacturing batteries.

10. Electrical infrastructure including—

(*a*) Electricity generation stations;

(*b*) Electrical transmission lines;

(*c*) Electrical sub-stations;

(*d*) Pumped-storage schemes.

11. Management of hydrocarbons including—

the storage of natural gas and combustible or explosive fuels.

12. Waste disposal including—

(*a*) sites for solid waste disposal;

(*b*) sites for hazardous waste disposal;

(*c*) sewage disposal works;

(*d*) works involving major atmospheric emissions;

(*e*) works emitting offensive odours.

13. Natural conservation areas including—

(*a*) creation of national parks, game reserves and buffer zones;

(*b*) establishment of wilderness areas;

(*c*) formulation or modification of forest management policies;

(*d*) formulation of modification of water catchment management policies;

(*e*) policies for the management of ecosystems, especially by use of fire;

(*f*) commercial exploitation of natural fauna and flora;

(*g*) introduction of alien species of fauna and flora into ecosystems.

14. Nuclear Reactors.

15. Major developments in biotechnology including the introduction and testing of genetically modified organisms.

THIRD SCHEDULE (s. 37 (1) (*d*), 70 (2))

REPRESENTATIVES OF THE GOVERNMENT MINISTRIES RESPONSIBLE FOR THE FOLLOWING MATTERS:—

Agriculture;
Economic Planning and Development;
Education;
Energy;
Environment;
Finance;
Fisheries;
Health;
Industry;
Law and Law Enforcement;
Local Government/Authority;
Natural Resources;
Public Administration;
Public Works;
Research and Technology;
Tourism;
Water Resources;
Lands and Settlement;
Labour;
Information.

REPRESENTATIVES OF THE FOLLOWING INSTITUTIONS:—

Jomo Kenyatta University of Agriculture and Technology;
Kenya Agricultural Research Institute;
Kenya Bureau of Standards;
Kenya Forestry Research Institute;
Kenya Marine Research Institute;
Kenya Medical Research Institute;
Kenya Wildlife Services;
Kenyatta University;
Moi University;
National Council of Sciences;
National Museums of Kenya;
University of Nairobi;
Radiation Protection Board;
Pesticides Products Control Board.

[Subsidiary]

SUBSIDIARY LEGISLATION

THE ENVIRONMENTAL (IMPACT ASSESSMENT AND AUDIT) REGULATIONS, 2003

ARRANGEMENT OF REGULATIONS

PART I—PRELIMINARY

Regulation

1—Citation.
2—Interpretation.
3—Application.
4—Approval of environmental impact assessment.
5—Technical Advisory Committees.
6—Application for environmental impact assessment licence.

PART II—THE PROJECT REPORT

7—Preparation of project report.
8—Submission of project report.
9—Comments on project report.
10—Approval of project report.

PART III—THE ENVIRONMENTAL IMPACT ASSESSMENT STUDY

11—Terms of reference.
12—Environmental impact assessment guidelines.
13—Approval of experts.
14—Registration of environmental impact assessment experts.
15—Environmental impact assessment expert licence.
16—Environmental impact assessment study.
17—Public participation.
18—Contents of environmental impact assessment study report.
19—Submission of environmental impact study report.
20—Invitation of comments from lead agencies.
21—Submission of comments.
22—Public hearing.
23—Decision of the Authority.
24—Environmental impact assessment licence.
25—Variation of licence.
26—Transfer of licence.
27—Surrender of licence.
28—Cancellation of an environmental impact assessment licence.
29—Access to information.
30—Protection of proprietary information.

PART V—ENVIRONMENTAL AUDIT AND MONITORING

31—Environmental audit study.
32—Compliance with standards
33—Control auditing.
34—Self auditing.
35—Contents of an environmental audit.
36—The environmental audit report.
37—Post audit orders.
38—Inspections.
39—Audit petition by public.
40—Monitoring by the Authority and lead agencies.
41—The monitoring report.

PART VI—MISCELLANEOUS PROVISIONS

42—Strategic environmental assessment.
43—Contents of strategic environmental impact report.
44—Regional and international issues.
45—Offences.
46—Appeal to Tribunal.
47—Registers.
48—Fees.

FIRST SCHEDULE — Forms

SECOND SCHEDULE—Issues to be considered in environmental impact assessment.

THIRD SCHEDULE—General guidelines for carrying out an environmental impact assessment study.

FOURTH SCHEDULE—Criteria for environmental impact assessment experts.

FIFTH SCHEDULE— Fees.

[Subsidiary]

THE ENVIRONMENTAL (IMPACT ASSESSMENT AND AUDIT) REGULATIONS, 2003

L.N. 101/2003, L.N. 133/2007.

PART I—PRELIMINARY

1. These Regulations may be cited as the Environmental (Impact Assessment and Audit) Regulations, 2003. Citation.

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

"analysis" means the testing or examination of any matter, substance or process for the purpose of determining its composition or qualities or its effect (whether physical, chemical or biological) on any segment of the environment or examination of emissions or recording of noise or sub-sonic vibrations to determine the level or other characteristics of the noise or sub-sonic vibration or its effect on any segments of the environment.

"Authority" means the National Environment Management Authority established under section 7 of the Act;

"biological diversity" means the variability among living organisms from all sources including terrestrial ecosystems, aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, among species, and of ecosystems;

"chemical" means a chemical substance in any form whether by itself or in a mixture or preparation, whether manufactured or derived from nature and includes industrial chemicals, pesticides, fertilizers and drugs;

"Director-General" means the Director-General of the Authority appointed under section 10 of the Act;

"District Environment Committee" means the District Environment Committee appointed under section 29 of the Act;

"economic analysis" means the use of analytical methods which take into account economic, socio-cultural, and environmental issues in an integrated manner in the assessment of projects;

"environment" includes the physical factors of the surroundings of human beings including land, water, atmosphere, climate, sound, odour, taste, the biological factors of animals and plants and the social factor of aesthetics and includes both the natural and the built environment;

"environmental audit study" means a systematic evaluation of activities and processes of an ongoing project to determine how far these activities and programmes conform with the approved environmental management plan of that specific project and sound environmental management practices;

"environmental auditor" means an expert or firm of experts registered in accordance with regulation 14;

"environmental control audit system" means a mechanism or procedure put in place by a proponent or proprietor in consultation with the Authority to determine compliance with environmental standards;

"environmental impact assessment" means a systematic examination conducted to determine whether or not a programme, activity or project will have any adverse impacts on the environment;

"environmental impact assessment study report" means the report produced at the end of the environmental impact assessment study process under section 58 of the Act and regulation 11;

"environmental impact assessment expert" means an individual expert or firm of experts registered under regulation 14 and includes a lead expert and an associate expert;

"environmental management" includes the protection, conservation and sustainable use of the various elements or components of the environment;

"environmental management plan" means all details of project activities, impacts, mitigation measures, time schedule, costs, responsibilities and commitments proposed to minimize environmental impacts of activities, including monitoring and environmental audits during implementation and decommissioning phases of a project;

"environmental monitoring" means the continuous or periodic determination of actual and potential effects of any activity or phenomenon of the environment whether short-term or long-term;

"guidelines" means the guidelines describing the methodology for implementation of environmental impact assessment requirements adopted by the Authority under section 58 of the Act;

"inspector" means an environmental inspector appointed under section 117 of the Act;

"lead agency" means any Government ministry, department, parastatal, state corporation or local authority, in which any law vests functions of control or management of any element of the environment or natural resources;

"mass media" includes publicly exhibited posters, newspapers, radio, television or other media used for public communication;

"mitigation measures" include engineering works, technological improvements, management and ways and means of minimising negative aspects, which may include socio-economic and cultural losses suffered by communities and individuals, whilst enhancing positive aspects of the project;

"natural resources" include resources of air, land, water, animals and plants including their aesthetic qualities;

"premises" include mesuages, buildings, lands and hereditaments in every tenure and machinery, plant or vehicle used in connection with any trade carried on at any premises;

"project" includes any project, programme or policy that leads to activities which may have an impact on the environment;

"project report" means a summary statement of the likely environmental effects of a proposed development referred to in section 58 of the Act;

"proprietary information" means information relating to any manufacturing process, trade secret, trade mark, copyright, patent or formula protected by law in Kenya or by any international treaty to which Kenya is a party;

"proponent" means a person proposing or executing a project, programme or an undertaking specified in the Second Schedule of the Act;

"Provincial Environment Committee" means the Provincial Environment Committee appointed under section 29 of the Act;

"review" means a process of checking the adequacy of an environmental impact study to ensure that it meets the legal requirement and ensure wide acceptance of the environmental impact study findings;

"social analysis" means assessing or estimating in advance the social consequences from specific policy actions or project development including social justice and equity, social uncertainty, social cohesion, social networks and interactions, social status and gender desegregation;

"standard" means the limits of discharge or emissions established under the Act or under these Regulations;

"strategic environment assessment" means the process of subjecting public policy, programmes and plans to tests for compliance with sound environmental management;

"sustainable development" means development that meets the needs of the present generation without compromising the ability of future generations to meet their needs by maintaining the carrying capacity of the supporting ecosystem;

"sustainable use" means present use of the environment or natural resources, which does not compromise the ability to use the same by future generations or degrade the carrying capacity of supporting ecosystems;

"Standards and Enforcement Review Committee" means the Standards and Enforcement Review Committee established under section 70 of the Act;

"Technical Advisory Committee" means the Technical Advisory Committee on environmental impact assessment established under section 61

[Subsidiary]

of the Act and regulation 5 of these Regulations;

"trans-boundary impacts" means impacts beyond the Kenyan borders;

"Tribunal" means the National Environment Tribunal established under section 125 of the Act;

"waste" includes any matter prescribed to waste and any matter whether liquid, solid, gaseous or radioactive, which is discharged, emitted or deposited in the environment in such volume composition or manner likely to cause an alteration of the environment;

"water" includes drinking water, river, stream, watercourse, reservoir, well, dam, canal, channel, lake, swamp, open drain, or underground water.

Application. Corr. 2003.

3. These Regulations shall apply to all policies, plans, programmes, projects and activities specified in Part IV, Part V and the Second Schedule of the Act.

Approval of environmental impact assessment.

4. (1) No proponent shall implement a project—

(*a*) likely to have a negative environmental impact; or

(*b*) for which an environmental impact assessment is required under the Act or these Regulations;

unless an environmental impact assessment has been concluded and approved in accordance with these Regulations.

(2) No licensing authority under any law in force in Kenya shall issue a licence for any project for which an environmental impact assessment is required under the Act unless the applicant produces to the licensing authority a licence of environmental impact assessment issued by the Authority under these Regulations.

(3) No licensing authority under any law in force in Kenya shall issue a trading, commercial or development permit or license for any micro project activity likely to have cumulative significant negative environmental impact before it ensures that a strategic environmental plan encompassing mitigation measures and approved by the Authority is in place.

(4) If the Authority determines that an application for an environmental impact assessment raises issues that concern more than one district, it shall submit the application to the relevant Provincial Environment Committee.

Technical Advisory Committees.

5. (1) The Authority may set up technical advisory committees at national, provincial and district levels to advise it on environmental impact assessment related reports.

(2) A technical advisory committee set up under this regulation shall consist of not less than five multi-disciplinary specialists and such other persons as shall be indicated in the guidelines.

(3) The terms of reference and rules of procedure of a technical advisory committee shall be drawn by the Authority in accordance with section 61 of the Act.

(4) The Committees may, with the approval of the Director General, co-opt any persons it deems necessary for its proper functioning.

Application for an Environmental Impact Assessment licence.

6. An application for an environmental impact assessment licence shall be in the form of a project report in Form 1set out in the First Schedule to these Regulations, and the applicant shall submit the application together with the prescribed fee to the Authority or the Authority's appointed agent in the District where the project is to be undertaken.

Part II—The Project Report

Preparation of Project report.

7. (1) A proponent shall prepare a project report stating—

(*a*) the nature of the project;

(*b*) the location of the project including the physical area that may be affected by the project's activities;

(*c*) the activities that shall be undertaken during the project construction, operation and decommissioning phases;

(*d*) the design of the project;

(*e*) the materials to be used, products and by-products, including waste to be generated by the project and the methods of their disposal;

(*f*) the potential environmental impacts of the project and the mitigation measures to be taken during and after implementation of the project;

(*g*) an action plan for the prevention and management of possible accidents during the project cycle;

(*h*) a plan to ensure the health and safety of the workers and neighbouring communities;

(*i*) the economic and socio-cultural impacts to the local community and the nation in general;

(*j*) the project budget; and

(*k*) any other information the Authority may require.

(2) In preparing a project report under this regulation, the proponent shall pay particular attention to the issues specified in the Second Schedule to these Regulations.

[Subsidiary]

(3) A project report shall be prepared by an environmental impact assessment expert registered as such under these Regulations.

Submission of Project report. L.N. 133/2007.

8. A proponent shall submit at least two copies of the project report to the Authority or the Authority's appointed agent in the prescribed form accompanied by the prescribed fees.

Comments on the project report.

9. (1) Where the project report conforms to the requirements of regulation 7 (1), the Authority shall within seven days upon receipt of the project report, submit a copy of the project report to—

(*a*) each of the relevant lead agencies;

(*b*) the relevant District Environment Committee; and

(*c*) where more than one district is involved, to the relevant Provincial Environment Committee,

for their written comments which comments shall be submitted to the Authority within twenty one days from the date of receipt of the project report from the Authority, or such other period as the Authority may prescribe.

(2) On receipt of the comments referred to in subparagraph (1) or where no comments have been received by the end of the period of thirty days from the date of receipt of the project report, the Authority shall proceed to determine the project report.

Approval of project report.

10. (1)On determination of the project report, the decision of the Authority, together with the reasons thereof, shall be communicated to the proponent within forty-five days of the submission of the project report.

(2) Where the Authority is satisfied that the project will have no significant impact on the environment, or that the project report discloses sufficient mitigation measures, the Authority may issue a licence in Form 3 set out in the First Schedule to these Regulations.

(3) If the Authority finds that the project will have a significant impact on the environment, and the project report discloses no sufficient mitigation measures, the Authority shall require that the proponent undertake an environmental impact assessment study in accordance with these Regulations.

(4) A proponent who is dissatisfied with the Authority's decision that an environmental impact assessment study is required may within fourteen days of the Authority's decision appeal against the decision to the Tribunal in accordance with regulation 46.

Part III—The Environmental Impact Assessment Study

Terms of Reference.

11. (1) A environmental impact assessment study shall be conducted in accordance with terms of reference developed during the scoping exercise by the proponent and approved by the Authority.

(2) The terms of reference shall include matters required to be considered in the making of an environmental impact assessment as may be contained in the Second Schedule to these Regulations and such other matters as the Director General may in writing require.

Environmental impact assessment Guidelines.

12. (1) An environmental impact assessment study shall be conducted in accordance with the general environmental impact assessment guidelines and sector environmental impact assessment guidelines set out in the Third Schedule to these Regulations.

(2) Sector environmental impact assessment guidelines shall be developed by the lead agency in consultation with the Authority.

Approval of experts.

13. (1) A proponent shall, on the approval of the terms of reference under regulation 11, submit to the Authority the names and qualifications of the impact assessment experts appointed to undertake the environmental impact assessment study and authorized so to do in accordance with section 58 (5) of the Act.

(2) Every environmental impact assessment study shall be carried out by a lead expert qualified in accordance with the criteria of listing of experts specified in the Fourth Schedule to these Regulations.

(3) A person undertaking an environmental impact assessment study shall conduct themselves in accordance with an established code of practice issued by the Authority.

Registration of environmental impact assessment experts.

14. (1) A person or firm wishing to apply for registration as an environmental impact assessment expert or firm of experts for carrying out environmental impact assessment studies or audits shall be required to meet the qualification criteria set out in the Fourth Schedule to these Regulations.

(2) An applicant for registration under sub-paragraph (1) shall submit an application in Form 4 set out in the First Schedule to these Regulations, accompanied by the prescribed fees.

(3) An environmental impact assessment expert practising under a firm of experts shall be registered as an individual expert.

(4) The Authority shall issue a certificate of registration to a qualified environmental impact assessment expert in Form 5 set out in the First Schedule to these Regulations.

(5) An environmental impact assessment expert registered as such under these Regulations may be de-registered if the expert contravenes any of provisions of the code of practice issued by the Authority.

15. (*Deleted by L.N. 133/2007*).

Environmental impact assessment study.

16. An environmental impact assessment study prepared under these Regulations shall take into account environmental, social, cultural, economic, and legal considerations, and shall—

(*a*) identify the anticipated environmental impacts of the project and the scale of the impacts;

(*b*) identify and analyze alternatives to the proposed project;

(*c*) propose mitigation measures to be taken during and after the implementation of the project; and

(*d*) develop an environmental management plan with mechanisms for monitoring and evaluating the compliance and environmental performance which shall include the cost of mitigation measures and the time frame of implementing the measures.

Public participation.

17. (1) During the process of conducting an environmental impact assessment study under these Regulations, the proponent shall in consultation with the Authority, seek the views of persons who may be affected by the project.

(2) In seeking the views of the public, after the approval of the project report by the Authority , the proponent shall—

(*a*) publicize the project and its anticipated effects and benefits by—

(i) posting posters in strategic public places in the vicinity of the site of the proposed project informing the affected parties and communities of the proposed project;

(ii) publishing a notice on the proposed project for two successive weeks in a newspaper that has a nation-wide circulation; and

(iii) making an announcement of the notice in both official and local languages in a radio with a nation-wide coverage for at least once a week for two consecutive weeks;

(*b*) hold at least three public meetings with the affected parties and communities to explain the project and its effects, and to receive their oral or written comments;

(*c*) ensure that appropriate notices are sent out at least one week prior to the meetings and that the venue and times of the meetings are convenient for the affected communities and the other concerned parties; and

(*d*) ensure, in consultation with the Authority that a suitably qualified co-ordinator is appointed to receive and record both oral and written comments and any translations thereof received during all public meetings for onward transmission to the Authority.

[Subsidiary]

PART IV—THE ENVIRONMENTAL IMPACT ASSESSMENT STUDY REPORT

Contents of environmental impact assessment study report.

18. (1) A proponent shall submit to the Authority, an environmental impact assessment study report incorporating but not limited to the following information—

(*a*) the proposed location of the project;

(*b*) a concise description of the national environmental legislative and regulatory framework, baseline information, and any other relevant information related to the project;

(*c*) the objectives of the project;

(*d*) the technology, procedures and processes to be used, in the implementation of the project;

(*e*) the materials to be used in the construction and implementation of the project;

(*f*) the products, by-products and waste generated by the project;

(*g*) a description of the potentially affected environment;

(*h*) the environmental effects of the project including the social and cultural effects and the direct, indirect, cumulative, irreversible, short-term and long-term effects anticipated;

(*i*) alternative technologies and processes available and reasons for preferring the chosen technology and processes;

(*j*) analysis of alternatives including project site, design and technologies and reasons for preferring the proposed site, design and technologies;

(*k*) an environmental management plan proposing the measures for eliminating, minimizing or mitigating adverse impacts on the environment; including the cost, time frame and responsibility to implement the measures;

(*l*) provision of an action plan for the prevention and management of foreseeable accidents and hazardous activities in the cause of carrying out activities or major industrial and other development projects;

(*m*) the measures to prevent health hazards and to ensure security in the working environment for the employees and for the management of emergencies;

(*n*) an identification of gaps in knowledge and uncertainties which were encountered in compiling the information;

(*o*) an economic and social analysis of the project;

(*p*) an indication of whether the environment of any other state is likely to be affected and the available alternatives and mitigating measures; and

(*q*) such other matters as the Authority may require.

(2) The environmental impact assessment study report shall be accompanied by a non-technical summary outlining the key findings, conclusions and recommendations of the study and shall be signed by the proponent and environmental impact assessment experts involved in its preparation.

Submission of environmental impact assessment study report.

19. A proponent shall submit ten copies and an electronic copy of an environmental impact assessment study report to the Authority in Form 1B set out in the First Schedule to these Regulations accompanied by the prescribed fees.

Invitation for comments from lead agencies.

20. (1) The Authority shall within fourteen days of the receipt of the environmental impact assessment study report, submit a copy of the report to any relevant lead agencies for their comments.

(2) Upon receiving the environmental impact assessment study report, the lead agencies shall review the report to ensure that it complies with the terms of reference developed under regulation 11 and that it is comprehensive and shall thereafter send their comments on the study report to the Authority within thirty days or such extended period as the Authority may specify.

(3) If the lead agencies to which a copy of the environmental impact assessment study report is submitted fail to submit their comments within thirty days or such extended period as the Authority may specify, the Authority may proceed with the determination of the application for the implementation of the project

Submission of comments.

21. (l) The Authority shall, within fourteen days of receiving the environmental impact assessment study report, invite the public to make oral or written comments on the report.

(2) The Authority shall, at the expense of the proponent—

(*a*) publish for two successive weeks in the Gazette and in a newspaper with a nation-wide circulation and in particular with a wide circulation in the area of the proposed project, a public notice once a week inviting the public to submit oral or written comments on the environmental impact assessment study report; and

(*b*) make an announcement of the notice in both official and local languages at least once a week for two consecutive weeks in a radio with a nation-wide coverage.

(3) The invitation for public comments under this regulation shall state—

(*a*) the nature of the project;

(*b*) the location of the project;

(*c*) the anticipated impacts of the project and the proposed mitigation measures to respond to the impacts;

(*d*) the times and place where the full report can be inspected; and

(*e*) the period within which the Authority shall receive comments.

(4) The notice to be published in the newspaper as specified under sub-regulation (3) shall be in Form 8 set out in the First Schedule to these Regulations.

Public hearing.

22. (l) Upon receipt of both oral and written comments as specified by section 59 and section 60 of the Act, the Authority may hold a public hearing.

(2) A public hearing under these Regulations shall be presided over by a suitably qualified person appointed by the Authority.

(3) The date and venue of the public hearing shall be publicized at least one week prior to the meeting—

(*a*) by notice in at least one daily newspaper of national circulation and one newspaper of local circulation;

(*b*) by at least two announcements in the local language of the community and the national language through radio with a nation wide coverage.

(4) The public hearing shall be conducted at a venue convenient and accessible to people who are likely to be affected by the project.

(5) A proponent shall be given an opportunity to make a presentation and to respond to presentations made at the public hearing.

(6) The presiding officer shall in consultation with the Authority determine the rules of procedure at the public hearing.

(7) On the conclusion of the hearing, the presiding officer shall compile a report of the views presented at the public hearing and submit the report to the Director General within fourteen days from the date of the public hearing.

Decision of the Authority.

23. (1) The Authority shall give its decision on an environmental impact assessment study report within three months of receiving an environmental impact assessment study report.

(2) The decision of the Authority shall be in writing and shall contain the reasons thereof.

(3) In making a decision regarding an environmental impact assessment licence under these Regulations, the Authority shall take into account—

(*a*) the validity of the environmental impact assessment study report submitted under regulation 18 with emphasis on the economic, social and cultural impacts of the project;

(*b*) the comments made by a lead agency and other interested parties under these Regulations;

(*c*) the report of the presiding officer compiled after a public hearing specified under regulation 22 where applicable; and

(*d*) other factors which the Authority may consider crucial in the implementation of the project.

(4) The decision of the Authority under this regulation shall be communicated to the proponent within fourteen days from the date of the decision and a copy thereof shall be made available for inspection at the Authority's offices.

Environmental impact assessment licence.

24. Where the Authority approves an environmental impact assessment study report under regulation 23, it shall issue an environmental impact assessment licence in Form 3 set out in the First Schedule to these Regulations on such terms and conditions as it may deem necessary.

Variation of licence Corr. 2003.

25. (1) Where a proponent wishes to vary the terms and conditions on which an environmental impact assessment licence has been issued, the holder of the licence may apply for a variation of the environmental impact assessment licence in Form 9 set out in the First Schedule to these Regulations accompanied by the prescribed fees.

(2) The Authority may issue a certificate of variation of an environmental impact assessment licence in Form 10 set out in the First Schedule to these Regulations.

(3) A variation of an environmental impact assessment licence issued under regulation 24 may be issued without the holder of the licence submitting a fresh environmental impact assessment study report if the Authority is satisfied that the project if varied would comply with the requirements of the original licence.

(4) Where an environmental impact assessment is required under this regulation, the provisions of Part II of these Regulations shall apply.

Transfer of licence.

26. (1) The holder of an environmental impact assessment licence may, on payment of the prescribed fee, transfer the licence to another person only in respect of the project to which such licence was issued.

(2) The transferee as well as the transferor of a licence under this regulation shall be liable for all liabilities, and the observance of all obligations imposed by the transfer in respect of the licence transferred, but the transferor shall not be responsible for any future liabilities or any obligations so imposed with regard to the licence from the date the transfer is approved.

(3) Where an environmental impact assessment licence is to be transferred, the person to whom it is to be transferred and the person transferring it shall jointly notify the Director General of the transfer in Form 11 set out in the First Schedule to these Regulations.

(4) The Authority shall issue a certificate of transfer of an environmental impact assessment licence in Form 12 set out in the First Schedule to these Regulations.

(5) Where no joint notification of a transfer is given in accordance with this regulation, the registered holder of the licence shall be deemed for the purposes of these Regulations and the Act to be the owner or the person having charge, management or control of the project as the case may be.

Surrender of licence.

27. (1) The holder of an environmental impact assessment licence may surrender the licence issued under these Regulations to the Authority after ceasing to be responsible for the implementation of the project.

(2) The holder of the licence shall notify the Authority of the intention to surrender the licence under sub- regulation (1) at least six months before the surrender by submitting a notification in Form 13 set out in the First Schedule to these Regulations together with the prescribed fees.

(3) The holder of a licence shall not surrender their licence without the consent of the Authority.

(4) The surrender of an environmental impact assessment licence shall not be effective until the Authority issues a certificate of surrender in respect of that licence in Form 14 set out in the First Schedule to these Regulations.

(5) A surrender shall be without prejudice to any liabilities or obligations which have accrued on the holder of the licence prior to the date of surrender.

Cancellation of an environmental impact assessment licence.

28. (1) The Authority may, at any time after it issues a licence under these Regulations, on the advise of the Standards Enforcement and Review Committee—

(*a*) suspend the licence on such terms and conditions as the Authority may deem fit for a period not exceeding twenty-four months; or

(*b*) revoke or cancel the licence.

(2) The Authority may suspend, revoke or cancel a licence as specified under sub-regulation (1) where—

(*a*) the licensee contravenes the conditions set out in the licence;

(*b*) there is a substantial change or modification in the project or in the manner in which the project is being implemented;

(*c*) the project poses an environmental threat which could not be

reasonably foreseen before the licence was issued; or

(*d*) it is established that the information or data given by the proponent in support of his application for an environmental impact assessment licence was false, incorrect or intended to mislead.

Access to information.

29. Information or documents submitted to the Authority by any person in connection with an environmental impact assessment together with the Authority's decision and the reasons thereof shall be made available to the public on such terms and conditions as the Authority may prescribe.

Protection of proprietary Information.

30. (1) A person submitting information to the Authority may at any time apply to the Authority in Form 15 set out in the First Schedule to these Regulations to exclude the information or parts thereof from being made available to the public on the basis of commercial confidentiality or national security.

(2) If the Authority grants the request made under sub-regulation (1), the information or specified parts of the information shall be excluded from public access, and an entry shall be made in a register to be maintained by the Authority indicating in general the nature of the information and the reason for which it is excluded from public access:

Provided that this information shall remain available to the Authority, and the Authority shall take all measures to maintain confidentiality of the information and shall not copy, circulate, publish or disclose such information.

(3) If the Authority rejects the claim that the information is proprietary, it shall communicate the decision to the proponent within fourteen days of its decision.

(4) The Authority shall review its decision on an application made under this regulation from time to time to determine whether the reasons for exclusion are still valid and whether the exclusion should continue.

(5) A person who is aggrieved by the decision of the Authority under this regulation may appeal to the Tribunal against that decision.

Part V—Environmental Audit and Monitoring

Environmental audit study.

31. (1) An environmental audit study shall be undertaken on the following development activities which are likely to have adverse environmental impacts—

(a) ongoing projects commenced prior to the coming into force of these regulations; or

(b) new projects undertaken after completion of an environmental impact assessment study report.

(2) An environmental audit shall, unless it is a self-auditing study under regulation 34, be conducted by a qualified and authorized environmental auditor or environmental inspector who shall be an expert or a firm of experts registered

in accordance with regulation 14.

(3) The Authority shall require the proponent to undertake—

(*a*) in the case of an ongoing project—

(i) an initial environmental audit study followed by subsequent environmental control audit studies as may be necessary at such times as shall be agreed upon by the Authority and the proponent; and

(ii) an initial environmental audit study to provide baseline information upon which subsequent environmental control audit studies shall be based; and

(*b*) an environmental audit study based on baseline information provided in the environmental impact assessment report study.

(4) (*a*) The proponent of an ongoing project shall undertake an environmental audit of the project within a period of twelve months from the date of publication of these Regulations.

(*b*) A proponent of a project that has undergone an environmental impact assessment study shall within a period of twelve months of the commencement of the operations, and not more than twenty four months after the completion of a project which ever is earlier, undertake an environmental audit of the project:

Provided that an audit may be required sooner if the life of the project is shorter than the period prescribed under this regulation.

(5) An environmental audit study specified under this regulation shall be conducted in accordance with the terms of reference developed by the proponent in consultation with the Authority.

(6) In carrying out the environmental audit study under this regulation, the auditor shall ensure that an appraisal of all the project activities, including the production of goods and services is carried out, gives adequate consideration to environmental regulatory frameworks, environmental health and safety measures and sustainable use of natural resources.

(7) An audit report compiled under this regulation shall include but shall not be limited to the following information—

(*a*) the past and present impacts of the project;

(*b*) the responsibility and proficiency of the operators of the project;

(*c*) existing internal control mechanisms to identify and mitigate activities with a negative environmental impact;

(*d*) existing internal control mechanisms to ensure the workers' health and safety; and

(*e*) the existence of environmental awareness and sensitization measures, including environmental standards, and regulations, law and policy, for the managerial and operational personnel.

Compliance with standards.

32. In carrying out an environmental audit study, the environmental auditor shall comply with any existing national environmental regulations and standards prescribed by the Authority, and in the absence of such national environmental regulations and standards shall use such other international standards as shall be prescribed by the Authority.

Control auditing.

33. (1) A control audit shall be carried out by the Authority whenever the Authority deems it necessary to check compliance with the environmental parameters set for the project or to verify self-auditing reports.

(2) A control audit shall—

(*a*) confirm that the environmental management plan of the project is being adhered to; and

(*b*) verify the adequacy of the environmental management plan in mitigating the negative impacts of a project.

Self auditing.

34. (1) In executing a project, after the environmental impact assessment study report has been approved by the Authority, or after the initial audit of an ongoing project, the proponent shall take all practical measures to ensure the implementation of the environmental management plan by—

(*a*) carrying out a self-auditing study on a regular basis;

(*b*) preparing an environmental audit report after each audit and submitting the report to the Authority annually or as may be prescribed by the Authority; and

(*c*) ensuring that the criteria used for the audit is based on the environmental management plan developed during the environmental impact assessment process or after the initial audit.

Contents of an environmental audit.

35. (1) An environmental audit shall be carried out through questionnaires, an environmental site visits and test analysis and in the manner specified in this regulation.

(2) In conducting an initial environmental audit an environmental auditor shall—

(*a*) consider the description of the project;

(*b*) indicate the objective, scope and criteria of the audit;

(*c*) study all relevant environmental law and regulatory frameworks on health and safety, sustainable use of natural resources and on acceptable national and international standards;

(*d*) verify the level of compliance by the proponent with the conditions of the environmental management plan;

(*e*) evaluate the proponent's knowledge and awareness of and responsibility for the application of relevant legislation;

(*f*) review existing project documentation related to all infrastructural facilities and designs;

(*g*) examine monitoring programs, parameters, and procedures in place for control and corrective actions in case of emergencies;

(*h*) examine records of incidents and accidents and the likelihood of future occurrence of the incidents and accidents;

(*i*) inspect all buildings, premises and yards in which manufacturing, testing and transportation takes place within and without the project area, as well as areas where goods are stored and disposed of and give a record of all significant environmental risks associated with such activities;

(*j*) examine and seek views on health and safety issues from the project employees, the local and other potentially affected communities; and

(*k*) prepare a list of health and environmental concerns of past and on-going activities.

(3) Where an environmental auditor is conducting a control audit, the environmental auditor shall—

(*a*) consider the description of the project;

(*b*) indicate the objective, scope and criteria of the audit;

(*c*) inspect all buildings, premises and yards in which manufacturing, testing and transportation takes place within and without the project area as well as areas where goods are stored and disposed of and give a record of all significant environmental risks associated with such activities;

(*d*) indicate the extent to which the environmental management plan corresponds to the planned arrangements and, if implemented, achieves the stated objectives;

(*e*) identify any significant source of air pollution, water pollution, land contamination and degradation, local community disturbance, wildlife disturbance and the health of the workers of the project; and

(*f*) prepare a list of concerns of on-going activities with recommendations.

The environmental audit report.

36. (1) An environmental auditor shall indicate in an audit report the measures that exist under the environmental management plan of the proposed project to bring the project up to an acceptable environmental standard and how environmental impacts will be addressed and controlled.

(2) An environmental audit report compiled under these Regulations shall contain—

(*a*) a presentation of the type of activity being audited;

(*b*) an indication of the various materials, including non-manufactured materials, the final products, and by-products, and waste generated;

(*c*) a description of the different technical activities, processes and operations of the project;

(*d*) a description of the national environmental legislative and regulatory frameworks on ecological and socio-economic matters;

(*e*) a description of the potentially affected environment on ecological and socio- economic matters;

(*f*) a prioritization of all past and on-going concerns of the project;

(*g*) an identification of all environmental and occupational health and safety concerns of the project;

(*h*) an opinion on the efficacy and adequacy of the environmental management plan of the project;

(*i*) detailed recommendations for corrective activities, their cost, timetable and mechanism for implementation;

(*j*) an indication of the measures taken under the environmental management plan to ensure implementation is of acceptable environmental standards; and

(*k*) a non technical summary outlining the key findings, conclusions and recommendations of the auditor.

Post audit orders.

37. The Authority may issue an improvement order for the carrying out of corrective measures for mitigating the environmental degradations revealed during any audit study.

Inspections.

38. (1) An inspector may, at reasonable times, enter on any land, premises or facility of a project for the purposes of inspection, to examine records and to make enquiries on the project.

(2) A person who refuses to answer questions, refuses to avail documents or refuses to give other information legitimately sought by the inspector commits an offence.

Audit petition by public.

39. A member of the public may, after showing reasonable cause in writing, petition the Authority to cause an audit to be carried out on any project.

Monitoring by the Authority and lead agencies.

40. (1)The Authority shall in consultation with lead agencies—

(*a*) monitor environmental phenomena with a view to making an assessment of any possible changes in the environment and their possible impacts;

(*b*) monitor the operations of any industry, project or activity with a view to determining its immediate and long term effect on the environment;

(*c*) except where a baseline survey has been carried out under regulation 31 cause the proponent to carry out a baseline survey to identify basic environmental parameters in the project area before implementation;

(*d*) determine the parameters and measurable indicators to be used in monitoring of projects; and

(*e*) conduct measurement of environmental changes that have occurred during implementation.

(2) The Authority shall, in consultation with the lead agencies monitor ongoing projects on a continuous basis using parameters and indicators developed under this regulation.

(3) The Authority shall, in consultation with the lead agency upon detection of non- compliance with the conditions of approval of an environmental impact assessment licence immediately, institute remedial action.

The monitoring report.

41. (1) Where a lead agency has undertaken monitoring under regulation 40, it shall submit a report to the Authority which report shall include the following—

(*a*) the name and address of proponent;

(*b*) the name of the proposed project;

(*c*) date of implementation of the proposed project;

(*d*) the date of the last monitoring report, including the report findings, action taken and its result;

(*e*) details of the environmental parameters to be monitored;

(*f*) results of the actual monitoring exercise;

(*g*) new actions to be implemented including the criteria for the next evaluation; and

(h) a non technical summary of findings, conclusions and recommendations.

(2) An Inspector may enter upon any land or premises for the purposes of monitoring the effects of any activities carried on that land or premises upon the environment.

PART VI—MISCELLANEOUS PROVISIONS

Strategic environmental assessment.

42. (1) Lead agencies shall in consultation with the Authority subject all proposals for public policy, plans and programmes for environmental implementation to a strategic environmental assessment to determine which ones are the most environmentally friendly and cost effective when implemented individually or in combination with others.

(2) The assessment carried out under this regulation shall consider the effect of implementation of alternative policy actions taking into consideration—

(*a*) the use of natural resources;

(*b*) the protection and conservation of biodiversity;

(*c*) human settlement and cultural issues;

(*d*) socio-economic factors; and

(*e*) the protection, conservation of natural physical surroundings of scenic beauty as well as protection and conservation of built environment of historic or cultural significance.

(3) The Government, and all the lead agencies shall in the development of sector or national policy, incorporate principles of strategic environmental assessment.

Contents of strategic environmental impact report.

43. (1) A strategic environmental impact report prepared under this regulation shall include the following information—

(*a*) the title of the report;

(*b*) a summary of the potential significant impacts of a proposed policy, programme or plan;

(*c*) potential opportunities to promote or enhance environmental conditions;

(*d*) recommendations for mitigating measures; and

(*e*) alternative policy, programme or plan options to ensure compliance with the Act.

(2) The proposed policy, programme or plan specified in this regulation shall state—

(*a*) the purpose and rational of the policy, programme or plan taking into consideration socio-economic, environmental and cultural issues;

(*b*) alternatives and strategies of the policy, programme or plans;

(*c*) areas and sectors affected by the policy, programme, plan, or proposed activities;

(*d*) an environmental analysis covering:

(i) baseline information focusing on areas potentially affected;

(ii) relevant legislative framework and related policy documents;

(iii) summary of views of key stakeholders consulted;

(iv) predicted impacts of the policy, programme or plan;

(v) alternative policy options and comparison against environmental indicators;

(vi) ongoing projects and how they fit in the proposed policy, programme or plan;

(*e*) recommendations outlining—

(i) suggested policy changes;

(ii) proposed mitigation measures;

(iii) strategic environment assessment; and

(*f*) relevant technical appendices such as stakeholders meetings referred to in the assessment.

Regional and international issues.

44. Where a project is likely to have a transboundary impact, the proponent shall, in consultation with the Authority, ensure that appropriate measures are taken to mitigate any adverse impacts taking into account any existing treaties and agreements between Kenya and the other country.

Offences.

45. (1) Notwithstanding any licence, permit or approval granted under any written law, any person who commences, proceeds with, executes or conducts or causes to commence, proceed with, execute or conduct any project without approval granted under these regulations commits an offence and on conviction is liable to the penalty prescribed under the Act.

(2) Any person who—

(*a*) fails to prepare and submit a project report to the Authority contrary to regulations 7 and 8;

(*b*) fails to prepare and submit an environmental impact assessment study report contrary to regulations 18 and 19;

(*d*) is in breach of any condition of any licence or certificate issued under these Regulations;

(*e*) fraudulently makes a false statement in a project report or environmental impact assessment study report;

(*f*) fraudulently alters a project report or an environmental impact assessment study report;

(*g*) fraudulently makes a false statement in an environmental audit;

(*h*) fails to inform the Authority of a transfer of an environmental impact assessment licence in accordance with regulation 26; or

(*i*) after an audit report is submitted fails to implement any mitigation measures specified under regulation 37;

commits an offence and on conviction shall be liable to the penalty prescribed under the Act.

Appeal to Tribunal.

46. (1) Any person who is aggrieved by—

(*a*) a refusal to grant a licence or by a refusal to transfer a licence under these Regulations;

(*b*) the imposition of any condition, limitation or restriction on a licence;

(*c*) the revocation, suspension or variation of a licence issued under these Regulations;

(*d*) the amount of money which the person is required to pay as fees;

(*e*) the imposition of any environmental restoration order or environmental improvement order on the project by the Authority; or

(*f*) the approval or reinstatement by the Authority of an environmental impact assessment licence, may within sixty days after the date of the decision against which he or she is dissatisfied, appeal to the Tribunal;

(2) A person aggrieved by a decision or order of the Tribunal may, within thirty days of such a decision or order, appeal against such decision or order to the High Court.

(3) The fact that approval is given in respect of an environmental impact assesment shall not be a defence to any civil action or to a criminal prosecution under any enactment.

Registers.

47. (1) The Authority shall maintain the following registers—

(*a*) a register of all individual experts or firms of experts duly authorized to conduct or prepare environmental impact assessment studies and audits;

(*b*) a register of all environmental impact assessment licences issued under these Regulations;

(*c*) a register of environmental impact assessment reports, audit study reports, strategic environmental assessment reports and monitoring reports; and

(*d*) a register of approvals of applications seeking exclusion of proprietary information from public access.

(2) The registers reffered to in sub paragraph (1) shall be public documents maintained at the offices of the Authority for inspection by any person on the payment of the prescribed fees.

Fees.

48. The Authority may, for the purposes of these Regulations charge the fees specified in the Fifth Schedule to these Regulations.

FIRST SCHEDULE

Corr. 2003, L.N. 133/2007.

FORM 1 (r. 6)

Application Reference No: ……

THE ENVIRONMENT MANAGEMENT AND CO-ORDINATION ACT

SUBMISSION OF PROJECT REPORT

PART A: DETAILS OF PROPONENT

A1. Name of Proponent (Person or Firm) ….....…….....……

A2. PIN No. .....…….....……

A3. Address ……..….....….....….....….....……

A4. Name of Contact person …....….....……

A5. Telephone No. ….....…… A6. Fax No. ……...……

A7. E-mail…….....……

PART B: DETAILS OF THE PROJECT REPORT

B1. Title of the proposed project …….....……

B2. Objectives and scope of the project …….....
.....……

B3. Description of the activities …….....
.....…….....……

B4. Location of the proposed project .....

PART C: DECLARATION BY THE PROPONENT

I hereby certify that the particulars given above are correct and true to the best of my knowledge.

…… …….....……

Name ……....…… Position ….....……

Signature…….....……

On behalf of ……....……

Date …….....……

(Firm name and seal)

PART D: DETAILS OF ENVIRONMENTAL IMPACT ASSESSMENT EXPERT

Name (individual/firm) …….....……

Certificate of registration No. …….....……

Address …….....……

Tel: …… Fax: ….....…… E-mail ……..……

PART E: FOR OFFICIAL USE

Approved/not approved …….....……

Comments: ..…….....

.....……

Officer …….....…… Sign. ……..…… Date ……....……

NB: 1. If the Project Report does not contain sufficient information required under the Environmental (Impact Assessment and Audit) Regulations the applicant may be requested to give further information concerning the project or be notified of any defects in the application and may be required to provide the additional information.

2. Any person who fraudulently makes a false statement in a project report or alters the project report commits an offence.

Important Notes: Please submit the following:

(*a*) Three copies of this form

(*b*) 10 copies of the project report

(*c*) the prescribed fees, to:

Director-General,
The National Environment Management Authority.

[Subsidiary]

FORM 2 (r. 19) Corr. 2003.

Application Reference No: …….....……

FOR OFFICIAL USE

THE ENVIRONMENT MANAGEMENT AND CO-ORDINATION ACT

SUBMISSION OF ENVIRONMENTAL IMPACT ASSESSMENT STUDY REPORT

PART A: DETAILS OF PROPONENT

A1. Name of Proponent (Person or Firm) ….....…….....……

A2. PIN No. .....…….....……

A3. Address ……..….....….....….....….....……

A4. Name of Contact person …....….....……

A5. Telephone No. ….....…… A6. Fax No. ……...……

A7. E-mail…….....……

PART B: DETAILS OF THE ENVIRONMENTAL IMPACT ASSESSMENT STUDY REPORT

B1. Title of the proposed project …….....……

B2. Objectives and scope of the project …….....
.....……

B3. Description of the activities …….....
.....…….....……

B4. Location of the proposed project .....

PART C: DECLARATION BY THE PROPONENT

I hereby certify that the particulars given above are correct and true to the best of my knowledge.

Name ……...…… Position ….....……

Signature…….....……

On behalf of ……....……

Date …….....……

(Firm name and seal)

PART D: DETAILS OF ENVIRONMENTAL IMPACT ASSESSMENT EXPERT

Name (individual/firm) …….....……

Certificate of registration No. …….....……

Address …….....……

Tel: …… Fax: ….....…… E-mail ……..……

PART E: FOR OFFICIAL USE

Approved/not approved: …….....……

Comments: …….....

.....……

Officer …….....…… Sign. ……..…… Date ……....……

Important Notes: Please submit the following:

(*a*) Three copies of this form

(*b*) 10 copies of the project study report

(*c*) the prescribed fees, to:

Director-General,
The National Environment Management Authority.

FORM 3 (r. 24)

Application Reference No: ....……

Registration No: ……

FOR OFFICIAL USE

THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION ACT

ENVIRONMENTAL IMPACT ASSESSMENT LICENCE

This is to certify that the Project Report/Environmental Impact Assessment Study Report …….....…… received from ……....…….…… (name of individual/firm) ……...….....…… (address) submitted to the National Environment Management Authority in accordance with the Environmental Impact Assessment and Audit Regulations regarding …….....….....…… (title of project) whose objective is to carry on …… …… …… …..... (briefly describe purpose) located at …… (locality and District) has been reviewed and a licence is hereby issued for implementation of the project, subject to attached conditions.

Dated this …...…… day …...…… of 20 ..…..

Signature ….....……....……..

(Seal)

Director-General,
The National Environment Management Authority.

Conditions of Licence:

1. This licence is valid for a period of …… (time within which the project should commence) from the date hereof.

2. The Director-General shall be notified of any transfer/variation/surrender of this licence.

FORM 4 (r. 14 (2))

Application Reference No. ….....…….

FOR OFFICIAL USE

THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION ACT

APPLICATION FOR REGISTRATION AS AN ENVIRONMENTAL IMPACT ASSESSMENT/AUDIT EXPERT

PART A: DETAILS OF APPLICANT

A1. Name of proponent (Individual or Firm) …….....……..…

A2. Nationality .....…….....……

A3. PIN No. ……...……

A4. Firm (Local/Foreign) …….....……..……

A4. Business registration No. (where applicable) …...… Date ....…

A5. Address ……
….....…….……

A6. Telephone No. ……...…… A7. Fax No. ……

A8. E-mail ……..……..……

A9. Applicants academic/professional qualifications: .....
.....……...……

A10. List of professionals and their academic/professional qualifications and their nationalities (where applicable) …….....……
……
……

A11. Experience in Environmental Impact Assessment related activities ……
……
…….....….....…

A12. Application for registration as Lead Expert or Associate Expert ……
……

A13. Previous registration No. and date of registration (if applicable) ……
……

PART B: DECLARATION BY APPLICANT

B1. I hereby certify that the particulars given above are correct and true to the best of my knowledge and belief.

……...…… .....…...…… ……..……
Signature of applicant *Full name in Block letters* *Position*

On behalf of ….....…… …….....
Firm name and seal *Date*

PART C: *FOR OFFICIAL USE*

Approved/not approved …….....……

Comments …….....

.....……

Officer …….....…… Sign. ……..…… Date ……....……

Important Notes: Please Submit the following:

(*a*) Application Form in duplicate;

(*b*) curriculum vitae of all applicants; and

(*c*) the prescribed fee, to:

Director-General,
National Environment Management Authority (NEMA).

FORM 5 (r. 14 (4))

Application Reference No: ....……...……

Registration No: ……....……

FOR OFFICIAL USE

THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION ACT

CERTIFICATE OF REGISTRATION AS AN ENVIRONMENTAL IMPACT ASSESSMENT/AUDIT EXPERT

This is to certify M/s. ……
of ……
(Address) has been registered as an Environmental Impact Assessment Expert in accordance with the provisions of the Environment Management and Coordination Act and is authorised to practice in the capacity of a Lead Expert/ Associate Expert/Firm of Experts (Type) ……
…….....……..

Dated this …....…… day …...…… of 20 …..

Signature ….....……....……..

(Seal)

Director-General,
The National Environment Management Authority.

FORM 6

(*Deleted by L.N.* 133/2007).

FORM 7

(*Deleted by L.N.* 133/2007).

FORM 8 (r. 21)

THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION ACT

NOTICE TO THE PUBLIC TO SUBMIT COMMENTS ON AN ENVIRONMENTAL IMPACT ASSESSMENT STUDY REPORT

Pursuant to Regulation 21 of the Environmental (Impact Assessment and Audit) Regulations, the National Environmental Management Authority (NEMA) has received an Environmental Impact Assessment Study Report for the implementation of the proposed project …….. …… ……. (brief description of project) at …….....…… …… (locality) of …… District. The said project anticipates the following impact …….. …… …….....…… (describe anticipated impacts and proposed mitigation measures).

The full report of the proposed project may be inspected during working hours at—

(*a*) The NEMA Headquarters,

(*b*) …….....…….

(*c*) …….....…….

NEMA invites members of the public to submit oral or written comments within …….. days of the date of publication of this notice to assist the Authority in the approval process of the project to—

(*a*) Director-General, NEMA

(*b*) …….....…….

(*c*) …….....…….

Dated this ……. day …….....……. of 20 …….

Signature ……..…….

(Seal)

Director-General,
The National Environmental Management Authority.

FORM 9 (r. 25)

Application reference No.: ……

Licence No. ……....……

FOR OFFICIAL USE

THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATON ACT

APPLICATION FOR VARIATION OF ENVIRONMENTAL IMPACT ASSESSMENT LICENCE

PART A: PREVIOUS APPLICATIONS

No previous application for variation of an environmental impact assessment licence.*

The environmental impact assessment licence was previously amended.*

PART B: DETAILS OF APPLICANT:

B1. Name (Individual or Firm) …….....…….....……

B2. Business Registration No. …….....……....……..……..

B3. Address: …….....……..……

B4. Name of contact person: ……..

B5. Position of contact person …….....……..……..

B6. Address of contact person …….....……..……..

Telephone No: …….. Fax: …..…….. No. ……..

E-mail: ……..……..……..

PART C: DETAILS OF CURRENT ENVIRONMENTAL IMPACT ASSESSMENT LICENCE

C1. Name of the current Environmental Impact Assessment licence holder: ……
……

C2. Application No. of the current Environmental Impact Assessment licence ……

C3. Date of issue of the current Environmental Impact Assessment licence ……

PART D: PROPOSED VARIATIONS TO THE CONDITIONS IN CURRENT ENVIRONMENTAL IMPACT ASSESSMENT LICENCE

D1: Conditions in the current Environmental Impact Assessment licence ……
……
……

D2: Proposed variation(s) ……
……
…….....

D3: Reason for variation(s) ……
……
……

D4: Describe the environmental changes arising from the proposed variations(s)
……
……

D5: Describe how the environment and the community might be affected by the proposed variation(s) ……
……

D6: Describe how and to what extent the environmental performance requirements set out in the EIA report previously approved or project profile previously submitted for this project may be affected ……
……
……

D7: Describe any additional measures proposed to eliminate, reduce or control any adverse environmental impact arising from the proposed variation(s) and to meet the requirements in the Technical Memorandum on Environmental Impact Assessment Process ……
……
……

PART E: DECLARATION BY APPLICANT

I hereby certify that the particulars given above are correct and true to the best of my knowledge and belief. I understand the environmental impact assessment licence may be suspended, varied or cancelled if any information given above is false, misleading, wrong or incomplete.

…… …… ……
Name *Position* *Signature*

on behalf of …… ……
Company name and seal *Date*

PART F: OFFICIAL USE

Approved/Not approved ……
……

Comments ……
……

Officer …… Signature …… Date ……

Important Notes

Please submit—

(*a*) 3 copies of this completed Form; and
(*b*) The prescribed fee, to:

Director-General,
The National Environment Management Authority.

*Delete where applicable

FORM 10 (r. 25)

Application Reference No. …..……

Certificate No.: ……..…

FOR OFFICIAL USE

THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION ACT

CERTIFICATE OF VARIATION OF ENVIRONMENTAL IMPACT ASSESSMENT LICENCE

This is to certify that the Environmental Impact Assessment Licence No. ……. Issued on ……....…… (date) to …… …….....…..……. (name of individual/firm) of… …….....……..…… (address) regarding ……...…… (title of project) whose objective is to …..…… ……..……..…… …… (briefly describe purpose) located at …… (locality and District) has been varied to …….....……..…… ……..…….. …….. ……. ……..…… …… …… (nature of variation) with effect from …… (date of variation) in accordance with the provisions of the Act.

Dated this …….. day .....…….. of 20 ……

Signature ……..……..

(Seal)

Director-General,
The National Environmental Management Authority.

[Subsidiary]

FORM 11 (r. 26)

Application reference No.: ……

Licence No. ……...……

FOR OFFICIAL USE

THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION ACT

NOTIFICATION OF TRANSFER OF ENVIRONMENTAL IMPACT ASSESSMENT LICENCE

PART A: DETAILS OF CURRENT LICENCE

A1. Name of the current Environmental Impact Assessment licence holder …….....……..…

A2. PIN No. ……..……...…….....……

A3. Address…….....….. A4. Tel: …….....……..

A5. Fax No …….....…..... A6. E-mail …….……

A7. Application No. of current Environmental Impact Assessment licence…….....……..……..

A8. Date of issue of current Environmental Impact Assessment licence…….....……..……..

PART B: DETAILS OF THE TRANSFEREE

B1. Name (Individual/Firm) …....…….....……..……

A2. PIN No. …….....……..…….....……

A3. Address……...……..…… A4. Tel: …….....……

A5. Fax No ….……..…… A6. E-mail ……..……

B7. Name of contact person ….....……..……

B8. Capacity of transferee to run the project (financial, technological, manpower) ……..……..……
……..……..……..……..
……..……..…….....……

PART C: REASON(S) FOR TRANSFER OF LICENCE
……..……..……..……
……..……..……..……..……
……..……..……..……..

PART D: DECLARATION BY TRANSFEROR AND TRANSFEREE

It is hereby notified that ….....……..…….
of…….....…….. on this day of ……..
transferred EIA licence No. ..... to …….....……..
of ……..……. who will assume his responsibility for all liability under this project.

Transferor	*Transferee*
Name ……	Name ……...……
Address ……..……	Address……
Signed ……...……	Signed ……
Date …….....……	Date …….....…… .....

PART E: FOR OFFICIAL USE

Approved/Not approved ……
…….....……

Comments ……
...……
....……

Officer …… Signature …… Date ……..

Important Notes:

1. Where an Environmental Impact Assessment licence is transferred, the person to whom it is transferred and the person transferring it shall jointly notify the Director-General, of the transfer.

2. The person holding an environmental impact assessment licence assumes responsibility for the transfer of the licence only in respect of the project to which this licence was issued.

3. Any transfer of an environmental impact assessment licence, shall take effect on the date the Director General is notified.

4. This Form must be submitted in quadruplet, with

5. Prescribed fees, to:

Director General,
The National Environment Management Authority.

[Subsidiary]

FORM 12 (r. 26)

Application Reference No.: ……

Certificate No: ……

FOR OFFICIAL USE

THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION ACT

CERTIFICATE OF TRANSFER OF ENVIRONMENTAL IMPACT ASSESSMENT LICENCE

This is to certify that the Environmental Impact Assessment Licence No.: …..... Issued on ……..... (date) to ……..... (name of previous holder) of ……..... (address) regarding ……..... (title of project) …….. whose objective is to …….. …… ……..... (briefly describe purpose) located at ……..... (locality and district) has been transferred to ……..... (name of new holder) of …… (address) with effect from …….. (date of transfer) in accordance with the provisions of the Act.

Dated this …….. day ..... of 20 ……

Signature ……..

(Seal)

Director-General,
The National Environmental Management Authority.

Important notes:

1. The transferee as well as the transferor of a licence under this regulation shall be liable for all liabilities, and the observance of all obligations imposed by the transfer in respect of the licence transferred.

2. The transferor shall not be responsible for any future liabilities or any obligations so imposed with regard to the licence from the date the transfer is approved.

FORM 13 (r. 27)

Application Reference No.: ……

Licence No.: ……..……

FOR OFFICIAL USE

THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION ACT

NOTIFICATION OF SURRENDER OF ENVIRONMENTAL IMPACT ASSESSMENT LICENCE

PART A: PROPONENT DETAILS

A1. Name: (Individual or Firm) …….....……..

A2. PIN No. …….....…….....

A3. Address …….....……

A4. Name of contact person …….....……....……

A5. Position of contact person: ……....…….....……

A6. Address ….....…….. Tel: ….....…... Fax No. …..……

E-mail ……...……..

PART B: DETAILS OF THE CURRENT ENVIRONMENTAL IMPACT ASSESSEMENT LICENCE

B1. Environmental Impact Licence No. ….....…....……

B2. Title of project under the current Environmental Impact licence: ……
……...……..…

B3. Please state the following details of the Environmental Impact Assessment licence to be surrendered.

(*a*) Scope/scale of project(s) ……..……
..……..…….....……..……..

(*b*) Conditions on the EIA licence ……
...……..……..……..

PART C: REASON(S) FOR SURRENDER

……...……..……
...……...……...…
……...……

PART D: DECLARATION BY PROPONENT

I hereby certify that the particulars given above are correct and true to the best of my knowledge and belief.

…… …….. ……
Name of Applicant *Full name in block letters* *Position*

On behalf of .....…….....…… …...……
Company name and seal *Date*

PART E: FOR OFFICIAL USE

Approved/Not approved ……..……..…
…..……..……....…

Comments ……..……..…
…..……..……
……..……..……

Officer …… Signature …….. Date ……

Important Notes:

Intent to surrender an environmental impact assessment licence should be communicated to the Authority at least six months before the date of surrender.

FORM 14 (r. 27)

Application Reference No.: ……

Certificate No.: ……

FOR OFFICIAL USE

THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION ACT

CERTIFICATE OF SURRENDER OF ENVIRONMENTAL IMPACT ASSESSMENT LICENCE

This is to certify that the Environmental Impact Assessment Licence No.: ……..…… issued on ….....…….....…… (date) to ……....…… (name of individual/firm) of …….....…… (address) regarding …… …… (title of project) whose objective is to ……....……. (briefly describe purpose) located at ……....…… (locality and District) has been duly surrendered with effect from ……....…… (date) to the National Environment Management Authority in accordance with the provisions of the Act.

Dated this …….. day .....…….. of 20 ……

Signature ……..……..

(Seal)

Director-General,
The National Environmental Management Authority.

Important Note:

A surrender shall be without prejudice to any liabilities or obligations which have accrued on the holder of the licence prior to the date of surrender.

[Subsidiary]

FORM 15 (r. 29)

Form No.: ……

Reference No. ……

FOR OFFICIAL USE

ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION ACT

NATIONAL ENVIRONMENT MANAGEMENT AUTHORITY

APPLICATION FOR ACCESS TO INFORMATION

PART A: DETAILS OF APPLICANT

A1. Name: ……..……

Address: ……

……..……..……

Telephone: ……...…… Fax ……

Email ...……

Profession …..…….....……

Date……

A2. NAME OF EMPLOYER (if applicable) ……

Address: ……

……..……..……

Telephone: …….....…… Fax …….....……

E-mail ...……

Designation ……

PART B: INFORMATION DETAILS

B1. TYPE OF INFORMATION REQUIRED (tick as appropriate)

☐ Project Report.

☐ Environmental Impact Assessment Study Report.

☐ Environmental Audit Report.

☐ Strategic Environmental Assessment Report.

☐ Environmental Monitoring Report.

☐ Record of Decision (ROD) for Environmental Impact Assessment Approvals.

☐ Licences for Project Reports.

☐ Licences for Environmental Impact Assessment.

☐ Environmental Impact Assessment Experts (Individuals).

☐ Environmental Impact Assessment Experts (Firms).

B2. DOCUMENT

Title of the document ……

Author ……

Year ……

B3. HOW THE INFORMATION IS EXTRACTED?

☐ Reading,

☐ Inspection/viewing

B4. PURPOSE FOR REQUIRING THE INFORMATION

☐ Educational ☐ Research ☐ Interested party

☐ Affected party

Important note:

A prescribed fee of Kshs. 200 will be charged for access to information per record/register.

FORM 16A (r. 47)

REGISTER OF ENVIRONMENTAL IMPACT ASSESSMENT/AUDIT EXPERTS: (FIRMS)

Name of Firm	*Registration No.*	*Date of Registration*	*Contact Address*	*Area of Specialisation*	*Experience & Category (eg. Lead, Associate)*	*Signature of Filing Officer*

FORM 16B (r. 47)

REGISTER OF ENVIRONMENTAL IMPACT ASSESSMENT/AUDIT EXPERTS: (INDIVIDUALS)

Name of Person	*Registration No.*	*Date of Registration*	*Contact Address*	*Area of Specialisation*	*Experience*	*Signature of Filing Officer*

FORM 16C (r. 47)

REGISTER OF ENVIRONMENTAL IMPACT ASSESSMENT PROJECT REPORTS SUBMITTED TO NEMA

Name of Proponent	*Title of Project*	*Location of Project*	*Sector*	*Date Received*	*Status of Project*	*Signature of Filing Officer*	*Decision of NEMA*

FORM 16D (r. 47)

REGISTER OF ENVIRONMENTAL IMPACT ASSESSMENT STUDY REPORTS SUBMITTED TO NEMA

Name of Proponent	*Title of Project*	*Location of Project*	*Sector*	*Date Received*	*Status of Project*	*Signature of Filing Officer*	*Remarks*

FORM 16E (r. 47)

REGISTER OF STRATEGIC ENVIRONMENTAL ASSESSMENT REPORTS SUBMITTED TO NEMA

Name of Proponent	*Title of Project*	*Location of Project*	*Sector*	*Date Received*	*Status of Project*	*Signature of Filing Officer*	*Remarks*

FORM 16F (r. 47)

REGISTER OF ENVIRONMENTAL IMPACT ASSESSMENT LICENCES

Project Title	*Name of Proponent*	*Location of Project*	*Value of Project (Kshs)*	*Licence No.*	*Date of Issue*	*Conditions Attached to Licence (If Any)*	*Date Filed*	*Status of Licence*	*Name of Filing Officer*	*Date And Signature of Filing Officer*	*Remarks*

Note: Details of Status of Licence

(*a*) New

(*b*) Transferred

(*c*) Surrendered

FORM 16G (r. 47)

REGISTER OF ENVIRONMENTAL IMPACT ASSESSMENT AUDIT REPORTS

Title of Project	*Name of Proponent*	*Location of Project*	*Sector*	*Date Received*	*Status of Project*	*Signature of Filing Officer*	*Date*	*Remarks*

FORM 16H (r. 47)

REGISTER OF ENVIRONMENTAL IMPACT ASSESSMENT MONITORING REPORTS

Title of Project	*Name of Proponent*	*Location of Project*	*Sector*	*Date Received*	*Status of Project*	*Signature of Filing Officer*	*Date*	*Remarks*

FORM 16I (r. 47)

REGISTER OF THE PROPRIETARY INFORMATION

Title of Firm	*Name of Proponent*	*Licence Register*	*Contact Address*	*Type of Proprietary Information*	*Status of Project*	*Signature of Filing Officer*	*Remarks*

SECOND SCHEDULE (r. 11)

ISSUES TO BE CONSIDERED IN ENVIRONMENTAL IMPACT ASSESSMENT

The following issues may, among others, be considered in the making of environmental impact assessments.

1. Ecological Considerations—

(*a*) Biological diversity including—

(i) effect of proposal on number, diversity, breeding habits, etc. of wild animals and vegetation;

(ii) gene pool of domesticated plants and animals e.g. monoculture as opposed to wild types.

(*b*) Sustainable use including—

(i) effect of proposal on soil fertility;

(ii) breeding populations of fish, game or wild animals;

(iii) natural regeneration of woodland and sustainable yield;

(iv) wetland resource degrading or wise use of wetlands.

(*c*) Ecosystem maintenance including—

(i) effect of proposal on food chains;

(ii) nutrient cycles;

(iii) aquifer recharge, water run-off rates etc;

(iv) a real extent of habitants;

(v) fragile ecosystems.

2. Social considerations including—

(*a*) economic impacts;

(*b*) social cohesion or disruption;

(*c*) effect on human health;

(*d*) immigration or emigration

(*e*) communication —roads opened up, closed, rerouted

(*f*) effects on culture and objects of culture value

3. Landscape—

(*a*) views opened up or closed;

(*b*) visual impacts (features, removal of vegetation, etc);

(*c*) compatibility with surrounding area;

(*d*) amenity opened up or closed, e.g recreation possibilities.

4. Land uses—

(*a*) effects of proposal on current land uses and land use potentials in the project area.

(*b*) possibility of multiple use.

(*c*) effects of proposal on surrounding land uses and land use potentials.

5. Water:

Important aspects to consider are the effects of the proposal on—

(*a*) water sources (quantity and quality)—

(i) rivers;

(ii) springs;

(iii) lakes (natural and man-made);

(iv) underground water;

(v) oceans;

(*b*) drainage patterns / drainage systems;

THIRD SCHEDULE (r. 12)

GENERAL GUIDELINES FOR CARRYING OUT AN ENVIRONMENTAL IMPACT ASSESSMENT STUDY

An environmental impact assessment study shall be conducted in accordance with the general environmental impact assessment guidelines and administrative procedures issued by the Authority. An environmental impact assessment study shall include the following—

1. Sources of Impact
2. Project Inputs
3. Project Activities
4. Areas of Impact on the Natural and Human Environments
5. Environmental Impacts (General Impacts on the Natural and human Environment)
6. Environmental Guidelines and Standards (National Legislation, International guidelines, International Conventions and Treaties)
7. Mitigation Measures
8. Environmental Management Plan
9. Environmental Monitoring and Auditing.

FOURTH SCHEDULE (r. 13 (2))

CRITERIA FOR ENVIRONMENTAL IMPACT ASSESSMENT EXPERTS

Local and foreign environmental impact assessment individual and firm of experts wishing to undertake environmental impact assessment activities in Kenya shall register as experts with the National Environment Management Authority on payment of the prescribed fees. The following shall be the criteria for registration of experts:—

A. LEAD EXPERT

A lead expert must have attained the following qualifications:
A Doctorate degree or equivalent in any field plus training in environmental impact assessment from a recognized institution, with 3 years experience in environmental impact assessment related activities.

or

A Doctorate, Masters or Bachelors plus 5 years experience in environmental impact assessment related research consultancy or teaching and at least two relevant publications in referred journals.

or

A Masters degree or equivalent in any field plus training in environmental impact assessment from a recognised institution, with 5 years experience in environmental impact assessment related activities.

or

A Bachelors degree or an equivalent in any field plus training in environmental impact assessment from recognised institution, with 8 years experience in environmental impact assessment related activities.

B. ASSOCIATE EXPERT

An associate expert must have attained the following qualifications:
A Bachelors degree or equivalent in any field plus training in environmental impact assessment from a recognized institution.

C. FIRM OF EXPERTS

A firm of experts must meet the following conditions:

Must be registered in Kenya

Must submit to the Authority a firm profile indicating capacity to undertake Environmental impact assessment /audit studies.

[Subsidiary]
L.N.133/2007,
L.N. 30/2009.

FIFTH SCHEDULE (r. 48)

FEES

1. Application for registration as Environmental Impact Assessment/ Audit* expert…. Shs. 500.

2. (*Deleted by L.N*. 133/2007).

3. Inspection of records/register..... 200 per record/register.

L.N. 30/2009.

4. Environmental Impact Assessment licence..... 0.05% of the total cost of the project, to the total cost of the project, to the minimum of KSh. 10,000 and a maximum of Ksh. 1,000,000 payable as follows:

(*a*) 50% of the 0.05% being Processing Fee Payable upon submission of a project report;

(*b*) 50% of the 0.05% being licence fee payable upon collection of the Environmental Impact Assessment Licence.

5. Surrender, transfer or variation of environmental impact assessment licence..... 5,000

* Delete where applicable.

L.N. 159/2003.

THE ENVIRONMENTAL (PREVENTION OF POLLUTION IN COASTAL ZONE AND OTHER SEGMENTS OF THE ENVIRONMENT) REGULATION, 2003

1. These Regulations may be cited as the Environmental (Prevention of Pollution in Coastal Zone and other Segments of the Environment) Regulations, 2003.

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

"chemical" means a chemical substance in any form whether by itself or in a mixture or preparation, whether manufactured or delivered from nature and for the purposes of the Act includes industrial chemicals, pesticides, fertilizers and drugs;

"certificate" means a certificate issued under these Regulations by a Certified Port Waste Reception Facility;

"coastal zone" means any area declared to be a protected coastal zone under section 55 of the Act;

"discharge" in relation to harmful substances or effluents containing such substances, means any release howsoever caused from a ship and includes any escape, disposal, spilling, leaking, pumping, emitting, or emptying but does not include—

(*a*) release of harmful substances directly arising from the exploration, exploitation and associated offshore processing of seabed mineral resources;

(*b*) release of harmful substances for purposes of legitimate scientific research into pollution abatement or control;

"MARPOL" refers to the International Convention for the Prevention of Pollution from Ships 1973 as modified by the Protocol of 1978 relating thereto and Protocols and Annexes thereto;

"oil" includes—

(*a*) crude oil, refined oil, diesel oil, fuel oil, lubricating oil; and

(*b*) any other description of oil which may be described;

"oil mixture" means a mixture with oil contents;

"Oil Record Book" refers to a book carried on board ships which contain entries on machinery space operations, cargo and ballast operations;

"pollutant" includes any substance whether liquid, solid or gaseous which—

(*a*) may directly or indirectly alter the qualify of any element of the receiving environment;

(*b*) is hazardous or potentially hazardous to human health or the environment; and includes objectionable odours, radioactivity, noise, temperature change or physical, chemical or biological change to any segment or element of the environment;

"Port Waste Reception Facility" means any facility, which is fixed, floating or mobile and capable of receiving ship-generated waste or cargo residues and which is managed and operated by the Kenya Ports Authority or any other person designated as such by the Kenya Ports Authority and "Certified Port Waste Reception Facility" shall be construed accordingly;

"ship" includes every description of vessel or craft or floating structure; and

"territorial waters" means territorial waters provided under section 3 of the Maritime Zones Act; Cap. 371.

3. (1) No ship or any other person in Kenya shall be allowed to discharge any hazardous substance, chemical, oil or oily mixture into the territorial waters of Kenya or any segment of the environment contrary to the provisions of these Regulations.

(2) All ships in the territorial waters of Kenya shall off-load oil or oily mixture, sludge, bilge water, ballast water, waste and sewage to the certified Port Waste Reception Facility at the Port of Mombasa.

4. These Regulations shall not apply—

(*a*) in circumstances where it is necessary to secure the safety of human life or of ships or other man-made structures at sea in cases of force majeure caused by stress of weather, or in any case which constitutes a danger to human life or a real threat to ships, or other man-made structure at sea, if dumping or incineration at sea appears to be the only way of averting the threat and if there is every probability that the damage consequent upon such dumping or incineration at sea will be less than would otherwise occur;

(*b*) in cases of emergencies posing an unacceptable threat to human health, safety, or the marine environment and admitting of no other feasible solution;

(*c*) to ships belonging to the Government which are engaged in Government non-commercial service; and

(*d*) to warships, naval auxiliary or other ships owned or operated by a MARPOL member State and used for the time being only on government non-commercial service.

5. Every ship shall be required to carry an Oil Record Book, which shall detail entries on machinery space operations, cargo and ballast operations in accordance with the provisions of the Merchant Shipping Act.

Cap. 389.

6. (1) All ships shall be required to obtain a certificate issued by a Certified Port Waste Reception Facility in accordance with MARPOL.

(2) A certificate, in the prescribed form set out in the Schedule, issued pursuant to sub-paragraph (1) shall be accepted and regarded for all purposes under these Regulations as having the same validity as a corresponding certificate issued under MARPOL.

(3) No ship calling at any port or offshore terminal in Kenya shall be allowed to leave the port without producing a valid certificate of discharge of waste issued by a certified Port Waste Reception Facility pursuant to this Regulation.

7. A ship to which these Regulations apply may, in any port or offshore terminal in Kenya, be subject to inspection by officers appointed or authorised by the Director-General of the National Environment Management Authority for the purpose of verifying whether the ship has discharged any harmful substances in the violation of these Regulations.

8. Whenever visible traces of oil are observed on or below the surface of the water in the immediate vicinity of a ship or its wake, the Director-General of the National Environment Management Authority shall promptly carry out an investigation of the facts bearing on the issue whether there has been a violation of these Regulations.

9. Any person who contravenes the provisions of these Regulations, is guilty of an offence and is liable, upon conviction, to imprisonment for a term of not more than eighteen months or to a fine of not more than three hundred and fifty thousand shillings or to both such fine and imprisonment.

SCHEDULE reg. 6

PORT WASTE DISPOSAL CERTIFICATE

Issued by a certified Port Waste Reception Facility at the Port of Mombasa under the Environmental (Prevention of Pollution in Coastal Zone and other Segments of the Environment) Regulations, 2003

Name of ship	*Distinctive number or letters*	*Port of Registry*	Gross tonnage

Type of ship:

Type of Waste Discharge	*Quantity of waste*

THIS IS TO CERTIFY:—

That the ship has discharged all of its oil and oily mixture, waste, garbage and sewage in accordance with the Environmental (Prevention of Pollution in Coastal Zone and other Segments of the Environment) Regulations, 2003.

This certificate is issued by …… .

Issued at …….....…… .
(*Place of issue of certificate*)

(*Date of issue*) …….....…… .

……..…… . ……
(*Signature of duly authorized official issuing the certificate*)

….…… ……
(*Seal or stamp of the authority, as appropriate*)

[Subsidiary]

L.N. 177/2003,
L.N. 191/2003.

THE NATIONAL ENVIRONMENTAL TRIBUNAL PROCEDURE RULES, 2003

PART I—PRELIMINARY

Citation.

1. These Rules may be cited as the National Environmental Tribunal Procedure Rules, 2003.

Interpretation.

2. In these Rules, unless the context otherwise requires—

"appellant" means a person who makes an appeal to the Tribunal under section 129 of the Act, and includes a duly authorized agent or legal representative of that person;

"Chairman" means the person holding office or acting as Chairman of the Tribunal;

"disputed decision" means a decision of the Authority against which an appeal is brought under these Rules and includes a failure or refusal to make a decision by the Authority or its officer or committee;

"hearing" means a sitting of the Tribunal for the purpose of enabling the Tribunal to reach or announce a decision, other than such a sitting in exercise of the power to determine an appeal without an oral hearing;

"party", in relation to an appeal, includes the appellant, the Authority and any person joined to the proceedings as an appellant or a respondent or an intervener;

"referral" means a reference by the Authority to the Tribunal pursuant to section 132 of the Act;

"register" means the register of appeals and decisions kept in accordance with these Rules;

"respondent", in relation to any proceedings before the Tribunal (including a referral before the Tribunal), means the Authority or any other party to the proceedings other than the appellant.

PART II—APPEALS AND REFERRALS TO TRIBUNAL

Appeals.

3. Any person who is aggrieved by any determination or decision of the Authority or any of its Committees or officers as specified in subsections (1) and (2) of section 129 of the Act may appeal to the Tribunal in accordance with these Rules.

Notice of appeal.

4. (1) An Appeal to the Tribunal shall be made by written notice, and where the Tribunal has approved a form of notice for the purpose, in the form so approved.

(2) The appellant shall send or deliver six copies of the notice of appeal

the Tribunal so as to reach it not later than sixty (60) days after the date on which the disputed decision was given to or served upon him.

(3) The notice shall include—

(*a*) the name and address of the appellant(s);

(*b*) the particulars of the disputed decision; and

(*c*) a statement of the purpose of the hearing and a short and precise statement of the grounds of the appellant's dissatisfaction with the decision which is the subject of the appeal.

(4) The appellant or his representative shall sign the notice of appeal.

(5) The Tribunal shall duly acknowledge receipt of the notice of appeal and will advise the appellant or his representative of any further steps required to enable the Tribunal to decide the appeal as well as the time and place of the hearing of the appeal.

Additional matters.

5. The appellant may include in his notice of appeal, or in a separate application to the Tribunal, any of the following—

(*a*) a request for an early hearing of the appeal, and the reasons for that request;

(*b*) a notification that, at the hearing of his appeal, he intends to call an expert witness or witnesses and the name and address and description of the field of expertise of each such proposed witness;

(*c*) a request that a particular expert, if any, who took part in the disputed decision shall attend the hearing of the appeal and give evidence.

Registration of appeal.

6. (1) Upon receipt of a notice of appeal, the Tribunal shall—

(*a*) send to the appellant an acknowledgement of its receipt;

(*b*) enter the particulars of the appeal in a register kept by the Tribunal for the purpose;

(*c*) inform the parties in writing of the case number of the appeal as entered in the register; and

(*d*) advise the parties of the address to which notices and communications to the Tribunal shall be sent.

(2) Subject to paragraph (2) of rule 8, the Tribunal shall, on request of a party, forthwith serve a copy of the notice of appeal and of any reply, together with any amendments or supplementary statements, written representations or other documents received from any party, on all the other parties to the proceedings and, if any person or body is subsequently joined as a party, upon that person or body.

[Subsidiary]

Application for extension of time.

7. The Tribunal may for good reason shown, on application, extend the time appointed by these Rules (not being a time limited by the Act) for doing any act or taking any proceedings, and may do so upon such terms and conditions, if any, as appear to it just and expedient.

Documents to accompany appeal or reply.

8. (1) Any party to proceedings before the Tribunal shall deliver to the Tribunal with his appeal or reply, as the case may be, a copy of every document including every map, plan, certificate or report upon which he intends to rely for the purposes of his appeal or reply:

Provided that where any such document is already in the possession of the Tribunal or the party or parties to the proceedings, the Tribunal may, on such terms as it thinks fit, excuse a party from the provisions of this rule.

(2) If any document required to be delivered to the Tribunal under this rule, in the opinion of the party who has possession of the document, relates to his intimate personal or financial circumstances or is commercially sensitive and the party concerned seeks to restrict its disclosure, he shall inform the Tribunal of that fact and of his reasons for seeking such a restriction; whereupon the Tribunal shall serve the copies as provided in this rule only in accordance with the directions of the Chairman.

Preliminary objections.

9. (1) Any objection to the jurisdiction of the Tribunal or to the admissibility of an appeal or other objection, the Tribunal's decision upon which is requested before proceeding to consider the merits of the appeal, shall be made to the Tribunal in writing within thirty days from the date when the party objecting was notified of the appeal, and a copy of the preliminary objection shall be served on the appellant immediately.

(2) On receipt of any preliminary objection, the Tribunal shall suspend the proceedings on merits and shall require the appellant to submit written observations and submissions on the objection within seven days from the date of service on him of notice of the objection.

(3) The Tribunal shall suspend the proceedings on merits pending its ruling on the objection.

Amendment of appeal and delivery of supplementary grounds of appeal.

10. (1) The appellant may, at any time before he is notified of the date of the hearing of the appeal, amend his notice of appeal or any statement of grounds of appeal or deliver a supplementary statement of grounds of appeal.

(2) The appellant may, with the leave of the Tribunal, amend any notice of appeal or statement of grounds of appeal at any time after he has been notified of the date of the hearing of the appeal or at the hearing itself.

(3) The Tribunal may grant such leave to amend the notice or statement on such terms as it thinks fit.

(4) The appellant shall send or supply to the Tribunal, and the Tribunal shall serve on the respondent and any other party to the proceedings, a copy of every amendment and supplementary statement.

Referral of matter by Authority to Tribunal.

11. (1) Where a matter is referred to the Tribunal for directions under section 132 of the Act, Authority shall provide the Tribunal with copies of all the relevant information relating to the matter and such other material as has been produced to or considered by the Authority in considering the matter.

(2) The Authority shall within fourteen days give notice to all parties affected by the matter of the referral to the Tribunal.

Notification and action on referrals.

12. (1) Upon receiving a notice of a referral from the Authority in which any person is named as a concerned party or in any capacity, the Tribunal shall immediately write to such person inviting him to state whether he wishes to take part in the proceedings and to furnish such information as is appropriate to the case.

(2) Any person who receives a copy of a notice of a referral from the Authority or invitation from the Tribunal under this rule may give notice to the Tribunal that he wishes to take part in the proceedings and furnish such information as may be required or appropriate; and such notice to the Tribunal shall, if such person becomes a respondent to proceedings, be treated as his reply thereto.

Appeal by minors and persons under disability.

13. When the person by whom an appeal may be brought is a minor or is under a disability, the appeal may, subject to any conditions imposed by the Tribunal, be brought by a person legally authorized to act or by a person appointed by the Tribunal; and such person may take all necessary steps and do all things for the purpose of the appeal as an appellant is, by these Rules, required or authorised to take or do.

Part III—Reply

Action by respondent.

14. (1) Upon receipt of a copy of a notice of appeal setting forth the grounds of appeal or a separate statement of grounds of appeal, the Authority shall deliver to the Tribunal a written reply which shall state—

(*a*) whether or not the Authority intends to oppose the appeal and the grounds on which it relies in opposing the appeal; and

(*b*) if, in the opinion of the Authority, any other person has a direct interest in the subject matter of the appeal, the name and address of such other person.

(2) Subject to paragraph (2) of rule 8, the Authority shall include with its reply a statement summarizing the facts relating to the disputed decision and, if they are not part of that decision, the reasons therefor, and shall deliver to the Tribunal sufficient copies of the reply and other relevant documents to enable the Tribunal to provide a copy of each of them to the appellant and any other person or persons named by the Authority as having a direct interest in the subject matter of the appeal.

(3) In its reply or in a separate notice to the Tribunal, the Authority may request—

(*a*) further particulars of the appeal; or

(*b*) a determination of any question as a preliminary issue.

(4) Every reply by the Authority shall be signed by the Director-General or the Secretary of the Authority and shall be delivered to the Tribunal not later than twenty-one days after the date of service on the Authority of the copy of the notice of appeal or, if received later, the copy of the separate grounds of appeal.

(5) The provisions of this rule shall apply, with any necessary modifications, to the concerned parties referred to in section 132 of the Act in the same way as they apply to the Authority.

Amendment of reply.

15. (1) The Authority may, at any time before it is notified of the date of the hearing of the appeal, amend its reply or deliver a supplementary statement by way of reply.

(2) The Authority may, with the leave of the Tribunal, amend its reply at any time after it has been notified of the date of the hearing of the appeal or at the hearing itself.

(3) The Tribunal may grant such leave on such terms as it thinks fit.

(4) The Authority shall send a copy of every amendment and supplementary statement to the Tribunal.

PART IV—THIRD PARTIES

Joinder of parties.

16. If it appears to the Tribunal, whether on the application of a party or on its own motion, that it is desirable that any person be made a party to the proceedings, the Tribunal may order such person to be joined as a respondent and may give such directions relating thereto as may be just, including directions as to the delivery and service of documents.

Intervener.

17. (1) In any proceedings before the Tribunal the Tribunal may, on oral or written request, in its discretion grant status as an intervener to any person, corporation or group of persons associated for the pursuit of any of the objectives of the Act and, in particular, who seeks or seek to enforce rights to a clean and healthy environment as provided in section 3 of the Act or who may assist it in making a decision which will be in accordance with the objectives of the Act.

(2) In any proceedings before the Tribunal the Tribunal shall, on oral or written request, grant status as an intervener to any non-governmental organization or registered association or society which seeks to enforce rights to a clean and healthy environment as provided in section 3 of the Act and whose objectives, according to its constitution, to be duly produced before the Tribunal, are supportive of the objectives of the Act.

(3) A person seeking status as an intervener shall in writing furnish the following information to the Tribunal—

(*a*) his full name and address;

(*b*) a statement of the interest claimed in the subject matter; and

(*c*) a statement of his position in relation to the appeal or referral.

(4) The decision of the Tribunal shall be binding upon a person granted status as an intervener, in so far as it relates to matters in respect of which he intervened.

PART V—HEARING

Directions and pre-hearing orders.

18. (1) The Tribunal may at any time, on the application of a party or of its own motion, give such directions (including directions for the furnishing of further particulars or supplementary statements) as are necessary to enable the parties to prepare for the hearing or to assist the Tribunal to determine the issues.

(2) No person shall be compelled to give any evidence or produce any document or other material that he could not be compelled to give or produce on a trial of an action in a court of law.

(3) In exercising the powers conferred by this rule, the Tribunal shall take into account the need to protect any matter that relates to intimate personal or financial circumstances, is commercially sensitive, consists of information communicated or obtained in confidence or concerns national security.

(4) An application by a party for directions shall be made in writing to the Tribunal and, unless it is accompanied by the written consent of all the parties, shall be served by the Tribunal on any other party who might be affected by such directions.

(5) If any such other party objects to the directions sought, the Tribunal shall consider the objection and, if it considers it necessary for the determination of the application, shall give the parties an opportunity of appearing before it.

Failure to comply with directions.

19. If any directions given to a party under this Part of these Rules are not complied with by such a party, the Tribunal may, in addition to other powers available to it before or at the hearing, dismiss the whole or part of the appeal or, as the case may be, strike out the whole or part of a respondent's reply and, where appropriate, direct that a party shall be debarred from participating in the appeal altogether:

Provided that the Tribunal shall not so dismiss or strike out or give such a direction unless it has sent notice to the party who has not complied with the direction giving him an opportunity to show cause why it should not do so.

Varying or setting aside of directions.

20. Where a person to whom a direction (including any summons) is addressed had no opportunity of objecting to the making of such direction, he may apply to the Tribunal to vary it or set it aside, but the Tribunal shall not so do without first notifying the person who applied for the directions and considering any representations made by him.

[Subsidiary]

Subpoenas and orders.

21. (1) A person to be summoned under section 127 (1) of the Act to attend and give evidence shall be given at least seven days' notice of the hearing unless he has informed the Tribunal that he accepts such shorter notice as he has been given.

(2) No person, other than the appellant or a respondent, shall be required in obedience to a summons to attend and give evidence or to produce any document except on the undertaking that the necessary expenses of his attendance will be paid or tendered to him.

Place and time of hearing.

22. (1) The Tribunal shall, with due regard to the convenience of the parties, fix the date, time and place of the oral hearing, and not less than twenty-one days before the date so fixed, send to each party a notice of the hearing at such date, time and place.

(2) The notice of hearing shall include the following—

(*a*) a statement of the purpose of the hearing and a reasonably precise statement of the issues involved;

(*b*) information and guidance, in a form approved by the Chairman, as to attendance at the hearing of the parties and witnesses, the bringing of documents, and the right of representation by another person;

(*c*) a statement of the right of the parties to ask for and to receive reasons in writing for a decision of the Tribunal;

(*d*) a statement explaining the possible consequences of non-attendance and of the right of an appellant, and of any respondent who has presented a reply, who does not attend and is not represented, to make representations in writing.

(3) The Tribunal may alter the time and place of any oral hearing and the Tribunal shall give the parties not less than seven days notice of any such alteration:

Provided that any altered hearing date shall not be before the date notified under paragraph (1) of this rule.

(4) The Tribunal may from time to time, on its own motion or on application made before it, adjourn the oral hearing and, if the time and place of the adjourned hearing are announced before the adjournment, no further notice shall be required.

(6) Subject to this rule, the Tribunal may, if it thinks fit to do so, visit any site with or without any or all of the parties, and may hold an oral hearing at such site on the day of such visit.

(7) The Tribunal shall transact business from Monday to Friday of every week, except on official public holidays, with official business hours as follows—

(*a*) 8.00 a.m. to 1.00 p.m.; and

(*b*) 2.00 p.m. to 5.00 p.m.

Public notice of hearings.

23. The Tribunal shall provide for public inspection, at the principal office of the Tribunal and at the place where a hearing is to be held, a list of all appeals for which an oral hearing is to be held and of the time and place fixed for the hearing.

Exclusions of persons disrupting proceedings.

24. Without prejudice to any other powers it may have the Tribunal may exclude from the hearing or part of it, any person whose conduct has disrupted or is likely, in the opinion of the Tribunal, to disrupt the hearing.

Failure of parties to attend hearing.

25. (1) If a party fails to attend or be represented at a hearing of which he has been duly notified, the Tribunal may—

(*a*) unless it is satisfied that there is sufficient reason for such absence, hear and determine the appeal in the party's absence; or

(*b*) adjourn the hearing,

and may in either event make such order as to costs and expenses as it thinks fit.

(2) Before deciding to dispose of any appeal in the absence of a party, the Tribunal shall consider any representations in writing submitted by that party in response to the notice of hearing and, for the purpose of this rule, the appeal and any reply shall be treated as representations in writing.

(3) Where an appellant has failed to attend a hearing of which he was duly notified, and the Tribunal has disposed of the appeal, no fresh appeal may be made by the appellant to the Tribunal against the same disputed decision without the prior leave of the Tribunal.

Procedure at hearing.

26. (1) At the beginning of the hearing the Chairman shall explain the order of proceeding which the Tribunal proposes to adopt.

(2) Subject to this rule, the Tribunal shall conduct the hearing in such manner as it considers most suitable to the clarification of the issues before it and generally to the just handling of the proceedings and shall, so far as appears to it appropriate, seek to avoid legal technicality and formality in its proceedings.

(3) The parties shall be heard in such order as the Tribunal shall determine, and shall be entitled to give evidence, to call witnesses, to question any witnesses and to address the Tribunal both on the evidence and generally on the subject matter of the appeal.

(4) Evidence before the Tribunal may be given orally or, if the Tribunal so orders, by affidavit or written statement, but the Tribunal may at any stage of the proceedings require the personal attendance of any deponent or author of a written statement.

(5) Pursuant to subsection (1) of section 126 of the Act, the Tribunal may receive evidence of any fact which appears to it to be relevant.

(6) At any hearing the Tribunal may, if it is satisfied that it is just and reasonable to do so, permit a party to rely on grounds not stated in his notice of appeal or, as the case may be, his reply and to adduce any evidence not presented to the Authority before or at the time it took the disputed decision.

(7) The Tribunal may require any witness to give evidence on oath or affirmation and for that purpose it may administer an oath or affirmation in due form.

Demonstration and display facilities.

27. The Tribunal may at the request of a party and upon payment of the prescribed fees provide visual demonstration facilities for the display of any maps, charts or diagrams, or illustrations of texts and documents, which that party intends to exhibit during the hearing.

Judicial notice.

28. (1) The Tribunal may take judicial notice—

(*a*) of facts that are publicly known and that may be judicially noticed by a court of law; and

(*b*) of generally recognized facts and any information, opinion, policy or rule that is within its specialized knowledge.

(2) Before the Tribunal takes notice of any fact, information, opinion, policy or unwritten rule other than what may be judicially noticed by a court, it shall notify the parties of its intention and afford them a reasonable opportunity to make representations with respect thereto.

Determination of interlocutory matters.

29. Interlocutory matters arising in the course of proceedings before the Tribunal may be determined by the Chairman or any one legally qualified member sitting alone.

Opportunity to be heard or cross-examine.

30. The Tribunal shall grant to any party—

(*a*) a reasonable opportunity to be heard, to submit evidence and to make representations; and

(*b*) a reasonable opportunity to cross-examine witnesses, to the extent necessary to ensure a fair hearing.

Change of advocate.

31. (1) At the hearing of an appeal or a referral and at any stage of the proceedings a party represented by an advocate may change his advocate upon giving notice to the Tribunal, which notice shall also be served on the other party or parties.

Part VI—Determination of Appeal

Failure to reply and no contest.

32. If—

(*a*) no reply is received by the Tribunal within twenty-one days or such

longer time as the Tribunal may allow; or

(*b*) the Authority states in writing that it does not resist the appeal, or in writing withdraws its opposition to the appeal,

and if there is no other subsisting opposition to that appeal, the Tribunal may determine the appeal on the basis of the notice and grounds of appeal without proceeding to a hearing.

Withdrawal of appeal.

33. (1) The appellant may, with the leave of the Tribunal and upon such terms as to costs or otherwise as the Tribunal may direct, at any time before or at the hearing of the appeal, withdraw his appeal; whereupon the appeal shall be marked as terminated.

(2) Where an appeal is withdrawn pursuant to this rule, no appeal shall be entertained by the Tribunal in relation to the same decision unless the Tribunal, for good reason shown, otherwise determines.

Preliminary issues.

34. (1) The Tribunal may order any question of fact or law which is in issue in the appeal to be determined at a preliminary hearing.

(2) If, in the opinion of the Tribunal, the determination of that question disposes of the whole appeal, the Tribunal may treat the preliminary hearing as the hearing of the appeal and may make such order by way of disposing of the appeal as the Tribunal thinks fit.

(3) If the parties so agree in writing, the Tribunal may determine the question without an oral hearing but, in any such case, the Tribunal may not at the same time dispose of the appeal unless the parties have also agreed in writing that it may do so and have had an opportunity of making representations in writing.

(4) The decision of a Tribunal in relation to a preliminary issue may be given orally at the end of the hearing, or may be reserved, but in either event (and whether there has been a hearing on the preliminary issue or not) shall be recorded forthwith in a document which shall also contain a statement of reasons for its decision, and which shall be signed and dated by the Chairman.

(5) The Tribunal shall send a copy of the document recording the decision on the preliminary issue to each party.

Power to determine appeal without hearing.

35. (1) The Tribunal may, by consent in writing of all the parties to an appeal, determine the appeal, or any particular issue, without an oral hearing.

(2) The provisions of rule 25 (2) and rule 26 (5) shall apply to the determination of an appeal in accordance with this rule.

Consolidation of appeals.

36. The Tribunal may, in its discretion and after giving the parties concerned an opportunity to be heard, order the consolidation of the hearing of any appeals before it, where notices of appeal have been given in respect of the same matter or in respect of several interest in the same subject in dispute or which involve the same issue.

Decision of Tribunal.

37. (1) A decision of a Tribunal may be taken by a majority and the decision shall record whether it was unanimous or taken by a majority.

(2) The decision of the Tribunal may be given orally at the end of the hearing or may be reserved and, in either event (and whether there has been a hearing or not) shall be reduced to writing and, save in the case of a decision by consent, shall also contain a statement of the reasons (in summary form) for the decision, and shall be signed and dated by the chairman and every member who heard the matter:

Provided that a dissenting decision may be pronounced separately by any member who wrote it and shall be dated and signed by such member.

(3) Subject to paragraph (4), every document containing a decision referred to in this rule shall, as soon as may be, be entered in the register and the Tribunal shall send a copy of the entry to each party.

(4) Where any such decision refers to any evidence that has been heard in private, only such summary of the decision, omitting such material, shall be entered in the register as the Tribunal may direct, but copies of the complete decision document shall be sent to the parties together with a copy of the entry.

(5) Every copy of an entry sent to the parties under this rule shall be accompanied by a notification indicating the rights of the parties under section 130 of the Act and of the time within which and place at which such rights may be exercised.

(6) Except where a decision is announced at the end of the hearing, it shall be treated as having been made on the date on which a copy of the document recording it is sent to the appellant.

(7) Where a final decision or order has been made by the Tribunal in respect of any appeal or referral the Tribunal shall, within thirty days thereafter, cause to be published—

(*a*) in the Kenya Gazette; and

(*b*) where the matter is of public importance, in at least in one newspaper of national circulation,

a summary thereof stating the names of the parties, the nature of the appeal or referral and the date and place of the decision:

Provided that the Tribunal shall have regard to the need to preserve the confidentiality of any evidence heard in private in accordance with these Rules.

Reasons for decisions.

38. The Tribunal shall give reasons for all its decisions, and each of any such decisions shall include—

(*a*) a statement of the findings of fact made from the evidence adduced, including, where applicable, any relevant government policy; and

(*b*) a statement of the laws and rules of law applied, and the interpretation thereof.

Order for costs and expenses.

39. (1) The Tribunal shall not normally make an order awarding costs and expenses, but may, subject to paragraph (2), make such an order—

(*a*) against a party, including a party which has withdrawn its appeal or reply, if it is of the opinion that that party has acted frivolously or vexatiously or that his conduct in making, pursuing or resisting an appeal was wholly unreasonable;

(*b*) against the Authority, where it considers that the decision against which the appeal is brought wholly unreasonable; or

(*c*) as respects any costs or expenses incurred, or any allowances paid, as a result of a postponement or adjournment of a hearing at the request of a party.

(2) No order shall be made under paragraph (1) against a party without first giving that party an opportunity of making representations against the making of the order.

(3) Any costs required by an order under this rule to be taxed shall be assessed by the Tribunal.

PART VII—MISCELLANEOUS PROVISIONS

Chairman to act for Tribunal.

40. (1) The Tribunal may authorize the Chairman to do any act required or authorised by these Rules to be done by the Tribunal, not being an act which is required by the Act to be done by the Tribunal itself.

(2) In the event of the death or incapacity of the Chairman following the decision of the Tribunal in any matter, the functions of the Chairman for the completion of the proceedings, including a review of any decision, may be exercised by any other person duly acting as chairman of the Tribunal.

(3) The Chairman may by instrument in writing delegate to any officer of the Tribunal any of his powers which are not required by the Act to be performed by him personally.

Additional powers of Tribunal.

41. The Tribunal may, at its discretion—

(*a*) if both or all the parties to an appeal agree in writing upon the terms on which an appeal or issue should be decided, confirm the agreement reached by such parties and decide accordingly;

(*b*) at any stage of proceedings before it, by order strike out or amend any notice, reply, supplementary statement or written representation on the grounds that it is scandalous, frivolous or vexatious;

(*c*) at any stage of proceedings before it, by order strike out any appeal for want of prosecution:

Provided that, before making any order under paragraph (*c*) or (*d*), the Tribunal shall send notice to the party against whom it is proposed that any such order should be made, giving him an opportunity to show cause why such an order should not be made.

Correcting irregularities.

42. (1) Any irregularity resulting from failure to comply with any provisions of these Rules or of any direction of the Tribunal before the Tribunal has reached its decision shall not of itself render any proceedings void.

(2) Where any such irregularity comes to the attention of the Tribunal, the Tribunal may (and shall, if it considers that any person may have been prejudiced by the irregularity) give such directions as it thinks just before reaching its decision to cure or waive the irregularity.

(3) Clerical mistakes in any document recording a direction or decision of the Chairman or the Tribunal, or errors arising in such a document from an accidental slip or omission, may be corrected by the Chairman by certificate under his hand or by the Tribunal.

Proof of documents and certification of decisions.

43. (1) Any document purporting to be a document duly executed or issued by the Chairman on behalf of the Tribunal shall, unless the contrary is proved, be deemed to be a document so executed or issued as the case may be.

(2) A document purporting to be certified by the Chairman to be a true copy of any entry of a decision in a register kept in pursuance of these Rules shall, unless the contrary is proved, be sufficient evidence of the entry and of matters contained therein.

Service or delivery of documents.

44. (1) Any document required or authorised by these Rules to be sent or delivered to, or served on, any person shall be duly sent, delivered or served on that person—

(*a*) if it is sent to him at his proper address by registered post or by certificate of posting;

(*b*) if it is sent to him at that address by telex, facsimile transmission or other similar means which produce a document containing a text of the communication, in which event the document shall be regarded as sent when it is received in a legible form; or

(*c*) if it is delivered to him or left with some apparently responsible person at his last known address.

(2) If a notice of appeal is sent by registered post or certificate of posting, it shall be treated as if it had been received by the addressee seven days following the date on which it is received for dispatch by the Post Office.

(3) Any document required or authorised to be sent or delivered to, or served on, an incorporated company or body shall be duly sent, delivered or served if sent or delivered to or served on the director, manager, secretary or clerk of the company or body.

(4) The proper address of any person to or on whom any such document is to be sent, delivered or served shall, in the case of any incorporated company or body be that of the registered or principal office of the company or body and, in any other case, shall be the last known place of abode or business of the person in question.

Substituted service.

45. If any person to or on whom any document is required to be sent, delivered or served for the purpose of these Rules cannot be found or has died and has no known personal representative, or is out of Kenya, or if for any other reason service on him cannot be readily effected, the Chairman or the Tribunal may, on application, dispense with service on such person or may make an order for substituted service on that or another person in such other form (whether by advertisement in a newspaper or otherwise) as the Chairman or the Tribunal may think fit.

Language.

46. (1) The language of the Tribunal shall be English or Swahili:

Provided that the Tribunal may, at its discretion, allow an appeal lodged in any local language spoken in Kenya by persons or a community directly affected by the subject matter of the appeal, if such persons or community cannot immediately obtain a translation but undertake to do so within a reasonable time.

(2) The Tribunal shall, taking into account all the circumstances, grant the assistance of a competent interpreter free of charge to a party or witness who does not understand or speak the language used at the hearing or who is deaf.

(3) The rulings of the Tribunal shall be prepared in the English language but may be translated, on request by a party, into the Swahili language.

Filing fees.

47. There shall be paid to the Tribunal such filing and other fees, including fees for service by the Tribunal of any notice or process, as shall be prescribed by the Minister:

Provided that the Tribunal may, if it considered it to be in the interest of justice, or on grounds of financial hardship on the part of the appellant waive all or part of the filing fees payable in any appeal.

Prescribed Forms.

48. The Tribunal may from time to time design and issue free of charge such prescribed forms as it may deem necessary for the purposes of filing appeals or replies and for any interlocutory matters.

Recording of proceedings.

49. (1) The Chairman shall take or cause to be taken notes of all proceedings before the Tribunal or may order that the record of any proceedings before it shall be taken by shorthand notes or tape-recorded or, at the discretion of the Tribunal, electronically recorded.

(2) A verbatim record of every hearing shall be made by the Tribunal, and copies of the transcript thereof shall be circulated to all members of the Tribunal and, on request, to any party to the hearing.

[Subsidiary]
L.N. 108/2004.

THE ENVIRONMENTAL MANAGEMENT (LAKE NAIVASHA MANAGEMENT PLAN) ORDER, 2004

1. This Order may be cited as the Environmental Management (Lake Naivasha Management Plan) Order, 2004.

2. The Management Plan set out in the Schedule shall be applicable to the Lake Naivasha Ecosystem.

SCHEDULE

THE LAKE NAIVASHA MANAGEMENT PLAN

The Lake Naivasha Management Plan (hereinafter referred to as "the Plan") is a community-based initiative, spear-headed by the local community and supported by other stakeholders and institutions with common concerns and commitment to the sustainable management and development of the lake ecosystem.

The Plan has been developed to ensure that adverse impacts on the lake ecosystem are minimised and corrected while addressing identified conservation issues for which there is a large degree of consensus.

The Plan shall be implemented by a special committee known as the Lake Naivasha Management Committee (hereinafter referred to as "the Committee"), comprising key stakeholders and institutions through the development and implementation of sectoral codes of conduct in consultation with various sectors. The Committee shall ensure adoption of, and compliance with the codes of conduct.

The Plan emphasises that all developments within the declared Lake Naivasha Ramsar Site and the lake's catchment shall be subject to Environmental Impact Assessment (EIA), as per the provisions of the Environmental Management and Co-ordination Act, 1999.

The Plan is a dynamic tool that shall be subject to periodic reviews, depending on emerging issues and new knowledge.

The Plan addresses sustainable management issues of the Lake Naivasha environment and the natural resources within the declared Lake Naivasha Ramsar Site and the wider catchment as set out here below:

WATER USE

The Plan shall regulate and control water use by the following measures—

(*a*) determination of modalities of water allocation and establishment of water use policy;

(*b*) utilisation of all available information to update the water budget;

(*c*) monitoring the lake levels, rainfall, river flows and evaporation to

improve the water budget database;

(*d*) undertaking a hydrological study on the water budget of the lake;

(*e*) institute metering for water abstractions as provided for in the water permits;

(*f*) encouragement of use of information from weather stations to optimise water use;

(*g*)controlling the expansion of water abstraction through the licensing process;

(*h*) reviewing water permits and establishing the current levels of water abstraction and efficiency of water usage;

(*i*) ensuring that the Committee is represented in the water licensing process;

(*j*) encouraging conservation of water through appropriate technology choices, especially in irrigation and re-use of waste water;

(*k*) developing suitable incentives for water conservation methods to support the Plan;

(*l*) promotion of a study on Nakuru water supply with a view to controlling the water abstraction from Lake Naivasha's inflow rivers;

(*m*) determining the hydrological impact of forest degradation in the catchment and other watershed activities on water resources;

(*n*) supporting the provisions of the national water policy and the Water Act, 2002; and

(*o*) avoiding watering livestock directly from the Lake except at designated public access points because it degrades the shoreline and increases nutrient levels in the Lake.

HABITAT MANAGEMENT AND NATURE CONSERVATION

THE LAKE ZONE (THE AREA WITHIN THE MOI NORTH AND SOUTH LAKE ROADS)

Through the Plan, the following actions shall be undertaken—

(*a*) the Papyrus fringe shall be restored and allowed to grow naturally all around the Lake because of its water purifying effects and as a habitat for wildlife;

(*b*) the natural vegetation shall be allowed to regenerate and form a buffer zone of at least 100m back from the land-side edge of the Papyrus fringe or from the shoreline where no papyrus exists;

(*c*) the distribution and health of floating weeds and their biological control agents shall be monitored and appropriate corrective measures taken on any adverse trends;

(*d*) the natural establishment of the Acacia woodland;

(*e*) stock watering points shall be provided at strategic locations on the land side of the riparian boundary for large herds including along stock routes;

(*f*) livestock shall be allowed controlled access to the lake for water only through the designated public corridors;

(*g*) stock holding points, grazing, night bomas or livestock dips and spray races on Riparian land shall be prohibited;

(*h*) encouragement of the planting of indigenous vegetation;

(*i*) re-vegetation of degraded areas in order to conserve the soil moisture and ground water conditions;

(*j*) security measures shall be undertaken to prevent illegal activities and damage to Papyrus and buffer zones;

(*k*) the Committee shall propose to the Naivasha Municipal Council by-laws restricting grazing of cattle and other stock in riparian reserve;

(*l*) the reclamation of flooded land or building of dykes which inhibit the Lake's natural level shall be prohibited;

(*m*) all agricultural activities on Riparian land shall be prohibited;

(*n*) all structures except those approved by the Committee on riparian land, shall be prohibited;

(*o*) the planting of suitable indigenous fuel wood crops and screens for unsightly developments shall be encouraged; and

(*p*) the cultivation of reverse slopes away from the Lake shall be encouraged.

THE CATCHMENT AND RIVERS

Through collaborative initiatives with authorities in the catchment areas, the Plan shall undertake the following measures—

(*a*) conduct an environmental appraisal of the watershed including erosion hazards and assist in evolving a District Forestry Action Plan;

(*b*) ensure that Environmental Impact Assessments are done for major

water impoundments and that the Committee participates in their approval;

(*c*) support the rehabilitation of degraded and damaged areas;

(*d*) ensure that cultivation on the river banks is stopped;

(*e*) control tree harvesting and charcoal burning;

(*f*) collect and collate baseline data on the integrity of the catchment area;

(*g*) promote afforestation efforts in the catchment area; and

(*h*) discourage unplanned settlements and unsustainable land subdivision.

SPECIES MANAGEMENT

The health of plant and animal species is a good indicator of the health of the Lake and the Plan shall seek to—

(*a*) monitor the food chain and support studies of raptors etc;

(*b*) monitor the composition and abundance of submerged vegetation in the Lake;

(*c*) protect sensitive areas of the habitat, especially breeding, feeding and resting sites and fragile ecosystems;

(*d*) preserve and where necessary establish additional wildlife corridors;

(*e*) carry out regular water bird counts twice each year;

(*f*) stop introduction of alien invasive species without Environmental Impact Assessments on the ecology of the Lake; and

(*g*) study and monitor the impacts of wildlife and livestock on the lake.

TOURISM AND RECREATION

As an important resource of national and international significance, tourism and recreation facilities must be enhanced and the Plan shall seek to—

(*a*) monitor the impacts of tourist activity and sport fishing on the Lake and its environs;

(*b*) improve tourist infrastructure;

(*c*) provide information to visitors;

(*d*) facilitate Lake Naivasha to become part of a tourist circuit;

(*e*) promote awareness among tourists in support of the Plan; and

(*f*) maintain and enhance the aesthetic value of the lake.

FISHERIES

The Lake fishery has the potential for greater production and the Plan shall promote the fisheries potential through the following measures—

(*a*) monitoring and collecting accurate data on the commercial catch necessary for the calculation of Maximum Sustainable Yield;

(*b*) designing an appropriate management strategy to eliminate illegal fishing, and the enforcement of fishing regulations and the training of fishermen;

(*c*) enhancement of fish production (including introduction of new species and aquaculture development after suitable Environmental Impact Assessment);

(*d*) gazettement of existing fish landing sites and establishing additional fish landing grounds;

(*e*) instituting proper management for fish landing sites;

(*f*) establishing regulations to protect fish breeding areas, especially within, and 100 meters out from, the lakeside edge of the Papyrus fringe;

(*g*) setting up appropriate sites for fuelling boats to minimise oil spills;

(*h*) involving fisherfolk in the licensing process, data collection and fisheries management;

(*i*) regulating the number of fishers based on the recommendation of research findings; and

(*j*) promoting the use of infiltration ponds rather than direct abstraction of water from the Lake.

HORTICULTURE AND AGRICULTURE

Horticulture is an important sector in the Lake Naivasha area and the Plan shall regulate the sector through the following measures—

(*a*) the metered abstraction of water and water use by growers;

(*b*) encouraging practices that avoid or prevent pollutants entering ground and lake water;

(*c*) disallowing unacceptable practices on Riparian land;

(*d*) protecting of the wider environment of Lake Naivasha;

(*e*) monitoring and self regulating of farm practices within the horticultural sector;

(*f*) proper storage, handling, application and wise use of chemicals and pesticides; and

(*g*) listing of banned or dangerous pesticides and those that are potentially harmful to wetlands.

WASTE DISPOSAL

The Plan shall ensure proper disposal of wastewater and other waste products through the following measures—

(*a*) facilitating the rehabilitation of the Naivasha town sewage treatment works;

(*b*) developing a constructed wetland around the existing treatment works to purify its output and prevent environmental damage in the event of failure of the system;

(*c*) regulating the use and sitting of septic tanks around the Lake;

(*d*) seeking alternative sources and appropriate technology for recycling common horticultural materials such as plastics, bamboo and wood;

(*e*) establishing a mechanism for the disposal of used chemical containers and plastic;

(*f*) monitoring the discharge of aerial chemicals and disposal of wastewater particularly from the urban sewage plant and industrial developments;

(*g*) disallowing dumping of chemical, vegetative or sewage waste on Riparian land or in the lake;

(*h*) disallowing pit latrines, laundry or domestic waste water discharge on riparian land; and

(*i*) promoting proper solid waste management and disposal.

PUBLIC ACCESS

The Plan provides for the identification and designation of public access routes as well as the development of suitable management practices to promote education, recreation and sustainable use. However, the following specific areas in and around the Lake shall be protected from human interference—

(*a*) breeding sites for wildlife and fish;

(*b*) sensitive and fragile ecosystems;

(*c*) areas under a rehabilitation programme;

(*d*) wildlife corridors between the Parks and the Lake; and

(*e*) river-mouths and other water inlet points.

RESEARCH

The Plan recognises the importance of research, and to ensure maximum return from research activities it shall be necessary to set up research priorities particularly to—

(*a*) develop understanding of the water balance;

(*b*) study the food chain, including plankton and their relationship to ecological factors;

(*c*) develop knowledge on fishery resources, including the ecology of Crayfish Black Bass and submerged hydrophytes stands; and

(d) monitor impact of socio-economic activities on biological resources, both within the Catchment and the Lake.

AWARENESS AND INFORMATION

Success of the Plan shall only be attained when all concerned understand its objectives and proactively implement its principles. This shall be achieved by—

(*a*) establishing a data information centre;

(*b*) mounting awareness campaigns for stakeholders;

(*c*) producing field guides on the ecology of the Lake;

(*d*) providing information signboards at the main junctions to direct visitors to public places of general interest;

(*e*) promoting the Plan and inviting input;

(*f*) encouraging the production of Sectoral Codes of Conduct to be added to the Plan; and

(*g*) promoting awareness and sense of participation among the Catchment area community.

MONITORING AND EVALUATION PROGRAMMES

The main objectives of a monitoring programme shall be to provide information to—

(*a*) establish trends and allow forecasting;

(*b*) aid in understanding the Lake ecosystem and water budget, and how these are affected by environmental factors and human activities;

(*c*) establish reasons for changes in the vitality of the Lake and its environs;

(*d*) monitor changes in water quality; and

(*e*) update and measure the success of the Plan.

PHYSICAL AND SOCIO-ECONOMIC PARAMETERS TO BE MONITORED

Physical parameters to be monitored shall include—

(*a*) climatic elements—rainfall, evaporation, humidity, air temperature, wind speed and wind direction;

(*b*) river flow and lake levels;

(*c*) lake water quality;

(*d*) endemic and invasive species both plants and animals;

(*e*) wildlife and bird censuses;

(*f*) fish population and catches;

(*g*) health of species at the top of the food chain; and

(*h*) status of the watershed.

Socio-economics parameters to be monitored shall include—

(*a*) water usage, metering, acreage under irrigation and water permit status;

(*b*) population, employment, health and education and statistics;

(*c*) land use, vegetation and soil degradation;

(*d*) level of awareness and understanding of management issues;

(*e*) compliance with the Plan; and

(*f*) catchment activities.

REVIEW OF THE PLAN

The Plan is intended to be dynamic, constantly changing as fresh knowledge becomes available. In updating the Plan the Committee shall—

(*a*) assess whether the operational objectives are being achieved;

(*b*) examine whether the implementation of the Plan is on track;

(*c*) evaluate the implementation team;

(*d*) evaluate the cost-effectiveness of the implementation process;

(*e*) evaluate the validity of previous assumptions in the light of monitoring results;

(*f*) evaluate public opinion on the Plan; and

(*g*) evaluate the status of the watershed.

MEASURE OF SUCCESS

The main parameters by which the success of the Plan shall be measured include—

(*a*) status of water quantity and quality;

(*b*) employment provided and foreign exchange earned;

(*c*) status of biodiversity;

(*d*) community awareness and support for management issues and the Committee;

(*e*) donor interest and levels of funding;

(*f*) quality and usefulness of research;

(*g*) quality of the watershed; and

(*h*) local community development.

The Plan including the background information to the Plan, the facts upon which the Plan is based and the Codes of Conduct relating to the Plan is deposited at the offices of the Lake Naivasha Riparian Association (LNRA) and the Director General, National Environment Management Authority (NEMA) whose addresses are provided below—

The Chairman
Lake Naivasha Management Committee
P.O. Box 1011, Naivasha 20117, Kenya
Tel: (254) 050 50136
Fax: (254) 050 2021009

The Director-General
National Environment Management Authority (NEMA)
P.O. Box 67839, Nairobi 00200, Kenya
Tel: (254) 020 605526/609013/79
Fax: (254) 020 608997

[Subsidiary]

THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION (WATER QUALITY) REGULATIONS, 2006

ARRANGEMENT OF REGULATIONS

PART 1—PRELIMINARY

Regulation

1—Citation.
2—Application.
3—Interpretation.

PART II—PROTECTION OF SOURCES OF WATER FOR DOMESTIC USE

4—Prevention of water pollution.
5—Standards for sources of domestic water.
6—Protection of lakes, rivers, streams, springs, wells and other water sources.
7—Bans, restrictions, etc, on use of water sources.
8—Compliance with water quality standards.
9—Water quality monitoring.

PART III—WATER FOR INDUSTRIAL USE AND EFFLUENT DISCHARGE

10—Compliance with industrial standards.
11—Discharge into the aquatic environment.
12—Discharge into the environment.
13—Discharge into public sewers.
14—Discharge monitoring.
15—Review of records.
16—Application for effluent discharge license.
17—Effluent discharge license.
18—License not transferable.

PART IV—WATER FOR AGRICULTURAL USE

19—Use of wastewater for Irrigation.
20—Abstraction from a water body under environmental management plan.
21—Creation of buffer zone for irrigation scheme.
22—Transitional provision.
23 —Compliance with regulations.

PART V—OTHER USES

24—Water Pollution Prohibition.
25—Recreational uses.

PART VI—MISCELLANEOUS PROVISIONS

26—Inventory of water bodies.
27—Offences.
28—Fees .

SCHEDULES

First Schedule: Quality Standards for Sources of Domestic Water.

Second Schedule: Quality Monitoring for Sources of Domestic Water.

Third Schedule: Standards for Effluent Discharge into the environment.

Fourth Schedule: Monitoring Guide for Discharge into the Environment.

Fifth schedule: Standards for effluent Discharge into Public Sewers.

Sixth Schedule: Monitoring for Discharge Treated Effluent into the Environment.

Seventh Schedule: Form A—Application for effluent Discharge into Aquatic Environment.

Form B—Effluent Discharge License.

Form C—Register for Effluent Discharge License into the Environment.

Eighth Schedule: Microbiological Quality Guidelines for Wastewater used in Irrigation.

Ninth Schedule: Standards for Irrigation Water

Tenth Schedule: Quality Standards for Recreational waters

Eleventh Schedule: Fees.

[Subsidiary]

THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION (WATER QUALITY) REGULATIONS, 2006

L.N. 120/2006.

PART 1—PRELIMINARY

Citation.

1. These Regulations may be cited as Environmental Management and Co-ordination (Water Quality) Regulations, 2006.

Application.

2. These Regulations shall apply to drinking water, water used for industrial purposes, water used for agricultural purposes, water used for recreational purposes, water used for fisheries and wildlife, and water used for any other purposes.

Interpretation.

3. In these Regulations unless the context otherwise requires—

No. 8 of 1999.

"Act" means the Environmental Management and Co-ordination Act;

"Authority" means the National Environment Management Authority established under section 7 of the Act;

"buffer zone" means distinct or established areas that separate potentially antagonistic entries between competing users that serve to lessen the danger of potential conflicts;

"environmental management plan" means the plan referred to under section 42 (3) of the Act;

"designated representative" means any person authorized by the Authority to act on its behalf;

"ground water" means the water of underground streams, channels, artesian basins, reservoirs, lakes and other bodies of water in the ground, and includes water in interstices below the water table;

"Minister" means the Minister for the time being responsible for matters relating to environment;

"natural water body" means any river, stream, spring, lake, swamp, pond or other water source flowing in a natural water course;

"pH" means the negative base 10 logarithm of the hydrogen ion concentration;

"point sources" means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, conduit, tunnel, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel or other floating craft from which pollutants are or may be discharged;

"resource quality" in relation to a water resource, means the quality of all the aspects of a water resource including—

(*a*) the character and condition of the in-stream and riparian habitat;

(*b*) the characteristics, condition and distribution of the aquatic biota;

(*c*) the physical, chemical and biological characteristics of the water;

(*d*) the quantity, pattern, timing, water level and assurance of in-stream flow; and

(*e*) the water quality stipulated for the reserves.

PART II—PROTECTION OF SOURCES OF WATER FOR DOMESTIC USE

Prevention of water pollution.

4. (1) Every person shall refrain from any act which directly or indirectly causes, or may cause immediate or subsequent water pollution, and it shall be immaterial whether or not the water resource was polluted before the enactment of these Regulations.

(2) No person shall throw or cause to flow into or near a water resource any liquid, solid or gaseous substance or deposit any such substance in or near it, as to cause pollution.

Standards for sources of domestic water.

5. All sources of water for domestic uses shall comply with the standards set out in the First Schedule to these Regulations.

Protection of lakes, rivers, streams, springs, wells and other water sources.

6. No person shall—

(*a*) discharge, any effluent from sewage treatment works industry or other point sources without a valid effluent discharge licence issued in accordance with the provisions of the Act;

(*b*) abstract ground water or carry out any activity near any lakes, rivers, streams, springs and wells that is likely to have any adverse impact on the quantity and quality of the water, without an environmental impact assessment licence issued in accordance with the provisions of the Act; or

(*c*) cultivate or undertake any development activity within full width of a river or stream to a minimum of six metres and a maximum of thirty metres on either side based on the highest recorded flood level.

Bans, restrictions, etc on use of water sources.

7. The Authority in consultation with the relevant lead agency may impose bans and restrictions and other measures on the use of sources of water for domestic use in order to prevent and control their degradation.

Compliance with water quality standards.

8. All operators and suppliers of treated water, containerized water and all water vendors shall comply with the relevant quality standards in force as may be prescribed by the relevant lead agencies.

Water quality monitoring.

9. The Authority in consultation with the relevant lead agency, shall maintain water quality monitoring for sources of domestic water at least twice every calender year and such monitoring records shall be in the prescribed form as set out in the Second Schedule to these Regulations.

PART III—WATER FOR INDUSTRIAL USE AND EFFLUENT DISCHARGE

Compliance with industrial standards.

10. (1) No person shall use water for trade or industrial undertaking unless such person complies with the standards established by the competent lead agency in regard to that particular activity.

(2) The Authority in consultation with the relevant lead agencies shall ensure compliance with the said standards.

Discharge into aquatic environment.

11. No person shall discharge or apply any poison, toxic, noxious or obstructing matter, radioactive waste or other pollutants or permit any person to dump or discharge such matter into the aquatic environment unless such discharge, poison, toxic, noxious or obstructing matter, radioactive waste or pollutant complies with the standards set out in the Third Schedule to these Regulations.

Discharge into the environment.

12. (1) Every local authority or person operating a sewage system or owner or operator of any trade or industrial undertaking issued with an effluent discharge license as stipulated under the Act shall comply with the standards set out in the Fourth Schedule to these Regulations.

(2) Every local authority or person operating a sewage system or owner or operator of any trade or industrial undertaking shall be guided by the monitoring guide for discharge into the environment as set out in the Third Schedule to these Regulations or as the Authority may prescribe.

Discharge into public sewers.

13. Every owner or operator of a trade or industrial undertaking issued with a licence by a local authority or sewerage systems shall comply with the standards set out in the Fifth Schedule to these Regulations.

Discharge monitoring.

14. (1) Every person who generates and discharges effluent into the environment under a license issued under the Act shall carry out daily effluent discharge quality and quantity monitoring and shall submit quarterly records of such monitoring to the Authority or its designated representative.

(2) Such discharge monitoring record shall be in the prescribed form set out in the Sixth Schedule to these Regulations.

Review of records.

15. The Authority shall review all monitoring records in order to verify compliance with these Regulations.

Application for effluent discharge licence.

16. (1) An application for an effluent discharge license under the Act shall be in Form A in the Seventh Schedule and accompanied by the prescribed fee as set out in the Eleventh Schedule to these Regulations.

(2) The decision of the Authority together with the reasons thereof shall be communicated to the applicant within thirty days from the date of submission of the application.

(3) Where the Authority approves an application for the grant of an effluent discharge licence, it shall issue an effluent discharge licence within twenty-one days of such approval.

[Subsidiary]

Effluent discharge licence.

17. (1) An effluent discharge licence issued under the Act shall be in Form B set out in the Seventh Schedule to these Regulations and shall be valid for one year from the date of issue.

(2) The Authority shall maintain a register for effluent discharge licences as prescribed in Form C in the Seventh Schedule.

Licence not transferable.

18. An effluent discharge licence issued under the Act shall not be transferable.

PART IV—WATER FOR AGRICULTURAL USE

Use of wastewater for irrigation.

19. No person shall be permitted to use wastewater for irrigation purposes unless such water complies with the quality guidelines set out in the Eighth Schedule to these Regulations.

Abstraction from a water body under environmental management plan.

20. Where the Minister, in exercise of his powers conferred under section 42 (3) has issued an order for the management of a natural water body, no person shall abstract water from such body for irrigational purposes unless such water meets the standards set out in the Ninth Schedule to these Regulations.

Creational of buffer zone for irrigation scheme.

21. Any owner or operator of an irrigation scheme shall create a buffer zone of at least fifty meters in width between the irrigation scheme and the natural water body into which such irrigation scheme discharges its waters.

Transitional provisions.

22. All owners or operators of existing irrigation schemes shall within ninety days upon the coming into force of these Regulations take necessary steps to comply with these Regulations.

Compliance with regulations.

23. The Authority in consultation with the relevant lead agency shall take all necessary measures to ensure compliance with these Regulations.

PART V—WATER FOR ANY OTHER USES

Water pollution prohibition.

24. No person shall discharge or apply any poison, toxic, noxious or obstructing matter, radioactive wastes, or other pollutants or permit any person to dump or discharge any such matter into water meant for fisheries, wildlife, recreational purposes or any other uses.

Recreational uses.

25. No person shall use or allow to be used any natural water body for recreational purposes unless the water body meets the quality standards for recreational standards as set out in Tenth Schedule to these Regulations.

PART VI—MISCELLANEOUS PROVISIONS

Inventory of water bodies.

26.Within three years from the date of commencement of these Regulations, the Authority shall prepare and maintain an inventory of all natural water bodies and take measures including the development of environmental management plans, to prevent and control degradation of such sources.

Offences.

27. (1) Any person who contravenes any of these Regulations commits an offence and shall be liable to a fine not exceeding five hundred thousand shillings.

(2) In addition to the above, the court may give such other orders as are provided for under the Act.

28. All applications and licences shall be accompanied by the prescribed fees as set out in the Eleventh Schedule to these Regulations. Fees.

FIRST SCHEDULE (r. 5)

QUALITY STANDARDS FOR SOURCES OF DOMESTIC WATER

Parameter	Guide Value (maximum allowable)
pH	6.5—8.5
Suspended solids	30 (mg/L)
Nitrate-NO_3	10 (mg/L)
Ammonia-NH_3	0.5 (mg/L)
Nitrite-NO_2	3 (mg/L)
Total dissolved solids	1200 (mg/L)
E.coli	Nil/100 ml
Fluoride	1.5 (mg/L)
Phenols	Nil (mg/L)
Arsenic	0.01 (mg/L)
Cadmium	0.01 (mg/L)
Lead	0.05 (mg/L)
Selenium	0.01 (mg/L)
Copper	0.05 (mg/L)
Zinc	1.5 (mg/L)
Alkyl benzyl sulphonates	0.5 (mg/L)
Permanganate value (PV)	1.0 (mg/L)

PRESCRIBED FORM

SECOND SCHEDULE (r. 9)

WATER QUALITY MONITORING FOR SOURCES OF DOMESTIC WATER

Name of water source …….....

Sample Number …….....

Description of sample (untreated) …….....

Date and time sample received in laboratory …….……

Date and time sample was examined ……...……

Parameter	RESULTS	
	Observed value	Guide value (maximum allowable)
pH		6.5 -8.5
Suspended solids		30 (mg/L)
Nitrate-NO_3		10 (mg/L)
Ammonia —NH_3		0.5 (mg/L)
Nitrite —NO_2		3 (mg/L)
Total Dissolved Solids		1200 (mg/L)
E.coli		Nil/100 ml
Fluoride		1.5 (mg/L)
Phenols		Nil (mg/L)
Arsenic		0.01 (mg/L)
Cadmium		0.01 (mg/L)
Lead		0.05 (mg/L)
Selenium		0.01 (mg/L)
Copper		0.05 (mg/L)
Zinc		1.5 (mg/L)
Alkyl benzyl sulphonates		0.5 (mg/L)
Permanganate value		1.0 (mg/L)

Remarks …….....

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[Subsidiary]

THIRD SCHEDULE (r. 11, 12)

STANDARDS FOR EFFLUENT DISCHARGE INTO THE ENVIRONMENT

Parameter	Maximum Allowable (Limits)
1,1,1-trichloroethane (mg/l)	3
1,1,2-trichloethane (mg/l)	0.06
1,1-dichloroethylene	0.2
1,2-dichloroethane	0.04
1,3-dichloropropene (mg/l)	0.02
Alkyl Mercury compounds	Nd
Ammonia, ammonium compounds, NO_3 compounds and NO_2 compounds (Sum total of ammonia-N times 4 plus nitrate-N and Nitrite-N) (mg/l)	100
Arsenic (mg/l)	0.02
Arsenic and its compounds (mg/l)	0.1
Benzene (mg/l)	0.1
Biochemical Oxygen Demand (BOD 5days at 20 ^{o}C) (mg/l)	30
Boron (mg/l)	1.0
Boron and its compounds—non marine (mg/l)	10
Boron and its compounds—marine (mg/l)	30
Cadmium (mg/l)	0.01
Cadmium and its compounds (mg/l)	0.1
Carbon tetrachloride	0.02
Chemical Oxygen Demand (COD (mg/l)	50
Chromium VI (mg/l)	0.05
Chloride (mg/l)	250
Chlorine free residue	0.10
Chromium total	2
cis -1, 2- dichloro ethylene	0.4
Copper (mg/l)	1.0
Dichloromethane (mg/l)	0.2
Dissolved iron (mg/l)	10
Dissolved Manganese(mg/l)	10
E.coli (Counts /100 ml)	Nil
Fluoride (mg/l)	1.5
Fluoride and its compounds (marine and non-marine) (mg/l)	8

THIRD SCHEDULE—(*Contd.*)

Lead (mg/l)	0.01
Lead and its compounds (mg/l)	0.1
n-Hexane extracts (animal and vegetable fats) (mg/l)	30
n-Hexane extracts (mineral oil) (mg/l)	5
Oil and grease	Nil
(Organo-Phosphorus compounds (parathion,methyl parathion,methyl demeton and Ethyl parantrophenyl phenylphosphorothroate, EPN only) (mg/l)	1.0
Polychlorinated biphenyls, PCBs (mg/l)	0.003
pH (Hydrogen ion activity----marine)	5.0-9.0
pH (Hydrogen ion activity----non marine)	6.5-8.5
Phenols(mg/l)	0.001
Selenium (mg/l)	0.01
Selenium and its compounds (mg/l)	0.1
Hexavalent Chromium VI compounds (mg/l)	0.5
Sulphide (mg/l)	0.1
Simazine (mg/l)	0.03
Total Suspended Solids, (mg/l)	30
Tetrachloroethylene (mg/l)	0.1
Thiobencarb (mg/l)	0.1
Temperature (in degrees celious) based on ambient temperature	± 3
Thiram (mg/l)	0.06
Total coliforms (counts /100 ml)	30
Total Cyanogen (mg/l)	Nd
Total Nickel (mg/l)	0.3
Total Dissolved solids (mg/l)	1200
Colour in Hazen Units (H.U)	15
Detergents (mg/l)	Nil
Total mercury (mg/l)	0.005
Trichloroethylene (mg/l)	0.3
Zinc (mg/l)	0.5
Whole effluent toxicity	
Total Phosphorus (mg/l)	2 Guideline value
Total Nitrogen	2 Guideline value

Remarks

Standard values are daily/monthly average discharge values. Not detectable (nd) means that the pollution status is below the detectable level by the measurement methods established by the Authority.

FOURTH SCHEDULE

(r.12)

MONITORING GUIDE FOR DISCHARGE INTO THE ENVIRONMENT

DISCHARGING FACILITY	Gas and Oil	Dairy Products	Grain Mills	Canned Fruits & Vegetables	Canned & Preserved Sea Foods	Sugar Processing	Textiles	Cement	Feedlots	Electroplating	Organic Chemicals	Inorganic Chemicals	Plastics & Synthetics	Soap & Detergents	Fertiliser Manufacturing	Petroleum Refining	Iron & Steel Manufacturing	Non Ferrous	Phosphate Manufacturing	Steam Electric Power Generating
Water quality parameters																				
Biochemical Oxygen Demand, BOD	x	x	x	x	x	x	x		x		x	x	x	x	x	x				
Total Suspended Solids	x	x		x	x	x	x	x		x	x	x	x	x	x	x	x	x	x	x
pH	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
Faecal Coliforms	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
Oil & Grease	x				x		x				x			x		x	x	x	x	x
Temperature	x	x	x	x	x	x	x	x	x		x	x	x	x		x	x	x	x	x
Chemical Oxygen Demand, COD						x	x				x	x	x	x		x		x		
Colour/Dye/Pigment	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
Elemental Phosphorus																			x	
Total Phosphorus						x				x					x				x	x
Ammonia (as N)												x			x	x	x	x		
Organic Nitrogen as N						x									x					
Nitrate						x									x		x			
Flow	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
Phenols							x				x		x			x	x			
Sulphide							x									x	x			
Total Chromium							x			x		x				x				

FOURTH SCHEDULE—(*Contd.*)

MONITORING GUIDE FOR DISCHARGE INTO THE ENVIRONMENT

DISCHARGING FACILITY	Gas and Oil	Dairy Products	Grain Mills	Canned Fruits & Vegetables	Canned & Preserved Sea Foods	Sugar Processing	Textiles	Cement	Feedlots	Electroplating	Organic Chemicals	Inorganic Chemicals	Plastics & Synthetics	Soap & Detergents	Fertiliser Manufacturing	Petroleum Refining	Iron & Steel Manufacturing	Non Ferrous	Phosphate Manufacturing	Steam Electric Power Generating
Chromium VI										x		x				x				x
Chrome																				
Copper										x		x	x							x
Nickel										x		x								
Zinc										x			x				x			x
Zinc												x								
Cn total										x		x								
Cyanide A										x		x								
Fluorine										x		x	x					x	x	
Free Available Chlorine																				
Residual Chlorine	x																			x
Cadmium										x		x					x			
Lead										x		x					x	x		
Iron										x										
Tin										x		x								x
Silver										x										
Gold										x										

FOURTH SCHEDULE—(*Contd.*)

MONITORING GUIDE FOR DISCHARGE INTO THE ENVIRONMENT

DISCHARGING FACILITY	Gas and Oil	Dairy Products	Grain Mills	Canned Fruits & Vegetables	Canned & Preserved Sea Foods	Sugar Processing	Textiles	Cement	Feedlots	Electroplating	Organic Chemicals	Inorganic Chemicals	Plastics & Synthetics	Soap & Detergents	Fertiliser Manufacturing	Petroleum Refining	Iron & Steel Manufacturing	Non Ferrous	Phosphate Manufacturing	Steam Electric Power Generating
Iridium										x										
Palladium										x										
Rhodium										x										
Ruthenium										x										
Mercury (total)												x								
Total Organic Carbon												x					x			
Aluminium												x					x			
Arsenic												x					x		x	
Selenium												x								
Barium																				
Manganese																	x			
Tannin																				
Oil																				
Settleable Solids																				
Surfactants																				

X—means parameters to be monitored

FOURTH SCHEDULE—(*Contd.*)

MONITORING GUIDE FOR DISCHARGE INTO THE ENVIRONMENT

DISCHARGING FACILITY	Fero Alloy manufacturing	Leather tanning & finishing	Glass	Asbestos manufacturing	Rubber processing	Timber products	Pulp, Paper & paperboard	Builders paper & paperboard mills	Meat products	Paving and roofing materials	Intensive chemical agriculture farm	Edible vegetable oils and fats	Hotels, Restaurants and Game Lodges
Water quality parameters													
BOD		x	x		x	x	x	x	x	x		x	x
TSS	x	x	x	x	x	x	x	x	x	x			x
pH	x	x	x	x	x	x	x	x	x	x	x	x	x
Faecal Coliforms	x	x	x	x	x	x	x	x	x	x	x	x	x
Oil & Grease		x			x	x	x	x	x	x		x	x
Temperature	x	x	x	x	x	x	x	x	x	x		x	x
COD			x	x	x							x	
Colour/Dye/Pigment	x	x	x	x	x	x	x	x	x	x	x	x	x
Elemental Phosphorus							x				x		
Total Phosphorus			x								x		x
Ammonia (as N)	x		x						x		x		x
Organic Nitrogen as N											x		x
Nitrate													
Flow	x	x	x	x	x	x	x	x	x	x	x	x	x
Phenols	x		x			x							

FOURTH SCHEDULE—(*Contd.*)

MONITORING GUIDE FOR DISCHARGE INTO THE ENVIRONMENT

DISCHARGING FACILITY	Fero Alloy manufacturing	Leather tanning & finishing	Glass	Asbestos manufacturing	Rubber processing	Timber products	Pulp, Paper & paperboard	Builders paper & paperboard mills	Meat products	Paving and roofing materials	Intensive chemical agriculture farm	Edible vegetable oils and fats	Hotels, Restaurants and Game Lodges
Sulphide													
Total Chromium	x	x			x								
Chromium VI	x												
Chrome		x											
Copper													
Nickel													
Zinc					x								
Zinc													
Cyanide total	x												
Cn													
Fluorine			x		x								
Free Available Chlorine							x	x					
Residual Chlorine													
Cadmium													
Lead													
Iron			x										

FOURTH SCHEDULE—(*Contd.*)

MONITORING GUIDE FOR DISCHARGE INTO THE ENVIRONMENT

DISCHARGING FACILITY	Fero Alloy manufacturing	Leather tanning & finishing	Glass	Asbestos manufacturing	Rubber processing	Timber products	Pulp, Paper & paperboard	Builders paper & paperboard mills	Meat products	Paving and roofing materials	Intensive chemical agriculture farm	Edible vegetable oils and fats	Hotels, Restaurants and Game Lodges
Tin													
Silver													
Gold													
Iridium													
Palladium													
Rhodium													
Ruthenium													
Mercury (total)													
Total Organic Carbon													
Aluminium													
Arsenic													
Selenium													
Barium													
Manganese	x												
Tannin		x											
Oil		x											
Settleable Solids								x					
Surfactants											x	x	

X-means parameters to be monitored

FOURTH SCHEDULE—(*Contd.*)

MONITORING GUIDE FOR DISCHARGE INTO THE ENVIRONMENT

DISCHARGING FACILITY	Bakeries & wheat confectioneries	Breweries (malt)	Soft drinks and carbonated waters	Sugar confectionery	Tobacco processing	Distilling & blending of spirits	Motor vehicle assembly	Paints, varnishes & lacquers	Batteries manufacture	Cosmetics	Printing, publishing &allied industry	Domestic sewage system	Pharmaceutical industries	Tea/Coffee Industries	Slaughter Houses	Combined sewage (Domestic+ and Industrial effluent)
Water quality parameters																
BOD	x	x	x	x	x	x	x	x			x	x	x	x	x	x
TSS	x	x	x	x				x	x			x	x	x	x	x
pH	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
Faecal Coliforms/Ecoli.	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
Oil & Grease					x		x	x			x	x			x	x
Temperature	x	x	x	x	x	x	x	x	x	x	x				x	
COD		x	x	x		x	x	x	x	x	x	x	x	x	x	x
Colour/Dye/Pigment	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
Elemental Phosphorus																
Total Phosphorus				x								x			x	x
Ammonia (as N)								x				x			x	x
Organic Nitrogen as N				x										x	x	x
Nitrate																x
Flow	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
Phenols																x
Sulphide/Sulphur				x							x					x

FOURTH SCHEDULE—(*Contd.*)

MONITORING GUIDE FOR DISCHARGE INTO THE ENVIRONMENT

DISCHARGING FACILITY	Bakeries & wheat confectioneries	Breweries (malt)	Soft drinks and carbonated waters	Sugar confectionery	Tobacco processing	Distilling & blending of spirits	Motor vehicle assembly	Paints, varnishes & lacquers	Batteries manufacture	Cosmetics	Printing, publishing &allied industry	Domestic sewage system	Pharmaceutical industries	Tea/Coffee Industries	Slaughter Houses	Combined sewage (Domestic+ and Industrial effluent)
Total Chromium								x								x
Chromium VI																x
Chrome																x
Copper												x		x		x
Nickel													x			x
Zinc								x	x				x	x		x
Zinc A																
Cn total																x
Cn A																
Fluorine																x
Free Available Chlorine									x		x	x				x
Cadmium													x			x
Lead							x	x	x		x		x			x
Iron							x	x	x		x					x
Tin																x
Silver																x
Gold							x				x					x

FOURTH SCHEDULE—(*Contd.*)

MONITORING GUIDE FOR DISCHARGE INTO THE ENVIRONMENT

DISCHARGING FACILITY	Bakeries & wheat confectioneries	Breweries (malt)	Soft drinks and carbonated waters	Sugar confectionery	Tobacco processing	Distilling & blending of spirits	Motor vehicle assembly	Paints, varnishes & lacquers	Batteries manufacture	Cosmetics	Printing, publishing &allied industry	Domestic sewage system	Pharmaceutical industries	Tea/Coffee Industries	Slaughter Houses	Combined sewage (Domestic+ and Industrial effluent)
Iridium																x
Palladium																x
Rhodium																x
Ruthenium																x
Mercury							x			x	x					x
Total Organic Carbon, TOC																
Aluminium																x
Arsenic																x
Selenium																x
Barium																x
Manganese																x
Tannin																x
Oil										x						x
Settleable Solids							x				x					
Surfactants								x						x		x

X—Means parameters to be monitored

[Subsidiary]

FIFTH SCHEDULE (r.13)

STANDARDS FOR EFFLUENT DISCHARGE INTO PUBLIC SEWERS

PARAMETER	Maximum levels permissible
Suspended solids (mg/L)	250
Total dissolved solids (mg/L)	2000
Temperature ^{0}C	20—35
pH	6—9
Oil and Grease (mg/L)—where conventional treatment shall be used	10
Oil and Grease (mg/L)—where ponds is a final treatment method	5
Ammonia Nitrogen (mg/L)	20
Substances with an obnoxious smell	Shall not be discharged into the sewers
Biological Oxygen Demand BOD_5 days at 20 ^{o}C (mg/L)	500
Chemical Oxygen Demand COD (mg/L)	1000
Arsenic (mg/L)	0.02
Mercury (mg/L)	0.05
Lead (mg/L)	1.0
Cadmium (mg/L)	0.5
Chromium VI (mg/L)	0.05
Chromium (Total) (mg/L)	2.0
Copper (mg/L)	1.0
Zinc (mg/L)	5.0
Selenium (mg/L)	0.2
Nickel (mg/L)	3.0
Nitrates (mg/L)	20
Phosphates (mg/L)	30
Cyanide Total (mg/L)	2
Sulphide (mg/L)	2
Phenols (mg/L)	10
Detergents (mg/L)	15
Colour	Less than 40 Hazen units
Alkyl Mercury	Not Detectable (nd)
Free and saline Ammonia as N (mg/L)	4.0
Calcium Carbide	Nil
Chloroform	Nil
Inflammable solvents	Nil
Radioactive residues	Nil
Degreasing solvents of mono-di-trichloroethylene type	Nil

and any other parameter as the Authority and the sewerage service provider may prescribe.

[Subsidiary]

PRESCRIBED FORM

SIXTH SCHEDULE (r. 14)

MONITORING FOR DISCHARGE OF TREATED EFFLUENT INTO THE ENVIRONMENT

Lead Agency: ……....…….....……..

Name of organization ……..…....……..

Nature of work …….. ….

Sample Number: ……

Description of sample :……..

Date and time sample received in laboratory: ……

Date and time sample was examined ……

Average Daily Flow Rate (m^3/day)

Parameter	RESULTS				
	Sample upstream	Sample at discharge point	Sample downstream	Guide value	Remark
pH				6.5-8.5	
Biological Oxygen Demand (5 days at 20 °C)				30 (mg/L) max	
Chemical Oxygen Demand				50 (mg/L) max	
Suspended solids				30 (mg/L) max	
Ammonia -NH_4 + Nitrate-$N0_3$ + Nitrite -$N0_2$				100 (mg/L) max	
Total Dissolved Solids				1200 (mg/L) max	
E.Coli				Nil/100 ml	
Total coliform				1000/100 ml	

Others

1. ……..
2. ……..
3. ……..
4. ……..

As guided by Schedule Four or as may be directed by the Authority.

FORM A:

SEVENTH SCHEDULE (r. 16)

APPLICATION FOR EFFLUENT DISCHARGE INTO AQUATIC ENVIRONMENT

PART A: DETAILS OF APPLICANT

A1. Name of applicant: ……..

A2. Personal Identification Number: ……..

A3. Address: ……..

……..……..

A4. Name of contact person: ……..……..

……..……..

A5. Telephone No. ……..

A6. Fax No. ……..……..

A7. E-mail ……..……..

A8. Previous License Number ……..……..

PART B: DETAILS OF DISCHARGING FACILITY

B1. Location of discharging facility: ……..

B2. Activity of discharging facility (e.g. coffee factory, sewage plant, tea factory)

……..……..

B3. Nature and composition of effluent: ……..……

……..……..

B4. Does the facility have effluent treatment plant (Yes or No)

……..……..

B5. Maximum quantity of effluent which is proposed to discharge on any one day (in M^3/day) ……..

B6. The highest rate at which it proposes to discharge the effluent (in M_/hr.)

……..……..

B7. Source of processing water to the facility ……..

……..……..

B8. Does the facility have access to a Laboratory for monitoring the quality of discharged effluent?

(Yes or No) ……..

B9. Description of the activities of the facility ……..……..

……..……..

B10. Point of discharge: ……..

……..……..

PART C: DECLARATION BY APPLICANT

I hereby certify that the information given above is correct and true to the best of my knowledge:

……..
Signature of Applicant

……..
Full Names in Block letters

……..……..
Position

On behalf of: …….....……..
(*Firm name and seal*)

Date: ……..

PART D: FOR OFFICIAL USE

Approved/Not Approved ……

COMMENTS ……..……..

Official Signature ……..

Date ……..……..

Important Notes:

Please submit the following:

(*a*) Application form in duplicate and

(*b*) Prescribed fee to:

Director General
The National Environment Management Authority (NEMA)
Kapiti Road, South C,
P. O. Box 67839-00200, Nairobi, Kenya
Tel. 254-02-605522/6/7, or 601945
Fax: 254-02-608997
Email: dgnema@swiftkenya.com

THE ENVIRONMENTAL MANAGEMENT AND COORDINATION ACT EFFLUENT DISCHARGE LICENCE

FORM B (r. 17)

Application Reference No. ……

License No. …….....

FOR OFFICIAL USE

This is to certify that the application for discharge to aquatic environment

receivedfrom name of applicant) of …….……. (address) to the National Environment Management Authority in accordance with the Environmental Management and Co-ordination (Water Quality)

Regulations,2005 for …….....…….

(facility) located at …….....……(locality and district)

to discharge effluent to …… has been evaluated and a permit is hereby issued for discharge, subject to the attached conditions.

Dated this …….……..… day of …… 20…...

Signature: ……..

(Official Stamp)

Director General
National Environment Management Authority

CONDITIONS OF LICENSE

1. This License is valid for a period of …….…… from the date hereof.
2. ……..
3. ……..
4. ……..
5. ……..

[Subsidiary]

FORM C:

REGISTER FFOR EFFLUENT DISCHARGE LICENCE INTO THE ENVIRONMENT

Name of discharging facility	Location of facility	License No.	Date of issue	Expiry Date	Conditions of License	Discharging into	Date and name of Filing officer	Date	Remarks/Status

Status of Licence
1. New
2. Cancelled
3. Variation

EIGHTH SCHEDULE (r. 19)

MICROBIOLOGICAL QUALITY GUIDELINES FOR USE OF WASTEWATER FOR IRRIGATION

Reuse conditions	Exposed group	Intestinal nematodes (MPN/L)*	Coliforms (MPN/100 ml)
Unrestricted irrigation (crops likely to be eaten uncooked, sports fields, public parks)	Workers, consumers, public	<1	<1000**
Restricted irrigation (cereal crops, industrial crops, fodder crops, pasture and trees***	Workers	<1	No standard recommended

* *Ascaris lumbricoides*, *Trichuris trichiura* and human hookworms.

** A more stringent guideline (<200 coliform group of bacteria per 100 ml) is appropriate for public lawns, such as hotel lawns, with which the public may come into direct contact.

*** In the case of fruit trees, irrigation should cease two weeks before fruit is picked and fruit should be picked off the ground. overhead irrigation should not be used.

NINTH SCHEDULE (r. 20)

STANDARDS FOR IRRIGATION WATER

Parameter	Permissible Level
pH	6.5-8.5
Aluminium	5 (mg/L)
Arsenic	0.1 (mg/L)
Boron	0.1 (mg/L)
Cadmium	0.5 (mg/L)
Chloride	0.01 (mg/L)
Chromium	1.5 (mg/L)
Cobalt	0.1 (mg/L)
Copper	0.05 (mg/L)
E.coli	Nil/100 ml
Fluoride	1.0 (mg/L)
Iron	1 (mg/L)
Lead	5 (mg/L)
Selenium	0.19 (mg/L)
Sodium Absorption Ratio (SAR)	6 (mg/L)
Total Dissolved Solids	1200 (mg/L)
Zinc	2 (mg/L)

TENTH SCHEDULE (r. 25)

QUALITY STANDARDS FOR RECREATIONAL WATERS

PARAMETER	MAXIMUM PERMISSIBLE LEVEL
Arsenic(mg/l)	0.05
Fecal coliform (Counts/100ml)	Nil
Total (Counts/100ml)	500
Cadmium	0.01
Chromium	0.1
Colour (True Color Units)	100
Light Penetration (meters)	1.2
Mercury (mg/L)	0.001
Odour (Threshold Odour, TON)	16
Oil and Grease (mg/L)	5
pH	6—9
Radiation, Total (Bq/L)	0.37
Surfacant, MBAs (mg/L)	2
Temperature (ºC)	30
Turbidity (NTU)	50

ELEVENTH SCHEDULE (r. 28)

FEES

The fees chargeable under these Regulations shall be as specified hereafter:

(*a*) Application for discharge of effluent into the environment

(i) Sewerage service providers—Sh.5,000

(ii) Discharging facility in Schedule 4 other than (i) above—Sh.5,000

(iii) Any other Institution—Sh.5,000

(*b*) Annual license fee for discharge of effluent into the environment:

(i) Sewerage service providers—Sh.500,000

(ii) Discharging facility in Schedule 6 other than (i) above—Sh.100,000

(iii) Any other Institutions—Sh.20,000

(iv) Others—Sh.10,000

(*c*) Inspection of records/effluent register—Sh.200

(*d*) Variation of effluent discharge license—10% of the Annual License fee.

[Subsidiary]

ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION (WASTE MANAGEMENT) REGULATIONS, 2006

ARRANGEMENT OF REGULATIONS

PART I—PRELIMINARY

Regulation

1—Citation.
2—Interpretation.
3—Application.

PART II—GENERAL PROVISIONS

4—Responsibility of waste generator.
5—Cleaner production methods.
6—Segregation of waste by generator.
7—Waste transportation licence.
8—Responsibility of a waste transporter.
9—Transportation of waste by licensed transporter.
10—License for disposal facility.
11—Waste treatment by operators of disposal sites.
12—Requirement of Environmental Audit.
13—Re-use and recycling plants.

PART III—INDUSTRIAL WASTES

14—General obligation to mitigate pollution.
15—Treatment of industrial waste.

PART IV—HAZARDOUS AND TOXIC WASTES

16—Hazardous waste specifications.
17 —Requirement for Environmental Impact Assessment.
18—Handling, storing and transporting of hazardous waste.
19—Treatment of hazardous waste.
20—Export Permit.
21—Transit of hazardous waste.
22—Insurance.
23—Register of Permits.

PART V—PESTICIDES AND TOXIC SUBSTANCES

24—Application of Cap. 346.
25—Disposal of pesticides.

PART VI—BIOMEDICAL WASTES

26—Requirement for EIA from biomedical waste generator.
27—Approval of biomedical waste generating facility.
28—Segregation of biomedical waste.
29—Securing and packaging of biomedical waste.
30—Treatment of biomedical waste.

Regulation

31—Monitoring by lead agency.
32—Storage of biomedical waste.
33—Transportation of biomedical waste.
34—Transfer Stations.
35—Standards for biomedical waste disposal sites and plants.
36—Requirement of EIA for biomedical waste disposal sites or plants and licence to operate.
37—Requirement for Environmental Audits.

PART VII—RADIOACTIVE SUBSTANCES

38—Application of Radiation Protection Act.
39—Disposal of radioactive substance.

PART VIII—MISCELLANEOUS

40—Transitional provision for transporting waste.
41—Transitional provisions for disposal facilities.
42—Offences and penalties.
43—Operation of Regulations.

SCHEDULES

First Schedule—Forms

Form I—FORM NEMA/WM/1

Form III—FORM NEMA/WM/2

Form II—FORM NEMA/WM/3

Form IV—FORM NEMA/WM/4

Form V—FORM NEMA/WM/5

Second Schedule—Fees Regulations 7, 11, 26

Third Schedule—Standard for Treatment and Disposal of Wastes Regulations 25, 48

Fourth Schedule—Wastes Considered Hazardous Regulation 22

Fifth Schedule—List of Hazardous Characteristics Regulation 15

Sixth Schedule—Application for Transboundary Movement of Waste Regulations 26, 29

Sixth Schedule—Permit to Export/Transit Waste Regulations 26, 19

Seventh Schedule—Categories of biomedical waste Regulation 38

Eighth Schedule—Color Code for biomedical adopted from the WHO Code Regulation 39

Eighth Schedule—Symbols

Ninth Schedule—Treatment of biomedical wastes Regulation 40

Tenth Schedule—Standards for waste autoclaving Regulation 47

[Subsidiary]

L.N. 121/2006.

THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION (WASTE MANAGEMENT) REGULATIONS, 2006

PART I—PRELIMINARY PROVISIONS

Citation.

1. These Regulations may be cited as the Environmental Management and Co-ordination (Waste Management Regulations) 2006.

Interpretation.

2. In these Regulations unless the context otherwise requires:

"applicant" means any person who applied to the Authority or lead agency for authorization to perform specific activities connected with chemicals, pesticides, radioactive substances and waste management;

"biodegradable substance" means a substance that can be degraded by microorganisms;

"biomedical waste" means any waste which is generated during the diagnosis, treatment or immunization of human beings or animals or in research activities pertaining thereto or in the production or testing of biologicals and includes the category of waste specified in the Ninth Schedule to these Regulations;

Cap. 243.

"Board" means the Radiation Protection Board established under the Radiation Protection Act;

"disposal site" means any area of land on which waste disposal facilities are physically located and includes a final waste discharge point without the intention of retrieval but does not mean a re-use or re-cycling plant or site;

"domestic waste" means waste generated from residences;

"environmentally sound management of waste" means taking all practical steps to ensure that waste is managed in a manner which protects human health and the environment against the adverse effects which may result from the waste;

"incineration" means the controlled burning of solids, liquids, gaseous combustible waste to produce gases and residues containing little or no combustible materials;

"industrial waste" means waste arising from processing and manufacturing industries or trade undertakings and can take the form of liquid, non-liquid, solid and gaseous substances;

Cap. 346.

"pesticide" has the meaning assigned to it under the Pesticide Control Act;

"Prior Informed Consent" means the international operation procedure for exchanging, receiving and handling notification information by the competent authority on waste;

"radioactive waste" means any radioactive material that has been, or will be, discarded as of being of no further use;

"recycling of waste" means the processing of waste material into a new product of similar chemical composition;

"reprocessing" means the processing of waste into a new product of different chemical composition;

"re-use" means waste re-used with or without cleaning and/or repairing;

"segregation" means any activity that separates waste materials for processing;

"sludge" means a non flowing mixture of solids and liquids;

"storage" means placement of waste in a suitable location or facility where isolation, environmental, health protection and human control are provided in order to ensure waste is subsequently retrieved for treatment and conditioning and/or disposal.

"toxic chemical" means any substance which on entry to or into an organism through ingestion, inhalation and dermal contact is injurious, causes physiological or biochemical disturbances or otherwise causes deterioration of the functions of the organism in any way;

"treatment" means any method and technique or process for altering the biological, chemical or physical characteristics of wastes to reduce the hazards it presents and includes facilities intended to reduce the cost of disposal of such waste and whose treatment objectives include volume reduction, disinfection, neutralization or other change of composition to reduce hazards;

"waste generator" means any person whose activities or activities under his or her direction produces waste or if that person is not known, the person who is in possession or control of that waste; and

"waste management" means the activities either administrative or operational that are used in handling, packaging, treatment, condition, storage and disposal of waste.

Application.

3. These Regulations shall apply to all categories of waste as is provided for herein.

Part II—General Provisions

Responsibility of waste generator.

4. (1) No person shall dispose of any waste on a public highway, street, road, recreational area or in any public place except in a designated waste receptacle.

(2) A waste generator shall collect, segregate and dispose such waste in the manner provided for under these Regulations.

[Subsidiary]

Cleaner production methods.

5. (1) A waste generator shall minimize the waste generated by adopting the following cleaner production methods:

(*a*) improvement of production process through—

(i) conserving raw materials and energy;

(ii) eliminating the use of toxic raw materials; and

(iii) reducing toxic emissions and wastes;

(*b*) monitoring the product cycle from beginning to end by—

(i) identifying and eliminating potential negative impacts of the product;

(ii) enabling the recovery and re-use of the product where possible; and

(iii) reclamation and recycling; and

(*c*) incorporating environmental concerns in the design and disposal of a product.

Segregation of Waste by Generator.

6. A waste generator shall segregate waste by separating hazardous waste from non-hazardous waste and shall dispose of such wastes in such facility as shall be provided by the relevant local authority.

Waste transportation licence.

7. (1) No person shall be granted a license under the Act to transport waste unless such person operates a transportation vehicle approved by the Authority upon the recommendation of the relevant lead agency.

(2) Any vehicle used for transportation of waste or any other means of conveyance shall be labelled in such a manner as may be directed by the Authority.

(3) The Authority in consultation with the relevant lead agency may designate particular geographical areas to be the areas for operation for licensed waste transporters.

(4) An application for a license to transport waste shall be submitted in Form I set out in the First Schedule to these Regulations and shall be accompanied by the prescribed fees set out in the Second Schedule.

(5) A license issued under the Act for the transportation of waste shall be in Form II set out in the First Schedule to these Regulations and shall be valid for one year from the date of issue.

Responsibility of waste transporter.

8. Any person granted a license to transport waste shall ensure that—

(1) the collection and transportation of such waste is conducted in such a manner that will not cause scattering of the waste;

(2) the vehicles and equipment for the transportation of waste are in such a state that shall not cause scattering of, or flowing out of waste or emission of noxious smells from such waste;

(3) the vehicles for transportation and other means of conveyance of waste follow the scheduled routes approved by the Authority from the point of collection to the disposal site or plant; and

(4) he or his agent(s) possess at all times during transportation of the waste, a duly filled tracking document as set out in Form III in the First Schedule to these Regulations and shall produce the same such tracking document on demand to any law enforcement officer.

Transportion of waste by licenced transporter.

9. Any person licensed to transport waste shall collect waste from the designated area of operation and shall deliver such waste to the designated disposal site or plant.

Licence for disposal facility.

10. (1) Any person granted a license under the Act and any other licence that may be required by the relevant Local Authority to operate a waste disposal site or plant, shall comply with all conditions imposed by the Authority to ensure that such waste disposal site or plant operates in an environmentally sound manner.

(2) An application for a license to operate a waste disposal site or plant shall be submitted in Form IV set out in the First Schedule to these Regulations and shall be accompanied by the prescribed fees set out in the Second Schedule.

(3) A license issued under the Act for the operation of a waste disposal site or plant shall be in Form V as set out in the First Schedule to these Regulations.

(4) A licence to operate a waste disposal site or plant shall be valid for a period of one year from the date of issue and may be renewed for a further period of one year on such terms and conditions as the Authority may deem necessary or impose for purposes of ensuring public health and sound environmental management.

(5) In issuing a waste disposal licence, the Authority shall clearly indicate the disposal operation permitted and identified for the particular waste.

Waste treatment by operators of disposal sites.
Cap. 265.

11. Any operator of a disposal site or plant shall apply the relevant provisions on waste treatment under the Local Government Act and Regulations to ensure that such waste does not present any imminent and substantial danger to the public health, the environment and natural resources.

Requirement for Environmental Audit.

12. Every licensed owner or operator of a waste disposal site or plant shall carry out an annual environmental audit pursuant to the provisions of the Act.

Re-use and recycling plants.

13. Notwithstanding any provisions to the contrary in these regulations, these Regulations shall also apply to plants and sites established for re-use or re-cycling of wastes.

PART III—INDUSTRIAL WASTES

General obligation to mitigate pollution.

14. (1) Every trade or industrial undertaking shall install at its premises anti-pollution equipment for the treatment of waste emanating from such trade or industrial undertaking.

(2) An Anti-pollution equipment installed pursuant to paragraph (1), shall be determined by the best practicable means, environmentally sound practice or other guidelines as the Authority may determine.

Treatment of industrial waste.

15. No industry shall discharge or dispose of any waste in any state into the environment, unless the waste has been treated in a treatment facility in a manner prescribed by the Authority in consultation with the relevant lead agency.

PART IV—HAZARDOUS AND TOXIC WASTES

Hazardous Waste Specifications.

16. For the purposes of this Part, hazardous waste means be any waste specified in the Fourth Schedule or any waste having the characteristics specified in the Fifth Schedule.

Requirement for EIA.

17. (1) No person shall engage in any activity likely to generate any hazardous waste without a valid Environmental Impact Assessment licence issued by Authority under the provisions of the Act.

Handling, storing and transporting of hazardous waste.

18. (1) Every generator of hazardous waste shall ensure that every container or package for storing such waste is labelled in easily legible characters, written in both English and Kiswahili.

(2) The label shall contain the following information—

(*a*) the identity of the hazardous waste;

(*b*) the name and address of the generator of waste.

(*c*) the net contents;

(*d*) the normal storage stability and methods of storage;

(*e*) the name and percentage of weight of active ingredients and names and percentages of weights of other ingredients or half-life of radioactive material;

(*f*) warning or caution statements which may include any of the following as appropriate—

(i) the words "warning" or "CAUTION"

(ii) the word "POISON" (marked indelibly in red on a contrasting background; and

(iii) the words "DANGER! KEEP AWAY FROM UNAUTHORIZED PERSONS"; and

(iv) a pictogram of a skull and crossbones.

(*g*) a statement of first aid measures, including the antidote when waste is inhaled, ingested or dermal contact and a direction that a physician must be contacted immediately.

Treatment of Hazardous Waste.

19. (1) Every person who generates toxic or hazardous waste shall treat or cause to be treated such hazardous waste using the classes of incinerators prescribed in the Third Schedule to these Regulations or any other appropriate technology approved by the Authority.

(2) Any leachate or other by-products of such treated waste shall be disposed of or treated in accordance with the conditions set out in the license or in accordance with guidelines issued by the Authority in consultation with the relevant lead agency.

Export Permit.

20. (1) No Person shall export hazardous wastes without a valid permit issued by the Authority and a valid Prior Informed Consent document issued by the designated national authority of the receiving country.

(2) An application for exportation of toxic or hazardous waste shall be submitted to the Authority in Form I set out in Sixth Schedule accompanied by the prescribed fee and a copy of the Prior Informed Consent document from the receiving country.

(3) Where the Authority is satisfied that all the requirements have been complied with, it shall issue an export permit as set out in Form II in the Sixth Schedule.

(4) Where a permit is issued under these Regulations, the permit holder shall send a copy of the permit to the Kenya Revenue Authority for the necessary customs verification and control.

(5) An export permit issued under these Regulations shall relate to the specific export transaction but shall not be valid for any subsequent export transactions or transferable.

Transit of Harzadous Waste.

21. No person shall transit toxic or hazardous waste destined for another country through the territory of Kenya without a valid Prior Informed Consent for such movement issued by the Authority including the prescribed document for transboundary movement of waste set out in Form I in the Sixth Schedule, the transit permit set out in Form II in the Sixth Schedule and any other documents prescribed by the competent customs authority.

Insurance.

22. (1) An application for an export permit issued under the Act and these Regulations shall satisfy the Authority that the hazardous waste transporter has subscribed to an insurance policy covering the risks likely to arise out of the activity for which the license is required.

(2) A generator of waste which has been characterized as toxic or hazardous under these Regulations, shall upon written instructions from the Authority, subscribe to an insurance policy to cover the risks caused by the waste.

Register of permits.

23. The Authority shall maintain a register of all permits issued under these Regulations.

PART V—PESTICIDES AND TOXIC SUBSTANCES

Application of Cap. 346.

24. The regulations made under the Pests Control Products Act relating to the classification, registration, labeling, packaging, advertising, import, export, distribution, storage, transportation, handling and disposal of pesticides shall apply to this Part.

Disposal of pesticides.

25. No person shall dispose of any pesticide or toxic substance other than at a designated site or plant approved by the Authority.

PART VI—BIOMEDICAL WASTES

Requirement for EIA from bio-medical waste generator.

26. No person shall own or operate any institution that generates bio-medical waste without a valid Environmental Impact Assessment licence issued by the Authority under the provisions of the Act.

Approval of biomedical waste generating facility.

27. Every waste generator of biomedical waste shall ensure that the generating facility has been approved by the appropriate lead agency and the relevant Local Authority.

Segregation of biomedical waste.

28. Every waste generator of biomedical waste shall at the point of generation and at all stages thereafter segregate the waste in accordance with the categories specified in the Seventh Schedule to these Regulations.

Securing and packaging of bio-medical waste.

29. All biomedical waste shall be securely packaged in biohazard containers which shall be labeled with the symbols set out in Part I and II in the Eighth Schedule to these Regulations.

Treatment of biomedical waste.

30. Every waste generator shall treat or cause to be treated all biomedical waste in the manner set out in the Ninth Schedule to these Regulations, before such biomedical waste is stored or disposed of.

Monitoring by lead agency.

31. The relevant lead agency shall monitor the treatment of all biomedical waste to ensure that such waste are treated in a manner that will not adversely affect public health and the environment.

Storage of biomedical waste.

32. No person shall store biomedical waste at a temperature above 0º C for more than seven days without the written approval of the relevant lead agency, provided that untreated pathological waste shall be disposed of within 48 hours.

Transportation of biomedical waste.

33. (1) No person shall transport biomedical waste without a valid permit issued by the relevant lead agency in consultation with the relevant Local Authority.

(2) No person shall transport or allow to be transported biomedical waste save in a specially designed vehicles or other means of conveyance so as to prevent spillage, leakage or scattering of such waste.

34. The provisions of these Regulations relating to storage and transportation of bio-medical waste shall apply to operators of transfer stations.

Transfer stations.

35. No person shall be issued with a licence to operate a biomedical waste disposal site or plant unless such site or plant complies with the requirements set out in the Third and Tenth Schedule to these Regulations.

Standards for biomedical waste disposal sites or plants.

36. No person shall own or operate a biomedical waste disposal site or plant without a valid Environmental Impact Assessment licence issued by the Authority under the provisions of the Act and a license to operate such plant issued by the relevant lead agency and the relevant local authority.

Requirement for EIA for biomedical waste disposal site or plant and license to operate.

37. Within six months after the commencement of these Regulations, operators of bio-medical waste disposal sites or plants shall submit Environmental Audit reports and thereafter annual Audit Reports to the Authority.

Requirement of Environmental Audits.

Part VII—Radioactive Substances

38. The Provisions of the regulations made under the Radiation Protection Act in relation to the classification, registrations, labelling, packaging, transportation, importation, exportations, waste disposal, health and safety requirements with regard to radioactive substances shall apply to this Part.

Application of Cap. 243.

39. No person shall dispose of any radioactive substance or waste other than at a designated site or plant approved by the Authority.

Disposal of Radioactive substance.

Part VIII—Miscellanous

40. Any person, who before the commencement of these Regulations was carrying out the business of transporting waste, shall apply to the Authority for a licence for the transportation of waste in the prescribed Form I set out in the First Schedule within six months after the commencement of these Regulations.

Transitional Provision for transporting waste.

41. Any person who before the commencement of these Regulations was carrying out the business of operating a waste disposal site or plant shall apply to the Authority for a licence in the prescribed Form IV set out in the First Schedule within six months after the commencement of these Regulations.

Transitional provisions for disposal facilities.

42. Any person who violates the provisions of these Regulations commits an offence and is liable on conviction to imprisonment for such a term and such fine as provided for in the Act.

Offences and Penalties.

43. These Regulations shall operate in addition to any other regulations and standards made under any other law.

Operation of Regulations.

FIRST SCHEDULE

(*To be completed in Triplicate*)

FORM I

FORM NEMA/WM/1

APPLICATION/RENEWAL FOR A LICENCE FOR TRANSPORTATION OF WASTE

(*Regulation 7*)

I hereby apply for a license to transport waste, of which particulars are given below:

Name and address of applicant .....
.....

PIN Number .....

Registration number and type of vehicles to transport waste .....
.....

Quantity of waste per vehicle to be transported ……
….....

Licensed sites/plant to which waste is to be transported ……..
.....

Collection schedule ....
.....

Any other information .....
.....

Attach Recommendation document(s) from the relevant lead agency.

Is Application for: ☐ Initial license ☐ Renewal

Previous License Number .....

Date ..... Signature .....

Designation/Title: .....

FOR OFFICIAL USE ONLY

Application received by ..... on ..... 20 .....

Fee paid KShs. ..... (in words) .....
.....

.....

Director General
National Environment Management Authority

FORM II

FORM NEMA/WM/2

LICENCE TO TRANSPORT WASTE

(Regulation 7)

License No TR/HW ……

Name .....

Address .....

.....

You are hereby licensed to transport waste to: .....

.....

.....

(*location/district*)

from .....

(*location/district*)

Type and registration number of vehicles licensed .....

...…….....

This license is valid from ..... 20 .....

to ..... 20 .....

This license is granted subject to the following conditions: .....

.....

Date ..... Signature .....

.....

Director General

National Environment Management Authority

[Subsidiary]

FORM III

FORM NEMA/WM/3

(*To be completed in triplicate*)

TRACKING DOCUMENT
(*Regulation 8*)

A Transporter	Serial No. Registered Name of Transporter ..... Usual Municipality/District of operation ..... License number ..... Issuing Authority .....
CONSIGNMENT NOTE FOR THE CARRIAGE AND DISPOSAL OF SOLID WASTE	
B Description of the waste	1) Area collected ..... 2) Type of Waste ..... 3) Description and physical nature of waste ..... 4) Quantity/size of waste ..... 5) Number of containers .....
C Disposer's Certificate	I certify that I have received the waste as described in A and B above. The waste was delivered in vehicle _____ (Registration No.) at _____ (time) on _____ (date) and the carrier gave his/her name as _____ on behalf of _____ The waste shall be disposed off as per disposal license issued by the Authority. Signed: _____ Name: _____ Position: _____ Date: _____ On behalf of: _____

[Subsidiary]

FORM IV FORM NEMA/WM/4

(*To be completed in Triplicate*)

APPLICATION/RENEWAL FOR A LICENCE TO OWN/OPERATE A WASTE TREATMENT OR DISPOSAL SITE

(*Regulation 10*)

I hereby apply for a license to own/operate a waste treatment plant/disposal site, of which particulars are given below:—

Name and address of applicant .....

.....

.....

PIN Number .....

Location and district of plant/site .....

.....

Approval of Town/Country Planning Authority .....

.....

Types of waste to be disposed of at plant/site ….....

.....

Quantity being disposed of/per annum: tones/kg .....

Type of facilities/treatment to be carried on at plant/site:

(*a*) Land fill .....

(*b*) Compost .....

(*c*) Incinerator …….....

(*d*) Other (specify) .....

Estimated life span of plant/site .....

Proposed hectarage/area of plant/site (include plan or designs) .....

Executive summary of environmental impact statement (please attach)

Is Application for: ☐ Initial license ☐ Renewal

Previous License Number .....

E.I.A. License Number .....

Any other information .....

....

..... Signature: .....

Designation/Title: .....

FOR OFFICIAL USE ONLY

Application received by ..... on ..... 20 .....

Fee paid KShs. ..... (in words) .....

.....

.....

Director General
National Environment Management Authority

FORM V

FORM NEMA/WM/5

LICENCE TO OWN/OPERATE WASTE TREATMENT PLANT/DISPOSAL SITE

(*Regulation 10*)

License No. WD/HW .....

Address .....

Name.....

You are hereby licensed to own/operate a treatment plant/waste disposal site:
…….....……
.....

This license is valid from …….....… 20 ……..…

to …….....… 20…..……..

This license is subject to the following conditions:
.....
.....

Date ..... Signature .....

……..
Director General
National Environment Management Authority

SECOND SCHEDULE

(*Regulations* 7, 10, 20)

FEES

1. Application for license/Permit:	*KSh.*
a) For transportation of waste	3,000
b) To own/operate a waste processing plant/site	3,000
c) to own/operate a waste disposal plant/site	3,000
d) to export/transit waste	3,000
2. License/Permit	
For a license/permit to:	
a) Transport waste	5,000
b) Own/operate a waste processing plant/site	40,000
c) Own/operate a waste disposal plant/site	75,000
d) to export/transit waste	30,000

THIRD SCHEDULE

(*Regulations* 19, 35)

STANDARD FOR TREATMENT AND DISPOSAL OF WASTES

A. Classification of Incinerators

Class 1: Industrial Plants Burning Waste as an Additional/Alternative Fuel

Incinerators in which the waste serves as the fuel or supplementary fuel in an industrial process (e.g. the use of cement kilns or any other industrial boilers or furnaces for the disposal of noxious or hazardous materials).

Class 2 Industrial Incinerators

Class 2A: Commercial

Incinerators for the disposal of waste that contains hazardous, potential hazardous and bio-medical waste where the operator exceeds 100 Kg/day.

Class 2B: Small Scale Incinerators for Private Use

Incinerators for the disposal of hazardous, potential hazardous and bio-medical waste where the operator does not exceed 100 kg/day.

Class 3: General waste Incinerators

Incinerators for general waste that is non toxic, non hazardous, non medical or does not contain organic halogens, i.e., selected customs, police, contraband goods, offices waste, commercial waste and industrial wastes) where the operator does not exceed 1 ton/day.

[Subsidiary]

STANDARDS, GUIDELINES, CRITERIA, PROCEDURE FOR INSTALLING/ OPERATING INCINERATORS

No.	Parameter	Standards, Guideline, Criteria and Procedure
1	Basic Plant Design	An approved plant must have four distinct sections that demonstrate three principles of Turbulence, Residence Time and Temperature are inbuilt in the plant design. The regulated sections may include but not limited to: • Overall plant layout. • Feed chamber/charging. • Primary Combustion Chamber. • Secondary Combustion Chamber. • Particulate Scrubbers. • Acid Gas Scrubbers. • The stack/ chimney.
2	Feeding And Charging	Controlled hygienic, mechanical or automatic feeding methods have to be used which will not influence the air temperature in the primary and secondary chambers of the incinerator negatively. No waste is to be fed into the incinerator: 1. Until the minimum temperatures have been reached. 2. If the minimum combustion temperatures are not maintained. 3. Whenever the previous charge has not been completely combusted in the case of batch feeding. 4. Until such time as the addition of more waste will not cause the design parameters of the incinerator to be exceeded.
3	Primary Combustion Chamber	The primary combustion chamber must: 1. Be accepted as the primary combustion zone. 2. Be equipped with a burner/s burning gas/fuel or low sulphur liquid fuels. Other combustion methods will be judged on merits. 3. Ensure primary air supply is controlled efficiently. 4. Ensure minimum exit temperature is not less than 850°C

[Subsidiary]

No.	Parameter	Standards, Guideline, Criteria and Procedure
4	Secondary Combustion Chamber (Afterburner).	The secondary combustion chamber must: 1. . Be accepted as secondary combustion zone. 2. Be fitted with secondary burner/s burning gas or low sulphur liquid fuel or any suitable fuel. 3. Ensure secondary air supply is controlled efficiently. 4. Ensure flame contact with all gases is achieved. 5. Ensure residence time is not less than two (2) seconds. 6. Ensure the gas temperature as measured against the inside wall in the secondary chamber & not in the flame zone, is not less than 1100°C. 7. Ensure the oxygen content of the emitted gases is not less than 11%. 8. Ensure both primary and the combustion temperatures are maintained until all waste has been completely combusted
5	Particulate Removers	A mechanical particulate collector must be incorporated after secondary combustion chamber for removal of particulate pollutants entrained in the flue gas stream. The particulate collectors may include any of the following or a combination thereof: 1. Cyclone separator 2. Electrostatic precipitators 3. Fabric filters
6	Chimney/Stack	1. The chimney should have a minimum height of 10 meters above ground level and clear the highest point of the building by not less than 3 meters for all roofs. The topography and height of adjacent buildings within 50 meters radius should be taken into account. 2. If possible the chimney should be visible to the operator from the feeding area. 3. The addition of dilution air after combustion in order to achieve the requirement of these guidelines is unacceptable. 4. The minimum exit velocity should be 10 m/s and at least twice the surrounding wind speed (Efflux velocity = wind speed x 2) whichever is higher to ensure no down washing of exiting gases. 5. Point for the measurement of emissions shall be provided.

[Subsidiary]

No.	Parameter	Standards, Guideline, Criteria and Procedure
7	Instrumentation	1. Instrument for determining the inside wall temperature and not burner flame temperature must be provided for both primary and secondary chambers. 2. An audible and visible alarm must be installed to warn the operator when the secondary temperature drops to below the required temperature. 3. In addition to the above the following instruments *may* also be required. • A carbon monoxide and/or oxygen meter/recorder • A smoke density meter/recorder • A gas flow meter/recorder • A solid particulate meter/recorder Any other instrument or measurement that may be considered necessary
8	Location / Siting	1. Must be sited in accordance with the relevant local municipal authority planning scheme, the topography of the area and be compatible with premises in the neighborhood, 2. Must be housed in a suitably ventilated room.
9	Emission Limits	1. Combustion efficiency: Combustion efficiency (CE) shall be at least 99.00% The Combustion efficiency is computed as follows; $C.E = \frac{\% CO_2}{\% CO_2 + CO} \times 100$ 2. The temperature of the primary chamber shall be 800 ± 50° C 3. The secondary chamber gas residence time shall be at least 1 (one) second at 1050 ± 50° C, with 3% Oxygen in the stack gas. 4 Opacity of the smoke must not exceed 20% viewed from 50 meters with naked eyes. 5. All the emission to the air other than steam or water vapour must be odourless and free from mist, fume and droplets. 6. The Authority may require that the certificate holder have tests carried out by an accredited institution to determine stack and/or ground level concentrations of the following substances. Cadmium and compounds as Cd Mercury Hg Thallium Tl Chromium Cr

No.	Parameter	Standards, Guideline, Criteria and Procedure
		Beryllium Be Arsenic As Antimony Sb Barium Ba Lead Pb Silver Ag Cobalt Co Copper Cu Manganese Mn Tin Sn Vanadium V Nickel Ni Hydrochloric HCL Hydrofluoric acid HF Sulphur dioxide $S0_2$ 7. A 99.99% destruction and removal efficiency (DRE) for each principal organic hazardous constituent (POHC) in the waste feed where: DRE = [(Win - Wout)/Win]*100 Whn ere: Win = mass feed rate of the POHC in the waste stream fed to incinerator, and Wout = mass emission rate of POHC in the stack prior to the release to the atmosphere. 8. The average dioxin and furan concentration in the emissions should not exceed 80ng/m^3 total dioxins and furans if measured for a period of 6 to 16 hours. *Note:* • *All pollutant concentrations must be expressed at O^o C and 1.013 x 10^5 N/m^2, dry gas and 11% oxygen correction.* • Oxygen correction is computed as: $E_s = \frac{21 - O_s}{21 - O_M} \times E_M$ Where: E_s = Calculated emission concentration at the standard percentage oxygen concentration E_M = Measured emission concentration O_s = Standard oxygen concentration O_M = measured oxygen concentration

[Subsidiary]

No.	Parameter	Standards, Guideline, Criteria and Procedure
10	Operation	1. Materials destined for incineration should be of known origin and composition and must be only incinerated in a furnace that is registered for the particular type of waste. 2. A record must be kept of the quantity, type and origin of the waste to be incinerated. 3. The incinerator must be preheated to working temperature before charging any waste. 4. The incinerator must not be overcharged. 5. The incinerator must be in good working order at all times and must not be used if any component fails. Any malfunction should be recorded in a log book and reported to the relevant authority. 6. The incinerator operator and all relevant staff must be trained to the satisfaction of the relevant control authority.
11	Housekeeping	The site where the incinerator is built must: 1. Have running water. 2. Have a solid floor. 3. Have lighting if 24hrs operation 4. Have fly ash containerization and storage before disposal.
12	Health & Safety (Protective Gear)	1. Staff handling waste must be well trained on safe handling of hazardous wastes. 2. Staff must be provided with appropriate protective gear such as, gas mask, aprons, gumboots, helmets, gloves, goggles. 3. Caution and Warning signs must be provided. 4. Fire fighting equipment must be provided 5. There should be no smoking or eating on the site.

[Subsidiary]

FOURTH SCHEDULE

(*Regulation* 16)

WASTES CONSIDERED HAZARDOUS

The following wastes shall be considered hazardous wastes:

Y0 All wastes containing or contaminated by radio-nuclides the concentration of properties of which result from human activity.

Y2 Wastes generated from medical care and/or medical examination in hospitals, clinics, elderly medical care centers and maternity wards and in medical care centers and wastes from medical examination in medical examination laboratories.

Y3 Waste pharmaceuticals, drugs and medicines.

Y4 (*a*) Wastes generated from the production and import of the chemicals including germicides, fungicides, bactericides, ratcides, herbicides and other chemicals for prevention of the breeding and extermination of animals, plants and viruses; and growth promoting chemicals, germination control and other chemicals for the promotion and suppression of physiological activities of plants (hereafter referred to as "biocides, etc.").

(*b*) Wastes generated from formulation of biocides etc. for sales and grant.

(*c*) Wastes generated from sales and use of biocides, etc.

Y5 (*a*) Wastes generated from the production and import of decay-preventing agents, insect control agents and other chemicals for wood preservation (hereafter referred to as "wood preserving chemicals").

(*b*) Wastes generated from formulation of wood preserving chemicals for sales and grant.

(*c*) Wastes generated from sales and use of wood preserving chemicals.

Y6 (*a*) Wastes generated from the production and import of organic solvents.

(*b*) Wastes generated from formulation of organic solvents for sales and grants.

(*c*) Wastes generated from sales and use of organic solvents.

Y7 Wastes from heat treatment and tempering operations containing cyanides.

Y8 Waste mineral oils unfit for their originally intended use.

Y9 Waste oils/water, hydrocarbons/water mixtures, emulsions.

Y10 Waste substances and articles containing or contaminated with Polychlorinated Biphenyls (PCBs) and/or Polychlorinated Triphynyls (PCTs) and/or Polybrominated Biphenyls (PBBs).

Y11 (*a*) Waste tarry residues arising from refining, distillation and any parlytic treatment.

(*b*) Wastes generated from formulation of inks, etc. for sales and grant.

Y12 (*a*) Wastes generated from the production and import of inks, dyes, pigment paints, lacquers and varnishes (hereafter referred to as "inks, etc.").

(*b*) Wastes generated from formulation of inks, etc. for sales and grant.

Y13 (*a*) Wastes generated from production and import of resins, latex, plasticisers, glues/adhesives (hereafter referred to as "resins, etc.").

(*b*) Waste generated from formulation of resins, etc. for sales and grant.

(*c*) Wastes generated form sales and use of resins, etc.

Y14 Waste chemical materials arising from research and development or teaching activities, in the following facilities, which are not identified and/or are new and whose effects on man and/or the environment are not known.

(*a*) Research and examination institutions owned by central and local governments;

(*b*) universities, colleges, junior colleges, professional schools and their subsidiary research and study institutions, and;

(*c*) institutions for research and development of products and technologies.

Y15 Wastes of an explosive nature not subject to the Explosives Act, Cap. 115.

Y16 (*a*) Wastes generated from the production and import of sensitive chemicals and materials for photographs (hereafter referred to as "photographic chemicals, etc.").

(*b*) Wastes generated from the formulation of photographic chemicals, etc. for sales and grant.

(*c*) Wastes generated from the sales and use of photographic chemicals, etc.

Y17 Wastes resulting from the surface treatment of metals and plastics.

Y18 Residues arising from industrial waste disposal operations.

Y19 Wastes containing metal carbonyls listed as follows:

(*a*) wastes containing 0.1% or more by weight or any of the following metal carbonyls:

Iron-pentacarbonyl, Nickel-tetracarbonyl, Methyl cyclopentadienyl manganese-tricarbonyl.

(*b*) wastes containing other metal carbonyls.

Y20 Wastes containing beryllium and/or beryllium compounds listed as follows:

(*a*) wastes containing 0.1% or more by weight of any of the following beryllium and/or beryllium compounds.

Beryllium, Beryllium chloride, Beryllium oxide, Beryllium nitrate, Beryllium hydroxide, Beryllium flouride, Beryllium sulphate.

(*b*) wastes containing other beryllium and/or beryllium compounds.

Y21 Wastes containing hexavaleut chromium compounds listed as follows:

(*a*) wastes containing 0.1% or more by weight of any of the follow hexavalent chromium compounds:

Chromium oxychloride, Chromic acid solution, Zinc chromate, Potassium zinc chromate, Potassium chromate, Silver chromate, Strontium chromate, Sodium chromate, Lead chromate, Barium chromate, Bismuth chromate, Chromosulphuric acid, Chromium trioxide, Anhydroulic, Ammonium dichromate, Potassium dichromate, Sodium dichromate, Lead chromate molybdate sulphate.

(*b*) wastes containing other hexavalent chromium compounds.

(c) wastes to be exported for the purpose of DI to D4 or R10 of Annex IV of the Basel Convention which cannot meet the following criteria:

(i) wastes in solid form, which cannot meet the Ambient Soil Quality Standards determined by the relevant lead agency.

Y22 Wastes containing copper compounds listed as follows:

(*a*) wastes containing 0.1% or more by weight of any of the following copper compounds:

Copper acetoarsenite, Copper N, N = Ethylenebis (saricylideneaminate), Cuprous chloride, Cupric chloride, Copper cyanide, Sodium cuprocyanide, Cupriethylenediamine solution, Copper arsenate, and Copper sulphate.

(*b*) waste containing 1% or more by weight of any of the following compounds:

Copper (II) diammonium chloride dihydrate, Potassium cupric chloride, Copper acetate, Potassium cuprocyanide, Cupric nitrate, Cupric carbonate, Cuprous thiacyanate, Copper pyrophospate, Cupric fluoride and Cuprous iodide.

(*c*) wastes containing copper compounds other than those listed in *a*) and *b*) above.

(*d*) wastes in solid form to be exported for the purpose of R10 of Annex IV of the Basel Convention, which cannot meet the Ambient Soil Quality Standards in terms of copper compounds.

Y23 Wastes containing zinc compounds listed as follows:

(*a*) Wastes containing 0.1% or more by weight of any of the following zinc compounds:

Zinc dithionite, Zinc arsenite, Zinc chloride, Zinc cyanide, Zinc arsenate.

(*b*) wastes containing 1% or more by weight of any of the following zinc compounds:

Zinc chlorate, Zinc peroxide, Zinc permanganate, Zinc chromate, zinc fluorosilicate, Zinc acetate, Diethlyl zinc, 2, 5-Diethoxy 4- morpholinobenzenediazonium zinc chloride, Dimethyl zinc, 4- Dimethylamino-6-(2-dimethyaminoethoxy) toluence -2-diazonium zinc chloride, Zinc oxalate, Zinc bromate, Zinc nitrate, Zinc thiocyanate, 3-(2-Hydroxyethoxy) 4-pyrrolidin-1-ylbenzenediazonium zinc chloride, Zinc

Pyrophosphate, Zinc Fluoride, 4-{Benzyl(ethyl) amino}-3-ethoxybenzenediazonium zinc chloride 4-{Benzyl 9methyl) amino}-3-etlioxybenzenediazonium zinc chloride, Zinc

methylthiocarbamate, Zinc sulfate, Zinc phosphide, Zinc phosphate;

(*c*) wastes containing zinc compounds other than those listed in (*a*) and (*b*) above.

(*d*) wastes containing arsenic and/or arsenic compounds listed as follows:

Y24 Wastes containing 0.1% or more by weight of any of the following arsenic and/or arsenic compounds:

(*a*) Arsenic, Copper acetoarsenite, Zinc arsenite, Calcium arsenite, Silver arsenite, Strontium arsenite, Ferric arsenite, Copper arsenite, Sodium arsenite, Lead arsenite, Alkylarsenic compounds, Ethyldichloroarsine, Cacodylic acid, Sodium cacodylate, Diarsenic pentoxide, Arsenic pentaflouride, Arsenic trichloride, Arsenous trioxide, Arsenic tribromide, Acia managenese arsenate, Arsenic trifluoride, Diphenylamine chloroarsine, Diphenylchloroarsine, Tetrarsenic tatrasulfide, Vinyzene, Arsenic acid, Zinc arsenate, Ammonium arsenate, Potassium arsenate, Calciul arsenate, Sodium

arsenate dibasic, Calcium arsenate, Ferrous arsenate, Mercuric ferric arsenate, Copper arsenate, Sodium arsenate, Lead arsenate, Magnesium arsenate, Calcium arsenate flouride, Benzenearsonic acid, Potassium Metaarsenite, Sodium metaarsenite, Calcium methanearsonate, Ferric methanearsonate, Arsenic disulfide, Arsenic trisulfide.

(*b*) wastes containing arsenic and/or arsenic compounds other than those listed in (*a*) above.

(*c*) wastes to be exported for the purpose of D1 to D4 or R10 of Annex IV of the Basel Convention, which cannot meet the following criteria:

(i) wastes in solid form, which cannot meet the Ambient Soil Quality Standards in terms of arsenic and/or arsenic compounds.

(ii) wastes in liquid form, which cannot meet the waste water discharge standards in terms of arsenic and/or arsenic compounds.

(*d*) wastes to be exported for the purposes other than those listed in *c*) above and which cannot meet the following criteria:

(i) wastes in solid form, which cannot meet the standards determined by the relevant lead agency in terms of arsenic and/or arsenic compounds.

(ii) wastes in liquid form, which cannot meet the effluent quality standards in terms of arsenic and/or arsenic compounds.

Y25 Wastes containing selenium and/or selenium compounds listed as follows:

(*a*) wastes containing 0.1% or more by weight of any of the following selenium and/or selenium compounds:

Selenium, Sodium selenite, Selenium oxychloride, Selenium chloride, Selenic acid, Sodium selenite, Selenium dioxide, Selenium disulphide, cadmium red;

(*b*) wastes containing 1% or more by weight of any of the following selenium and/or selenium compounds:

Selenious acid, Barium selenite, Ferrous selenide.

(*c*) wastes containing selenium and/or selenium compounds other than those listed in (*a*) and (*b*) above.

Y26 Wastes containing cadmium and/or cadmium compounds listed as follows:

(*a*) wastes containing 0.1% or more by weight of any of the following cadmium and/or cadmium compounds:

Cadmium, Cadmium Chloride, Cadmium acetate, Dihydrate, Cadmium oxide, Cadmium cyanide, Dimethyl cadmium, Cadmium bromide, Cadmium nitrate, Cadmium hydroxide, Cadmium stearate, Cadmium carbonate, Cadmium iodide, Cadmium laurate, Cadmium sulfate, Cadmium yellow, Cadmium red.

(*b*) wastes containing cadmium and/or cadmium compounds other than those listed in (*a*) above.

(*c*) wastes to be exported for the purpose of D1 to D4 or RI0 of Annex IV of the Basel Convention, which cannot meet the following criteria:

(i) wastes in solid form, which cannot meet the Ambient Soil Quality Standards in terms of cadmium and/or cadmium compounds;

(ii) wastes in liquid form, which cannot meet waste water discharge standards to soil in terms of cadmium and/or cadmium compound.

(*d*) wastes to be exported for purposes other than those listed in the 8 above which cannot meet the following criteria:

(i) wastes in solid form, which cannot meet standards to be determined by the relevant lead agency in terms of cadmium and/or cadmium compounds;

(ii) wastes in liquid form, which cannot meet the effluent quality standards in terms of cadmium and/or cadmium compounds.

Y27 Wastes containing antimony and/or antimony compounds listed as follows:

(*a*) wastes containing 0.1% or more by weight of any of the following antimony and/or antimony compounds:

Sodium antimonate, Lead antimonate, Antimony pentachloride, Antimonypentoxide, Antimonypentaflouride, Antimony trichloride, Antimony trioxide, Potassium hexahydroxoantimonate (V), Antimony trifluoride, Potassiumantimonyl tartrate, Antimony lactate, Sodiummetaantimonate;

(*b*) wastes containing 1% or more by weight of antimony.

(*c*) wastes containing antimony and/or antimony compounds other than those listed in (*a*) and (*b*) above.

Y28 Wastes containing tellurium and/or tellurium compounds listed as follows:

(*a*) wastes containing 1% or more by weight of any of the following tellurium and/or tellurium compounds:

Tellurium, Diethyl tellurium, Dimethyl tellurium.

(*b*) wastes containing tellurium and/or tellurium compounds other than those listed in the (*a*) above.

Y29 Wastes containing mercury and/or mercury compounds listed as follows:

(*a*) wastes containing 0.1% or more by weight of any of the following mercury and/or mercury compounds:

Mercury, Mercury benzoate, Ethylmercury chloride, Mercurous chloride, Mercuric chloride, Mercury ammonium chloride, Methylmercuric chloride, Mercuric oxycyanide, Mercury oleate, Mercury gluconate, Mercury acetate, Mercury salicylate, Mercuric oxide, Mercury cyanide, Mercury potassium cyanide, Diethyl mercury, Dimethyl mercury, Mercury (1) bromide, Mercurous, Nitrate, Mercuric nitrate, Phenryl mercuric hydroxide, Mercuric thiocyanate, Mercuricarsenate, Mercury (II) iodide, Mercury potassium iodide, Mercury fulminate, Mercury suphide, Mercurous sulfate, Mercuric sulphate.

(*b*) wastes containing 1% or more by weight of any of the following mercury and/or mercury compounds:

Mercury nucleate, Mercurous acetate, Phenylmercury acetate, Phenylmercuric nitrate, Thimerosal.

(*c*) wastes containing mercury and/or mercury compounds other than those listed in (*a*) and (*b*) above.

(*d*) wastes to be exported for the purpose of D1 to D4 or R10 of Annex IV of the Basel Convention, which cannot meet the following criteria:

(i) wastes in solid form, which cannot meet the Ambient Soil Quality Standards determined by the relevant lead agency in terms of mercury and/or mercury compounds.

(ii) wastes in liquid form, which cannot meet the waste water discharge standards to soil in terms of mercury and/or mercury compounds.

(*e*) wastes to be exported for the purposes other than those listed in (*d*) above and which cannot meet the following criteria:

(i) wastes in solid form, which cannot meet the standards determined by the relevant lead agency in terms of mercury and/or mercury compounds.

(ii) wastes in liquid form, which cannot meet the effluent quality standards in terms of mercury and/or mercury compounds.

Y30 Wastes containing thallium and/or thallium compounds listed as follows:

(*a*) Waste, containing 0.1% or more by weight of any of (lie following thallium arid/or thallium compounds:

Thallium chlorate, Thallium acetate, Thallic oxide, Thallium bromide, Thallous nitrate, Thallium iodide, Thallium sulphate.

(*b*) wastes containing 1% or more by weight of thallium.

(*c*) wastes containing thallium and/or thallium compounds other than those listed in (*a*) and (*b*) above.

Y31 Wastes containing lead and/or lead compounds listed as follows:

(*a*) wastes containing 0.1% or more by weight of any of the following lead and/or lead compounds:

Lead, Lead azide, Lead arsenite, Lead monoxide, Lead chloride, Basic lead silicate, Lead perchlorate, Lead chromate, Lead silicate, Lead acetate, Tribasic lead sulfate, Lead cyanamide, Tetraalkyllead, Lead cyanide, Lead tetroxide, Lead nitrate, Lead hydroxide, Lead styphnate, Lead stearate, Lead carbonate, Lead naphtenate, Calcium plumbate, Dibasic lead sulfite, Dibasic lead phosphite, Lead srearate dibasic, Basic lead phthalate, Lead dioxide, Lead flouroborate solution, Lead phosphite dibasic, Lead arsenate, Lead flouride, Lead metaborate, Lead methanesuphonate, Lead iodide, Lead sulfate, Lead iodide, Lead sulfate, Lead chromate molybdate sulphate.

(*b*) wastes containing lead and/or lead compounds other than those listed in (*a*) above.

(*c*) wastes to be exported for the purpose of D1 or D4 or R10 in Annex IV of the Basel Convention, which cannot meet the following criteria:

(i) wastes in solid form, which cannot meet the Ambient Soil Quality Standards determined by the relevant lead agency in terms of lead and/or lead compounds.

(ii) wastes in liquid form, which cannot meet the waste water discharge standards to soil in terms of lead and/or lead compounds.

(*d*) wastes to be exported or imported for purposes other than those listed in (*c*) above, which can not meet the following criteria:

(i) wastes in solid form, which cannot meet the standards determined by the relevant lead agency in terms of Lead and/or lead compounds.

(ii) wastes in liquid form, which cannot meet the effluent quality standards in terms of Lead and or Lead compounds.

Y32 Wastes containing inorganic flourine compound excluding calcium flouride listed as follows:

(*a*) wastes containing 0.1% or more by weight of any of the following

inorganic flourine compounds:

Flourosilicic acid, Bromide pentaflouride, Bromide trifluoride, Bromide trifluoride dihydrate, Pottasium biflouride, Difluorphosphoric acid, Ammonium fluoride, Potassium fluoride (spray dide), Chromic fluoric, Hydrofluoride, Ammonium hydrogenfluoride, Hydrofluoric acid, Sodium fluoride, Fluorosulphonic acid, Fluorophosphoric acid Anhydrous, hexafluorophosphoric acid, Fluobolic acid.

(*b*) wastes containing 1% or more by weight of any of the following inorganic fluorine compounds:

Ammonium fluoroborate, Ammoniumfluorosilicate, Barium fluorids, Barium fluorosilicate, Iodine pentafluoride, Lithium borofluoride, Magnesium borofluoride, Magnesium fluorosilicate, Manganese fluorosilicate, Potassium fluoroborate, Potassium fluorosilicate, Potassium hydrogen fluoride, Sodium fluorosilicate, Sodium hydrogen flouride, Stannous fluoride, Sodium fluoroborate, Zinc fluorosilicate.

(*c*) wastes containing inorganic flourine compounds other than those listed in (*a*) and (*b*) above.

Y33 Wastes containing inorganic cyanides listed as follows:

(*a*) wastes containing 0.1% or more by weight of any of the following inorganic cyanides:

Cyanogen bromide, Hydrogen cyanide, Hydrocyanic acid aqueous, Lead cyanide, Mercurycyanide, Mercuric potassium cyanide, Nickel cyanide, Potassium cyanide, Silver cyanide, Sodium cupro cyanide, Sodium cyanide, Zinc cyanide.

(*b*) wastes containing 1% or more by weight of any of the following inorganic cyanides:

Barium cyanide, Barium platinum cyanide, Calcium cyanide, Copper cyanide, Potassium cobalt cyanide, Potassium cupro cyanide; Potassium gold cyanide, Potassium nickel cyanide.

(*c*) wastes containing inorganic cyanide other than those listed in (*a*) and (*b*) above.

(*d*) wastes to be exported or imported for the purpose of D1 to D4 or R10 of the Basel Convention which cannot meet the following criteria:

(i) wastes in solid form, which cannot meet the Ambient Soil Quality Standards determined by the relevant lead agency in terms of inorganic cyanide.

(ii) wastes in liquid form, which cannot meet the waste water discharge standards to soil in terms of inorganic cyanide.

(*e*) wastes to be exported or imported for the purposes other than those listed in (*d*) above, which cannot meet the following criteria:

(i) waste in solid form, which cannot meet the standards determined by the relevant lead agency for hazardous wastes in terms of inorganic cyanide;

(ii) wastes in liquid form, which cannot meet the effluent quality standards in terms of inorganic cyanide.

Y34 Acidic solutions or acid in solid form with pH value of 2.0 or less, or basic solutions or bases in solid form with pH value of 11.5 or more by weight (in case of substances in solid form, pH value of the solution of water-substance has a ratio 1:3 in weight).

Y35 Basic solutions or bases in solid form.

Y36 Wastes containing asbestos in the form of dust or fibres.

Y37 Wastes containing organic phosphorus compounds listed is follows:

(*a*) Wastes containing 0.1% or more by weight of any of the following organic phosphorus compounds:

Azinphos-ethyl, Azinphos-methyl, Butyl phosphorotrithionate, Carbophenothion, Chlorfenvinphos (ISO), Chlormephos, S{ (6-Chloro-2-oxo-3-brenzosyazolyl) methyl} 0, 0-diethyl phosphorodithioate, ChIorthiophos, Camaphos, Cresyldiphenyl Phosphote, Crotoxyphos, Crufomate, Demephion, Demeton-O-methyl, Demeton-S-methyl, Dialifos, dichlofenthion, dichloromethylphosphine, Dicrotophos, 0, 0-Diethyl-S-2 (ethylthio) ethyl phosphorodithioate, diethyl = 4-nitobenzylaphosphonate, 0-0-Diethyl-0 (5-phenyl-3-isooxazolyl) phosphorothioate, 0, 0-Diethyl-0-3,5,6-trichloro-2-pyriylnphosphorothioate, Dimefox, 0,0-Dimethyl-S (1,2-etylthioethyl phosphodithioate, Dimethyl 2,2-dichlorovinylphospate, Dimethyl etylthicethyl dithiophosphate, Dimethylhydrogen phosphite, Dimethyl-methylcarbonylethylthioethyl thiophosphate, 0-0-Dimethyl N-methylcarbamoyl-methyl dithiophosphate, dimethyl-S-(N-methyl-N-formoylcarbamoylmethyl) dithiophosphate 0, 0-Dimethyl-0{3-methyl-4- (methylthio) phenyl} thiophosphate, 0-0-Dimethyl-0-(3-methyl-4-nitrophny) thiophosphate, 0-0-Dimethyls-S-(phenylaceticacidethylester) dithiophosphate, 0, 0-Dimethy phthaloimid methylthiophosphate, Diomethylthiophosphory chloride Dimethyl 2,2,2-richloro-1 hydroxyethyl phosphorate, Dioxathiory, Diphenyl-2, 4,6-trimethylbenzoylphosphine-oxide, Edifenphos, Endothior Ethion, Ethoatemethyl,Ethoprophos, 0-ethyl-0-p-nitr ophenylthionobenzenephosphate, Fenamiphos, Fensulfothion, Fonofos, Hexaethyl tetraphosphate, Hexamethylphosphoric triamide, heptenophos, Isodecyl diphenylphosphate 2-Isopropy 1-4 methylpryrimidyl 6-diethylthiophosphate, Isothioate, Mecarbam, Menazon, Mephosfolan Methamidophos, 2-Methos-4H-1,3,4-

thiadiazolyl-(3)-methyl} dimethyl phospholothiolothionate, Methyl parathion, Methyltrithion, Mevinphos Naled, Omethoate, Oxydisulfoton, Oxydemetonmethyl, Paraoxon, Parathion, Pirimiphosethly, Phenkapton, Phorate, Phosfolan, Phosphamidon, Prothoate, Propaphos, Pyrazophos, Pyrazoxon, Quinalphos, Scharadan, Sulprofos, Tetraethyl dithiopyrophosphate, Thionazin, Temephos, Terbfos, Tris (1-aziridinly) phosphine oxide, Triamiphos, Triazophos, Trichloronate, Triethylphosphate Tris (1-aziridinly) phosphine

sulphide, Tris (4-methoxy-3, 5 dimethylpehnyl) phosphine, Trixyly phosphate, Tributyl phosphates-S-3- (dimethoxyphosphinyloxy)-N-methylics-crotonamide, Di-(ethylhexyl) phospholic acid, di-(ethylhexyl) phosphoric acid, Triallyl phosphate, Tricresyl phosphate, Tris (isoropylphenyl) phosphate, Tri (2,3-dibromopropyl) phosphate.

(*b*) Wastes containing 1% or more by weight of any of the following organic phosphorus compounds:

Amidothiaate, Bialaphos, 0-4-Bromo-2-chlorophenyl-0-ethyl-S-phopyl phosphorotioate Bromophosethyl, Butamifos, 0-Buthyl-S-benzyl-S-ethyl phosphorodithioate, 2-chloro-1-(2,4 dichlorophenyl) vinyldiethyl phosphate, DEF, Demeton, Demeton-0, Dialkyl phosphodithioate, 0-2, 4-Dichlorophenyl-0-ethyl-S-propylphosphorodithioate, Diethyl-S-benzyl thiophosphate, Diethyl-4-chlorophenylmercaptoethyldithiophosphate, Diethyl-(1,3 dithiocyclopentylidene) thiophosphoramide, Diethyl-4 methylsulfinylphenyl-thiophosphate, 0, 0-Diethyl-0- (3-oxo-2-phenyl-2H-pyridazin-6-yl) phosphorothionate Diethyl-paradimethylamino sulfonylphenylthio phosphate, Diethylthiophosphorylchrolide, 0, 0-Diisopropyl-S-benzylthiophosphate, Diisopropyl-S-(ehtylsulfinylmethyl)-dithiophosphate, Dimethyl-S-pchlorophenylthiophosphate, 0, 0-Dimethyl-0-4 cyanophenyl phosphorothioate, 2,3 (Dimethyldithiophosphro) paradioxan, 0, 0-0-dimethyl-S-2 (ethylsulfiny)- isopropyl-thiophosphate, Dimethyl-{2- (1-methylbenzyloxycarbonyl)-1-methylethylen)-phosphate 0, 0-Dimethyl 0-0 (3,5,6-trichloro-2-pyridinyl) phosphorothioate, Ehtyl-2-dichlorophenylthionobenzene phosphorate, 0-6-Ethoxy-2- ethylpirimidinyl-0, 0-dimethyl-phosphorothioate, Fosthiazate, Leptopho Mesulfenfos, Meythylcyclohexyl-4-chlorophenylthiophosphate Octyldiphenyl Phosphate, Phenylphosphonic dichloride, Phenylphosphoro thiodichloride, Piperophos, Propetamphos, Pyraclofos, Sulfote Tetraethylpyrophosphate, Temivinphos, Tributoxyethyl phosphate, Tributyl phosphine, S,S,S-Tributyl phosphorotrithioate, Trietyl phosphate Trimethys phosphate, Trimethyl phosphite, Trioctyl phosphate Tris (chloroethyl) phosphate, Tris (B-chlorophropyl) phosphate, Tris (dichloropropyl) phospate.

(*c*) Wastes containing organic phosphorus compounds other than those listed in (*a*) and (*b*) above.

(*d*) Wastes to be exported for the purpose of D1 and D4 or R10 of Annex IV of the Basel Convention, which cannot meet the following criteria:

(i) Wastes in solid form, which cannot meet the Ambient Soil Quality Standards determined by the relevant lead agency in terms of organic phosphorus compounds.

(ii) Wastes in liquid form, which cannot meet the waste water discharge standards to oil in terms of organic phosphorus compounds.

(*e*) Wastes to be exported for the purposes other than those listed in the (*d*) above, which cannot meet the following criteria:

(i) Wastes in solid form, which cannot meet the standards determined by the relevant lead agency in terms of organic phosphorous compounds.

(ii) Wastes in liquid form, which cannot meet the effluent quality standards in terms of organic phosphorus compounds.

Y38 Wastes containing organic cyanides listed as follows:

(*a*) Wastes containing 0.1% or more by weight of any of the following organic cyanides:

Acetone cyanhydrin, Acrylonitrile, Adiponitrile, 2-Amino-5 (2-chloro-4-nitrophenylazo) 4-methyl-3-thiophenecarbonitrile, 2,2 B Azobis-{2- (hydroxymethyl) proprienitrile} 2,2, B Azobis B (methylbutyronitrile), Benzonitrile, Bromobenzylcyanides, Bromoxynil, 3-Chloro-4-methylphenyl isocyanate, Cyanazine, a-Cyano-3-phenoxybenzyl-bis (trifluoromethyl) methyl 1-(3,4-isopropylidene) butene-1, 4-decarboxylate, Cyclohexyl isocyanate, 2,6-Dichlorobenzonitrile, dichlorophenylisocyanate, 3,3, B Dimethyl-4-4 B biphenylenediisocyanate, Diphenylmethane-4, 4-diisocyanate, Ethylene Cyanhydrin, Fenpropathrin, Ioxynyl, Isophor diisocyanate, lactonitrile, Melononitrile, Methacrylonitrile, met isocyanate Phenylacetonitrile, Phenyl isocyanate, 0-phthalodinitrile, Propionitrile, Trimethylhexamethylene diisacyanate, Tolylenediisocyanate.

(*b*) Waste containing 1% or more by weight of any of the following organic cyanides:

Acrylonitrile, 2,2 B Azobis isobutyronitrile, 2,2 B Azobis (2,4- dimethyl-4-methoxyvaleronitrile) 1,1,- B Azobis (2,4-(hexahydrobenzonitrile), Butyronitrile, N-cyanoethyl-monochloroacetoamide, Cyanofenphos (CYP), (RS)-a-cyanophenoxybenzyl, Cyhalothrin, Cyphenothrin, Cyfluthrin, 2, Dibromopropionitrile, 2-Dimethylaminoacetonitryl, Ethyl cyanoacetate, Ethyl isocyanate, Fluvalinate, Hexamethylene diisocyanate, Isobut isocyanate, Isobutyronitrile, Isocyanatobenzotrifluoride, Isoprop isocyanate, Methoxymethyl isocyanate, Methyl isothiocyanate, 3-(N-Nitrosomethylamino)

propionitrile, N-Propyl isocyanate, Terephthalonitrile, Tralomethrin, 1,2,5-Trithiocycloheptadiene-3,4,6,7-Tatranitrile (TCH).

(*c*) Wastes containing organic cyanides other than those listed in (*a*) and (*b*) above.

Y39 Wastes containing phenol and/or phenol compounds:

(*a*) Wastes containing 0.1% or more by weight of any of the following phenol and/or phenol compounds:

2-Aminoanthraquinon, 7-Amoni-4-hydroxy-2 naphthalene sulfonic acid, p-t Butylphenol, Carbolic oil, Chlorophenol, Coal tar, Cresols, Cyclohexylaminophenol, dichiorophenols, 2,4-dichloro-3-methylphenol, 1,4-Dihydro-9, 10 dihydroxyanthracene, 2,4-Dinitro-6-secbuthylphenoldimethyl acrylate, 4,6 Dinitro-0-cresol, 2,4-Dinitrophenol, Dinoseb, Dinosebacetate, Dinoterb, Dinoterbacetate, Dodecylphenol, 0-Ethylphenol Heptyl- 1{2,5 dimethyl-4 (2-methylphenylazo) phenylazo-2-naphthol, Hydroxybenzene, Isoamyl salicylate, Medinoterb, Methyl silicylate, Nitrocresols, Nitrophenols, Nonylphenol, Nonylphenol poly (4-12) ethoxylates, Pentachlorophenol, 4-phenoxyphenol, Picric acid, Sodium pentachlorophenate, Trichlorophenols, 2-(thiocyanatomethylthio) benzothiasol, Xylenols.

(*b*) Waste containing 1% or more by weight of any of the following phenol and/or phenol compounds:

2-Amino-4-chlorophenol, Aminophenols, Ammonium dinitro-0-cresolate Ammonium picrate, Chlorocresols, Diazodinitrophenol, 2,4-Dinitro-cyclohexylpenol, 2,4-Dinitro-6-(1-methylpropyl) phenol Dinitrophenolate, alkali metals, Dinitroresorcinol, Dyes, Hydroquinone, Hydroxysulfonic acid, N-Methylcarbamyl-2-chlorophenol (CPMC), 1 naphtho, Resorcinol, Sodium-2 4-Dichloro-6-nitrophenolate (DNCP) Sodiumdinitro-0-cresolate, 2,4,6-Trinitroresolcinol.

(*c*) Wastes containing phenol and/or phenol compounds other than those listed in (*a*) and (*b*) above.

Y40 Wastes containing ethers listed as follows:

(*a*) Wastes containing O.1% or more by weight of any of the following ethers:

o-Anisidine, 2-(2-aminoethoxy) ethanol, 2-Amino-dimethoxypirimidine, a-{1-[(Allyloxy) methyl] -2(nonylphenoxy) ethyl} -w-hydroxypoli (n=1-100) (oxyethylene), Allylglycidylether, Alkaryl polyether (C9-C20 Alcohol (C6-C17) sec-poly (3-12) thoxylates, alcohol (C12-C15) poly (1-11) ethoxylates, Alcohol (C13-C1 5) lyethoxylates, 1,2-Butylene oxide, Butyl glycidyl ether, Butyl hydroxy anisol, 2-tButyl-6-nitro-5-[p-(1,1,3,3-tetramethylbutyl) phenoxy] benzoxazole, Carbofran, 4-Chlorobenzyl-4ethoxyphenyl ether, p-(2-Chloroethyl) anisol, m-Chloromethylanisol,

[Subsidiary]

Coumafuryl, p-Cresidine, Endothal sodium, 2, 3-Epoxy-1-propanol, 2,3-Epoxypropyl-acetate, 2-(2,3-Epoxyproyl)-6methoxyphenyl-acetate, a-2, 3-Epoxypropoxyphenyl-w-hydtropoli(n=17) [2-(2,3- epoxypropoxy) benzylidene-2,3-epoxypropoxyphenylene], Ethyleneglycol isopropyl ether, Ethyleneglycol phenyl ether, Ethyleneglycol methylbutyl ether, Ethyleneglycol monoacrylate, Ethyleneglycol monobutyl ether, Ethyleneglycol monobutyl ether acetate, Ethyleneglycol monoethyl ether, Ethyleneglycol monoethyl ether acetate, Ethyleneglycol monomethyl ether, Ethyleneglycol monomethyl ether acetate, Ethyleneglycol mono-n-propyl ether, Ethyl 3-ethoxypropionate, Safrole, Propylene oxide, Di-(2chloro-iso-propyl) ether, B, B '-Dichloroethyl ether, 3,3' -Dichloro-4 4' -diaminodiphenyl ether, 1,3Dichloro-2-methoxy-5-nitrobenzene, Disodium=6-(4-amino-2,5-dimethoxyphenylazo)-3-[4-(4amino-sulfonatephenylazo)-2, 5-dimethoxyphenylazo]-4- hydroxy-2-naphthalenesulfonate, Diphenyl ether, Dipropyleneglycol monobutyl ether, Dipropyleneglycol monomethyl ether, Din-pentyl ether, Styreneoxide, Petroleum ether, Tetrahydrofuran, Dodecylphenoxybenzene disulphonate (solns.), Drazoxolan, Triethyleneglycol monoethyl ether, Triethyleneglycol monomethyl ether, 2, 4, 6Tris(chloromethyl)-1, 3, 5-trioxane, 3, 3, 3-Trifluoro-1, 2-epoxypropane, Tripropyleneglycol monomethyl ether, Trimethylolpropane polyethoxylate, 5-[N,N-Bis(2-acetoxyethyl) amino]-2-(2bromo-4,6-dinitorphenylazo)-4-methoxyacetanillide, 1,6-Bis(2,3-epoxypropoxy) naphthalene, 4,4' - Bis (,3-epoxypropoxy) biphenyl, 1,1-Bis[p-(2,3-epoxypropoxy) phenyl] ethane, 1,1-Bis[p-(3-chloro2-hydroxypropoxy) phenyl] ethane, Bis(chloromethyl) ether,4,6-Bis(difluoromethoxy)-2methylthiopyrimidine, Tributyltin oxide, Bisphenol A diglycidyl ether, Diglycidyl ether of Bisphenol F, Ethyl vinyl ether, Phenylglycidylether (RS)-1-(4-Phenoxyphenoxy)-2-propanol, Dihydro-2 (3H) - furanone, Butoxyl, Brucine, Furfural, Furfurylalcol, B-Propiolactone, 2,3-Epoxypropyl-propyonate, Propyleneglycol monoalkyl. ether,Propyleneglycol monomethyl ether acetate,ropoxur, 1-Bromo-4-(2,2 dimethoxyethoxy)-2,3-dimethylbenzene, 1,1' -[Oxybis(methylene)bis(benzene)] Polyethyleneglicol monoalkyl ether, Methylhloromethyl ether, 2-Methoxy-2-methylpropane, 4-Methoxy-2,2', 4' - trimethyldiphenylamine, 1-(4-Methoxyphenoxy_-2-(2-methylphenoxy) ethane, Morpholine, Resorcinol diglycidyl ether, Rotenone

(*b*) Wastes containing 1% or more by weight of any of the following ethers:

Acetal, Anisol, N-Aminopropylmorpholine, Allilethylether, Ethylpropyl ether, Ethyleneglycol diethyl ether, Ethyleneglycol diglycidyl ether,Ethyleneglycol dimethyl ether, 3-Ethoxypropylamine, 1,2-Epoxy-3ethoxypropane, Glycidol, Chloroethyl vinyl ether, Chloromethyl ethyl ether, Diallil ether, Diethyleneglycol dimethyl ether, Diethyleneglyco 1 monobutyl ether, Di-2-ethoxyethyl peroxydicarbonate, 3, 3 Diethoxypropene, Diethoxymethane 2,5-Diethoxy-4-morpholino benzenediazonium zinc chloride, 1,3-Dioxane, Dioxolan, 2,3 -Dihydropylae, Diphenylsulphide, Dibutyl

ether, Dipropyl ether, 4-Dimethylamino-6 (2-dimethyaminoethoxy) toluene-2-diazonium zinc chloride,Dimethyldiethoxysilane, Dimethyldioxane,

Dimethoxyisopropylperoxydicarbonate, 1,1Dimethoxyethane, Dimethoxybutyl peroxydicarbonate, 2,2-Dimethoxypropane, Tetrahydrofurfurylamine, Triglycol dichloride, Trinitroanisole, Trinitrophenetole, Nitroanisol, Neopentylglycol diglycidyl ether, 3-(2-Hydroxyethoxy)-4-pyrrolidin-1-ylbenzenediazonium zinc chloride, Isobutyl vinylether, Phenetidines,Phenetole, Phenoxyethylacrylate, Ethylbutyl ether, n-Butyl methyl ether, Furan, Furfurylamine, Furfurylmercaptan, 2-Bromoethylethylether, 4-[Benzyl (ethyl) amino] -3-ethoxybenzenediazonium zinc chloride-[Benzyl(methyl) amino]-3-ethoxybenzenediazonium zinc chloride, benfuracarb, Tetrahydrofurfuryl methacrylate, methylal,Methyltetrahydrofuran, 2-Methylfuran, Methylpropyl ether, Methyl-3-methoxybutanol, NMethylmorpholine, 4-Methoxy-4-methylpentane-2-one

(*c*) Wastes containing ethers other than those listed in *a*) and *b*) above

Y41 Wastes containing halogenated organic solvents listed as follows:

(*a*) Wastes containing O.1% or more by weight of any of the following halogenated organic solvents:

Chloropropanes, Chloropropenes, Chlorobenzene,Chloroform, Carbontetrachloride, Dichloroethanes, Dichloroethylenes, Dichloropropanes Dichloropropenes, Dichlorobenzene, Methylenehloride, Dibromoethanes, Tetrachloroethane, Tetrachloroethylene, Tetrabromoethane, Tetrabromomethane, Trichloroethanes, Trichloroethylene, Trichloro-trifluoroethane, 1,2,3 Trichloropropane, 1,2,4Trichlorobenzene, Pentachloroethane

(*b*) Wastes containing 1% or more by weight of any of the following halogenated organic solvents: 1,1-Dichloro-1-nitroethane, 1,4-Dichlorobutane, Dichloropentanes, Bromoform

c) Wastes containing halogenated organic solvents other than those listed in *a*) and *b*) above

(*d*) Wastes in liquid form to be exported for the purpose of D1 to D4 or R10 of Annex VI of the Basel Convention, which cannot meet the waste water discharge standards to soil in terms of tetra-chloroethylene and/or tri-chloro-ethylene

(*e*) Wastes to be exported for the purposes other than those listed in the above *d*), which cannot meet the following criteria;

(i) Wastes in solid form, which cannot meet the standards determined by the relevant lead agency for hazardous wastes in terms of tetra-chloro-ethylene and/or tri-chloro-ethylene;

(ii) Wastes in liquid form, which cannot meet the standards of the effluent quality standards in terms of tetra-chloro-ethylene and/or tri-chloro-ethylene

Y42. Wastes containing organic solvents excluding halogenated solvents

(*a*) Wastes containing 0.1% or more by weight of any of the following organic solvents:

Acrolein, Diisononyly adipate, Acetaldehyde, Ethyl acetoacetate, Methyl acetoacetate, Acetophenone, Acetone, Aniline Allylalc ohol,Alkylbenzenes,benzylbenzoate, Methyl benzoate, Isoamyl alcohol,Isooctanol, Isooctane,isononyl alcohol, Isobutanol, Iso Butylamine, 4-Methyl-2-pentanone, Isopropylamine, Isopropyl alcohol, Isopropyl cyclohexane, isopropyl toluene, 3-Methyl-2-butanone, Isopentane, Isopentene, Isobutyric acid, Ethanolamine, Ethylanilines, Ethylamine, Ethylcyclohexane, NEthyl cyclohexylamine, 2-Ethylbutanol, N Ethylbutylamine, Ethyl-butylketone, 2-Ethyl-3-propyl acrolein, Ethyln-propyl ketone, 2-Ethylhexanol, 2-Ethylhexylamine, Ethyl n-penthyl ketone, 2-Butanone, Ethyleneglycol diacetate, Ethylene glycol, Ethylenediamine, Octanol, Octane, Octanes, Formic acid, Isobutyl formate, n-Butyl formate, Methyl formate, Quinoline, Dimethyl succianate, Acetic acid, Isobutyl acetate, isopropyl acetate, isopentyl acetate, Ethyl acetate, Ethylbutyl acetate, n-Octyl acetate, Cychlohexyl acetate, n-Decyl acetate, n-Nonyl acetate, Vinyl acetate, 2-Phenyl ethyl acetate, Butyl acetate, sec-Butyl acetate, n-Propyl acetate, n-Hexyl acetate, sec-Hexy acetate, Heptyl acetate, Benzyl acetate, pentyl acetate, sec-Pentyl acetate, methyl acetate, Methylpentyl acetate, Mesityl oxide, Diisobutylamine, Diisobutyl ketone, Diisopropanolamine, Diisopropylamine, N, N e,Diethylaminoethanol, Diethylamine, Diethylenetriamine, Cyclohexanol, Cyclohexanone,Cyclohexane, Cyclohexylamine, Cycroheptane,Cyclopentane, Cyclopentene, Dicyclohexylamine, Di-n-butylamine, Dipropylamine, Dipentene, N, N-Dimethylacetamide, N, N-Dimethylaniline, Dimethylamino azobenzene, 2-dimethylaminoethanol, 2,6-Dimethyl-4-heptanol, N, N-Dimethyl formamide, Diethyl oxalate, Camphor oil, Styrene, Butyl stearate, Tetrahydrothiophene-1, I-dioxide, Petroleum naphtha, Petroleum benzine, Dimethyl sebacate, Solvent naphtha, Diethyl carbonate, Dimethyl carbonate,Decanol, Decene, Tetraethylenepentamine, Tetrahydronaphthalene, Turpentine oil, Dodecanol, 1-Dodecylamine, Triethanolamine, Triethylamine,Trietylenetetramine, Tributylamine, Tripropylamine, Toluidine, Naphthalene, Nitroethane, Nitroxylenes,O-Nitrotruene, Nitoropropanes, Nitrobenzene, Nitromethane, Ethyl lactate, Butyl lactate, Carbon disulfide, Nonanol, Nonane, Nonene, Paraldehyde, Methyl palmitate, Picolines, 4-Hydroxy-4-methyl-2-pentanone, Pinenes, Pyridine, Phenyl ethyl alkyl, 1-Phenyl-1xylylethane, n-Butanol, 2-Butanol, Dialkyl phtalates, Bis (diethyleneglycol) phthalate, Butyl benzylphthalate, Butanediols, n-Butylamine, sec-Butylamine, tert-Butylamine, 1,3-Propane sultone, Propionic acid, n-Amyl propionate, Ethyl propionate, n-Butyl propionate, Methylpropionate, Propylamine, Hexanol, Hexane, Hexenes, Heptanols, Heptane, n-Heptene, Benzyl alcohol, Benzene, 1,3-Pentadiene, Pentanols, n-Pentane, Pentenes, Formamide, White spirit, Di-n-butyl maleate, Methyl myristate, Methanol, Methallyl alcohol, Methylamine, Methyl iso-amylketone, 7-Methyl-1, 6-octadiene, 2-Methylcyclohexanol, Methylcyclohexanone,

Methycyclohexane, Methylcyclopentane, I-Methyl naphthalene, Methyl n-pentyl ketone, Methyl butanol Metju; nitu; letame, Methyl butanol, 2-Methyl hexane, Methyl n-hexylketone, Methyl heptyl ketone, Methylpentanol, 2-Methyl pentane, 2-Methyl-1pentane, 4-Methyl-1-pentane, Ethyleneglycol monoacetate, Methyl laurate, Butyric acid, Ethyl butyrate, Vinyl butyrate, n-Butyl butyrate, Methyl butyrate, Ligroin, Dimethylsulfide, Dimethylsulfate

(*b*) Wastes containing 1% or more by weight of any of the following organic solvents:

Allylamine, Methyl valerate, Methyl isopropenyl ketone, Isobutyl isobutyrate, Isopropyl isobutyrate, Ethyl isobutyrate, N-Undecane, Ethyl alcohol, N-ethyltoluidine, Allyl formate, Ethyl formate, Propyl formate, Pentyl formate, Allyl acetate, Isopropenyl acetate, tert-Butyl acetate, Diallilamine, Diisopropyl ketone, Diethyl ketone, Diethylenglycol, Cyclohexene, Cycroheptene, Cycropentanol, Cycropentanone, Dipropyl ketone, Dimethylcyclohexane, Dimethyl sulfoxide, 2,3-Dimethylbutane, 1,3Dimethylbutylamine, Dioctyl sebacate, Dibutyl sebacate, Thiophene, n-Decane, Tetrahydrothiophene, Terpinolene, Triallilamine, Trimethylene glycol, Methyl lactate, Dimethyl disulphide, Acetyl methyl carbinol, Vinyltoluene, Piperidine, 3-Butanol, Butylmercaptan, 1,4-Butynediol, n-Propanol, Isopropyl propionate, Isobutyl propionate, 4-Methyl-1,3 -dioxacyclopentan-2-one, 1,2-Propylenediamine, 2Methyl-2,4-pentanedil, Pentamethylheptane, Pentane-2,4-dione, Triisopropyl borate, Ethyl borate, Trimethyl borate, Butyric anhydride, N-methylaniline, Methyl vinyl ketone, N-Methylpiperidine, Methyl propyl ketone, 5-Methylhexan-2-one, Isopropyl butyrate, Isopentyl butyrate, Pentyl butyrate

(*c*) Wastes containing organic solvents other than those listed in *a*) and *b*) above

Y43 Any congener of Polychlorinated debenzo-foran.

Y44 Any congener of Polychlorinated dibenza-p-dioxin.

Y45 Wastes containing organohalogen compounds other than substances referred to in this Schedule, listed as follows:

(*a*) Wastes containing 0.1% or more by weight of any of the following organohalogen compounds: 1-(Acetylamino)-4-bromoanthraquinone, Atrazine, 2-Amino-2-chloro-5-nitrobenzophenone, (6R,7R)7-Amino-3-chloromethyl-8-oxo-5-thia-1-azabic ycro(4,2,O)-octa-2-ene-2-carbonicacid=4methoxybenzyl, Methyl aminodithio-2-chloropropionate hydrochloride, 2-Amino-3,5dibromothiobenzamide, 2-Chloro-2', 6'-diethyl-N-(methoxymethyl) acetanilide, Alidochlor, Aldrin, Isodrin, Imazalil, Ethyl-3, 5-dichloro-4-hydroxybenzoate, Ethyl-3, 5-dichloro-4hexadecyloxycarbonyloxybenzoate Ethylene chlorohydrine, Epichlorohydrin, Acetyl chloride, Anisoil chloride, Allyl chloride, Choline chloride, Chlorinated paraffins (C10-13), Pyrosulphuryl chloride, Benzylidene chloride, Benzyl chloride, Benzoyl chloride, Endrin, Captafol, Canphechlor, Coumachlor,

Crimidine, Chloral, Chlordimeform, Chlordane, Chlorendic acid, Chloroacetaldehyde, Chloroacetone, Chloroanilines, 4-Chloro-2-aminotoluene hydrochloride, 1-Chlorooctane, 1Chloroethylchloroformate, 1-Chloro-3-(4-Chlorophenyl) hydrazone-z-propanol Monochloroacetic acid, Chlorodinitrobenzene, 3-Chloro-1, 2-dibromopropane, 1-Chloro-3, 3-dimethyl-2-butanol, Ethylchlorothioformate, 2-Chloro-5-trifluoromethylnitrobenzene, Chlorotoluidines, Chlorotoluenes, 2Chloronicotinic acid, Chloronitroanilines, 4-Chloro-2-nitrotoluene, N-(2-Chloro-3-nitro-6-pyridyl) acetamide, 4-(2-Chloro-4-nitrophenylazo)-N-(2-cyanoethyl)-N-phenety aniline, Chloronitrobenzenes, Chloropicrin, Chlorohydrins, Chlorophacinone, 4-Chloro-o-phenylenediamine, 3-Chloro-2-fluoronitrobenzene 3-Chrolo-4-fluoronitrobenzene, Chloroprene, 2-Chloropropionic acid, 3Chloropropyonic acid, 1-chlorohexane, 1-chloroheptane, p-Chlorobenzylchloride, pChlorobenzotrichloride, Chloromethyl=p-tolyl=ketone, 2-(4-Chloromethyl-4-hydroxy-2-thiazoline-2yl guanidine=chloride, Methyl 2-[(chloromethyl) phenyl] propionate, (2S)-3-Chloro-2-methylpropyonic acid, (Z)-4-Chloro-2-(methoxycarbonylmethpoxyimiono)-3-oxob utyric acid, 2-Chlorobutyric acid, kepone, Kelevan, 1-Chroloformyl-1-methylethyl acetate, 1-Bromoformyl-1-methylethyl acetate, Benzotrichloride, 3,5-Diaminochlorobenzene, Diallate, Silicon tetrachloride, Diglycol chlorohydrin, Cycrohaexenyltrichlorosilane, 3,4-Dichloroaniline 4, 5-Dichloro-p-n-octylisothiazole-3-one, Dichloroacetic acid, Methyldichloroacetate, 3, 3'-Dichloro-4,4' -diaminodiophenylmethane, 3,5Dichloro-4-(1,1,2,2-tetrafluoroethoxy) aniline, 1,4-Dichloro-2-trichlorosiryl-2-butee, 2,4-Dichloro -5trifluoromethylnitrobenzene, 1,4-Dichloro-2-nitrobenzene, 2,2-Dichloro-5-nitrobenzophenon, 2,4Dichlorophenoxyacetic acid diethanolamine, 2,4-Dichlorophenoxyacetic acid diethylamine, 2,4Dichlorophenoxyacetic acid triisopropanolamine, 2,4-Dichloro-3-fluorene trobenzene, 1,3-Dichloro4-fluorobenzene, 2,3-Dichloro-1-propanol, 2,2-Dichloropropioniccid, Methyl 2,3-dichloropropionate, Dichlorobromomethane, 1,6-Dichlorohexane, 2,6-Dichloro-3-perchloromethyltoluene, 4,5-Dichloro2-perchloromethyltoluene, Dichrolobenzidine, 2,2-Dichloro-3-pentanon, 2,4-Dichloro-3-pentanon, 2,6-Difluoroaniline, 3,4-Difluoronitrobenzene, 2-Dibromoethylene 2'-(2,6-Dibromo-4nitrophenylazo)-5'-diethylaminoace toaniride, 2,3-Dibromopropionate,, Dibromomethane, Simazine, Acetyl bromide, Allyl bromide, Sulfallate, Cyclohexyl-1-iodoethyl=carbonate, DDT (chlorophenothane), 2,4-DB((2,4-dichlorophenoxy) butyric acid), Dieldrin, 2,26,6-Tetrachlorocycrohexanon 2,2', 4,4'-Tetrachlorobenzophenon, Tetrahedra-5, 5-dimethyl-2(1H)-pyrimidinone [p-trifluorome thyl)-a-[p-(trifluoromethyl) styryl] Cynamiliden] hydrazone, 2,2,3,3Tetrafluoroxetane, Diuron, Telodrin, Toxaphene, 1-(4-Chlorophenonxy)-3,3-dimethyl-1-(lH-l, 2,4triazol-1-y1)-2-butanone Trichloroacetylchloride, 2,2,6-Trichloro-6-(1-chloroisobutyl) cycrohexanon, Trichloroacetic acid, 2,4,6-Trichloro-1,3,5-triazine, 2,2,3 -Trichloro-3-phenyl-1, 1-propanediol, 2,4,5Trichlorophenoxyacetic acid, Trichlorobutene, Perchloromethylmercapan, 2-Trichloromethyl-5-(4hydroxystyryl)-1,3,4-oxadiazole, Sodium trifluoroacetate, 2,3,4-Trifluoronitrobenzene, Nitrobenzotrifluoride,

Trimethylacetylchloride, Trimethylchlorosilane, Sodium=4-(2,4-dichloro-mtoluol)-1,3-dimethylpyrazole-5-oleate, Nitrofen, Paraquat, 5'-tBis(2-acetoxyethyl) amino]-2'-(2chloro-4-nitrophenylazo) acetanilide 4- (p-Bis(2-chloroethyl) aminophenyl) butyric acid, odomethylpivalate 2-t-Butyl-5-chloro-6-nitro-benzooxazole, O-3-t-Butylphenyl -chlorothioformate, 2-Chloro-1-propanol, 4-Bromo-3-oxobutyroanilide, 1-Bromo-2-chloroethane, Ethyl bromoacetate, 3Bromopropionic acid, Ethyl 3-bromopropionate, (E)-3-[p-(Bromomethyl) phenyl) acrylic acid, Ethyl (E)-3-[p-(bromomethyl) phenyl] acrylate, 3-Bromo-2-methylpropionic acid 4-Bromo-2methoxyimino-3-oxobutyryl=chloride, Hexachlorocyclohexane, hexachloro-1, 3-butadiene, Hexachlorobenzene, Heptachlor, Perfluoroprpoxy-1,1,2-trifluoroethylene, I-Benzyl-2-(chloromethyl) imidazole=chloride, Hexachloro-hexahedra-methano-dioxathiepine oxide, N-[B-(benzol) furan-2-yl) acrylol-N'-trichloroacetohydrazid, Pentachloronaphthalene, Pentafluoroiodoethane, Mirex, 2-Methyl-4chlorophenoxy-acetic acid, Methyltrichlorosilane, 2-Methyl-3-trifluoromethylaniline, Methylphenyldichlorosilane, Methrachlor, 2-Mercaptobenzothiazol, Monofluoroacetic amide, Acetyl iodide, Allyl iodide, Methyl iodide, 3-Iodopropionic acid

(*b*) Wastes containing 1% or more by weight of any of the following organohalogen compounds: Isopropyl-N-(3-chlorophenyl) carbamate (IPC), Imidacloprid, Echlomezole, Ethychlozate, Epibromohydrin, (4-Chloro-2-methylphenxoy) acetic acid, Isobutyryl chloride, Butyryl chloride, Propionyl chloride, Pentyl chloride N-(2-Methyl-4-chlorophenyl)-N,N-dimethylformamizine chloride, Oxadiazon, 2-Chloro-4, 5-dimethylphenyl-N-methylcarbamate, Chlorphenamidinel-[3, 5-Dichloro-4(3-chloro-5-trifluoromethyl-2-pyridylox y) phenyl]-3-(2, 6-difluorobenzoyl) urea, Chlormequat, Chloroacetonitryl, Chloro acetophenone, Chloroanisidine, Allyl chloroformate, Isobutyl chloroformate, Isopropyl chloroformate, Ethyl chloroformate, 2-Ethylhexyl chloroformate, 2-Ethoxyethyl chloroformate, Chloromethyl chloroformate, Cyclobutyl chloroformate, Phenyl chloroformate, n-Butyl chloroformate, sec-Butyl chloroformate, t-Butylcyclohexyl chloroformate, 2-Butoxyethyl chloroformate, n-Propyl chloroformate, Benzyl chloroformate, Methyl chloroformate, Isopropyl chloroacetate, Ethyl chloroacetate, Sodium chloroacetate, Vinyl chloroacetate, Methyl monochloroacetate, 1-Chloro-1,2-dibromoethane, 2-Chloropridine, Chlorobutanes, 3-Chloro-1-propanol, Glycerol a-monochlorohydrin, Isopropyl 2-chloropropionate, Ethyl 2-chloropropionate, Methyl 2-chloropropionate, I-Chloro-3-bromopropane, Dichlorobenzylicacid ethyl ester, p - Chlorobenzoyl chloride, Chlorobenzotrifluorides, 1,1-Bis(p-chlorophenyl)-2,2,2 -trichloroethanol, 2,4,6-Trichlorophenyl-4'-nitrophenyl ether, 1,4,5,6,7,7-Hexachlorobicyclo(2,2,1) hept-5-ene-2,3-d carboxylic acid di-2-propenylester, Dicloro dinitromethane, Dichlorobutyne, 1,3-Dichloroacetone, 2,5-Dichloroaniline, 3,5-Dichloroaniline, B, B'-Dichloroethyl hormal 1,1'-Ethylene-2, 2'dipyridiliumdibromide, Dibromochloropropane 3,5-Dibromo-4-hydroxy-4'-nitroazobenzene (BAB), 1,2-Dibromobutan-3-one, m-Dibromobenzen, Bromoacetone,

Isopropyl bromide, Ethyl bromide, Xylol bromide, Diphenylmethyl bromide, Phenacyl bromide, n-Buthyl bromide, 2-Bromobutane, Benzyl bromide, Thiochlormethyl, 1,1,2,2-Tetrachloronitoroethane, Methyl tricloroacetate, Trichloronitroethylene, 2,4,5-Trichlorophenoxyacetic acid butoxyethylester, 2,4,5Trichlorophenoxyacetic acid methoxyethylester, 2,4,6-Trinitrochlorobenzene, Trinitrofluorenone, Trifluoroacetate acid, Trifluoromethanesulfonic acid 2-Trifluoromethylaniline, 3Trifluoromethylaniline, N,N'-[1,4-Priperazinediylbis(2,2,2,-trichloroethylide ne)] bisformamide, Nitrobromobenzene, n-Valerylchloride, Halofuginone, Isopropyl p,p'-dibromobenzilate, Fluoroaniline, Fluoroacetic acid, Fluorotoluene, Fluorobenzene, Fulsulfamide, Methyl bromoacetate, 3-Bromopropyne, Bromobenzene, 2-Bromopentane, I-Bromo-3-methylbutane, Bromomethylpropane, Hexachloroacetone, Hexachloro-1,3-cyclopentadiene, Hexachlorophene, Hexythiazox, Permethrin, Benzotrifluoride, Benzoate Pentyltrichlorosilane, Methylallyl chloride, Methyl bromoacetone, Sodium fluoroacetate, Monofluoroacet-p-bromoanilide, N-(p-Bromobenzyl) monofluoroacetamide, n-Butyl iodide, Benzyl iodide, 2-Iodobutane, Iodopropanes, Iodomethylpropane, Hexafluoroacetone

(*c*) Waste containing or contaminated with polychlorinated biphenyls (PCBs) and/or polychlorinated triphenyls (PCTs) and/or polybrominated biphenyls (PBBs) of 50 ppm or more by weight.

(*d*) Wastes other than the organic halogen compounds given in *a*), *b*), and *c*) (excluding wastes listed in other items)

(*e*) Wastes to be exported for the purpose of D1 to D4 or R10 of Annex IV of the Basel Convention, which cannot meet the following criteria:

(i) Wastes in solid form, which cannot meet the Ambient Soil Quality Standards in terms of PCB determined by the relevant lead agency.

(ii) Wastes in liquid form, which cannot meet the waste water discharge standards to soil in terms of PCB.

(*f*) Wastes to be exported or imported for purposes other than those in *e*) above, which cannot meet the following criteria:

(i) Wastes in solid form, which cannot meet the standards in for hazardous wastes in terms of PCB

(ii) Wastes in liquid form, which cannot meet the standards for effluent quality standards in terms of PCB.

[Subsidiary]

FIFTH SCHEDULE

(Regulation 16)

LIST OF HAZARDOUS CHARACTERISTICS

UN CODE CHARACTERISTICS CLASS

UN CLASS	CODE	CHARACTERISTICS
1	HI	Explosive An explosive substance or waste is a solid or liquid substance or waste (or mixture of substances or wastes) which is in itself capable by chemical reaction or producing gas at such a temperature and pressure and at such a speed as to cause damage to the surroundings.
3	H3	Flammable Liquids The word "flammable" has the same meaning as "inflammable". Flammable liquids are liquids, or mixtures of liquids, or liquids containing solids in solution or suspension (for example paints, varnishes, lacquers and others but not including substances or wastes otherwise classified on account of their dangerous characteristics) which give off a flammable vapour at temperatures of not more than 60.5ºC, closed-cup test, or not more than 65.6ºC open-cup test (since the results of open-cup tests and closed-up tests are not strictly comparable and even individual results by the same tests are often variable, regulations varying from the above figures to make allowance for such difference would be within the spirit of this definition).
4.1	H4.1	Flammable Solids Solids or waste solids, other than those classed as explosives, which under conditions encountered in transport are readily combustible, or may cause or contribute to fire through friction.
4.2	H4.2	Substances or wastes liable to spontaneous combustion Substance or wastes which are liable to spontaneous heating under normal conditions encountered in transport or to heating up on tract with air, and being then liable to catch fire.
4.3	H4.3	Substances or wastes which, in contact with water emit flammable gases; substances or wastes which, by interaction with water, are liable to become spontaneously flammable or give off flammable gases in dangerous quantities.
5.1	H5.1	Oxiding Substances or wastes which, while in themselves not necessary combustible, may generally, by yielding oxygen, cause or contribute to the combustion of other materials.

[Subsidiary]

UN CLASS	CODE	CHARACTERISTICS
5.2	H5.2	Organic Peroxides Organic substances or wastes which contain the bivalent 0-0-structure are thermally unstable substances which may undergo exothermic self accelerating decomposition.
6.1	H6.1	Toxic or Poisonous (Acute) Substances or wastes liable either to cause death or serious injury to the human health if swallowed or inhaled or by skin contact.
6.2	H6.2	Infectious substances extremely hazardous to health Substances or wastes containing viable micro-organisms or their toxins which are known or suspected to cause disease in animals or humans.
8	H8	Corrosives Substances or wastes which, by chemical action, will cause severe damage when in contact with living tissue, or in the case of leakage will materially damage, or even destroy, other goods in the means of transport; they may also cause other hazards.
9	9.H10	Liberation of toxic gases in contact with air or water Substances or wastes which by interaction with air or water, are liable to give out toxic gases in dangerous quantities.
9	H11	Toxic (delayed or chronic) Substances or wastes which, by interaction with air or water, are liable to give out toxic gases in dangerous quantities. Substances or wastes which, if they are inhaled or ingested or if they penetrate through the skin may involve delayed or chronic effects, including carcinogenicity.
9	H12	Ecotoxic Substances or wastes which, if released present or may present immediate or delayed adverse impacts to the environment by means of bio-accumulation and/or toxic effects upon biotic systems.
9	H13	Capable, by means, after disposal, of yielding another material e.g. leachate which possesses any of the characteristics listed above.
10	H14	Radioactive waste
11	H15	Persistent waste; waste which contaminate the environment for long periods of time.
12	H16	Carcinogenic wastes which may lead to development of cancer in human beings or animals.

Corresponds to the hazardous classification system included in the United Nations Recommendations on the Transport of Dangerous Goods (ST/SG/AC.10/1/Rev.5, United Nations New York, 1988

[Subsidiary]

SIXTH SCHEDULE

FORM I FORM NEMA/WM/I

(To be filled in triplicate)

APPLICATION FOR TRANSBOUNDARY MOVEMENT OF WASTE

(FOR EXPORT OR TRANSIT PURPOSE ONLY)

(Regulation 20, 21*)*

1. NOTIFIER*

Name: Telephone:……
Address: Telefax: ……..
E-mail ……..
Contact person (name, address, telefax, e-mail)

2. GENERATOR(S) OF WASTE

Name: ……..…….. Telephone .....……
Address: …….. Telefax:……..……..
E-mail ……..
Contact person (name, address, telephone, telefax, e-mail) ……
Process by which the waste was generated: ……
Site of generation: ……

3. REASON FOR WASTE EXPORT

Why the waste cannot be disposed of in the country of origin
Why the waste has to be exported/imported through Kenya

4. WASTE

Description of the waste:
Y number H number UN class UN number:
Shipping name IWIC code
Physical state at 20°C: ☐
Powder Solid ☐ Paste/viscous ☐ Sludge
☐ Liquid gaseous ☐ Other (specify)
Estimated quantity (Kg or L) of the shipment:
Type of packaging:……
Number of packages: ……
Special handling requirements including emergency provisions in case of accidents:
Method of disposal:

5. EXPORT/IMPORTER OF THE WASTE

Competent Authority and details of approval
Exporter/Importer of the waste in the country of origin/destination Name:…… Telephone: Telefax E-mail

6. DISPOSER OF WASTE

Contact person in case of emergency: Name:…….....… Telephone …… Telefax E-mail:
Approximate date of disposal:
Actual site of disposal:
Signature and official stamp of disposer:

7. TRANSIT

Projected length of time the waste shipment shall be in transit in Kenya territory
Expected date of entry Expected date of exit
Means of transport envisaged:
Information relating to insurance:

(Guarantee that the person responsible shall fully compensate any damage caused to human health, property or the environment by the waste in question during transit)

8. DECLARATION

I/we* …….....…….....…… being the exporter/importer* hereby declare that on …… …….....…… I/we entered into a contract with the disposer and that I/we shall be bound by the terms of the said contract (Attach a copy of contract) Signed: (Exporter /Importer*)
I/we* …… being the exporter/importer* hereby guarantee/declare that the above information is correct and true. Signed: …… Signed: …… (Exporter/Importer*)

*delete whichever is not applicable

[Subsidiary]

FORM II *FORM NEMA/WM/II*

SIXTH SCHEDULE

(*To be filled in triplicate*)

PERMIT TO EXPORT/TRANSIT WASTE

(*Regulations* 20, 21)

Permit No …….....……

Name and address of exported/notifier …….....……

…….....…….

(*Physical and Mailing Address*)

. ……....……

You are hereby granted permission to export/transit the following waste:

1. ……..…….....…….
2. ……..…….....…….
3. ……..…….....…….
4. ……..……...…….
5. ……..……...…….
6. ……..…….....…….
7. ……..……....…….
8. ……..……....…….

To the following address: (Name, Physical and Mailing Address of the Importer)

…….....…….....…….

…….....…..…….....…….

This export shall be made through …….....…….....
Border/custom control post.

This Permit is valid from (date) ……..……..…..…... to (date) …..……..…....

This permit is subject to the following conditions: (Attach a copy of authorization by the state to which the export is to be made)

…….....…….

……..….....…….

Date …….....…… Signature …….....……

.....…….

Director General
National Environment Management Authority

[Subsidiary]

SEVENTH SCHEDULE

(Regulation 28)

CATEGORIES OF BIOMEDICAL WASTE

1.	Infections Waste	Waste suspected to contain pathogens e.g. laboratory cultures, waste from isolation wards, tissues (swabs), materials, or equipment that have been in contact with tubings, catheters, IGS toxins, live or attenuated vaccines, soiled plaster costs and other materials contaminated with blood infected patients, excreta.
2.	Pathological waste	Human and animal tissues or fluids. e.g body parts blood and other body fluids, fetuses, animal carcasses.
3.	Sharps	Sharp waste. e.g needles, infusion sets, scalpels, knives, blades, broken glass that may cause puncture and cuts. This includes both used and unused sharps.
4.	Pharmaceutical waste	Waste containing pharmaceutical e.g pharmaceuticals that are expired or no longer needed; items contaminated by or containing pharmaceuticals (bottles, boxes).
5.	Genotoxic Waste	Waste containing substances with genotoxic properties. e.g waste containing cytostatic drug (often used in cancer therapy), genotoxic chemicals.
6.	Chemical waste	Waste containing chemical substances e.g laboratory reagents; film developer, disinfectants,(disinfectants) that are expired or no longer needed solvents
7.	Waste with high content of heavy metals	Batteries, broken thermometers, blood-pressures gauges, etc
8.	Pressurized containers	Gas cylinders, gas cartridges, aerosol cans.
9.	Radioactive waste	Waste containing radioactive substances e.g unused liquids from radiotherapy or laboratory research, contaminated glassware, packages, or absorbent paper, urine and excreta from patients treated or tested with unsealed radionuclides, sealed sources.
10.	General solid waste	Waste generated from offices, kitchens, packaging material from stores.
11.	Microorganisms	Any biological entity, cellular or non-cellular capable of replication or of transferring genetic material.

[Subsidiary]

EIGHTH SCHEDULE

PART I

(Regulation 29)

Colour code for Biomedical adopted from the WHO colour code

	Type of Waste	Colour of Container and Markings	Type of Container
1.	Infectious	Yellow	Strong leak proof-plastic bag with biohazard symbol
2	Pathological	Yellow	Strong leak proof-plastic bag with biohazard symbol
3	Sharps	Yellow - (marked sharps)	Puncture proof
4	Chemical and Pharmaceutical	Brown	Plastic bag or container
5	Non-infectious/non hazardous (Non-clinical)	Black	Plastic bag or container
6	Radioactive waste		Lead box, labeled with radioactive symbol
7	Non-infectious/non hazardous (Non-clinical)	Black	Plastic bag or container

- Infectious, Pathological and Sharp waste should also be marked with the international biohazard symbol.
- Chemicals should also be marked with the appropriate international chemical hazard symbol
- Radioactive must be labeled with the appropriate warning symbol as in Schedule Eight Part II.

Note:

1. Colour coding of waste categories with multiple treatment options as defined in Schedule Nine, shall be selected depending on treatment option chosen, which shall be as specified in Schedule Nine.

2. Waste collection bags for waste types needing incineration shall not be made of chlorinated plastics.

[Subsidiary]

EIGHTH SCHEDULE PART II

Symbols

(Regulation 39)

Class 5

(No. 5.1)
Division 5.1
Oxidizing substances
Symbol (flame over circle): black:
Background: yellow;
Figure '5.1' in bottom corner

(No. 5.2)
Division 5.2
Organic peronades
Symbol (flame over circle): black:
Background: yellow;
Figure '5.2' in bottom corner

Class 6

(No. 6.1)
Division 6.1
Toxic substances
Symbol (skull and crossbones): black:
Background: white;
Figure '6' in bottom corner

(No. 6.2)
Division 6.2
Infectious substances

The lower half of the label may bear the Inscriptions: 'INFECTIOUS SUBSTANCE' and in the case of damage or leakage immediately notify Public Health Authority:

Symbol [three crescents superimposed on a circle] and inscriptions: black: Background: white:
Figure '6' in bottom corner

Class 7 Radioactive material

(No. 7A)
Category I—White
Symbol [trefoil]: black;
Background: white;
Text (mandatory): black in lower half of label:

'RADIOACTIVE'
Contents .....
Activity .....

Figure '7' in bottom corner

[Subsidiary]

(No. 7B)
Category II—Yellow
Symbol [trefoil]: black:
Background: upperhalf yellow
with white border, lower half white;
Text (mandatory): black in lower half of label:
'RADIOACTIVE'
'Contents .....'
'Activity .....'
In a black outlined box-'Transport Index'
Two red bars should follow the word 'Radioactive'
Figure '7' in bottom corner

(No. 7C)
Category II—Yellow
Symbol [trefoil]: black;
Background: upperhalf yellow
with white border, lower half white;
Text (mandatory): black in lower half of label:
'RADIOACTIVE'
'Contents .....'
'Activity .....'
In a black outlined box—Transport index'
Three red bars should follow the word 'Radioactive'
Figure '7' in bottom corner

Class 8 Corrossive substances

(No. 8)
Category I—White
Symbol (liquids, spiling from two glass vessels and attacking a hand and a metal): black:
Background: upper half white;
lower half black with white border:
Figure '8' in white in bottom corner

Class 9 Miscellaneous dangerous substances and articles

(No. 9)
Category I—White
Symbol (seven vertical stripes in upper half):black:
Background: white;
lower half black with white border:
Figure '9' underlined in bottom corner

NINTH SCHEDULE

(Regulations 30)

TREATMENT METHODS OF BIOMEDICAL WASTES

Waste category	*Treatment method*
Contaminated animal carcasses	Incineration
Cultures and stock	Steam sterilization
Contaminated bedding/patient care waste	Steam sterilization or Incineration
Contaminated small equipment	Steam sterilization or incineration
Contaminated large equipment	Formaldehyde decontamination
Waste biological	Steam sterilization or incineration
Surgery waste	Steam sterilization or incineration
Human blood	Steam sterilization or incineration
Autopsy waste	Incineration
Human blood products	Steam sterilization or Incineration
Contaminated laboratory waste	Steam sterilization
Pathological waste	Steam sterilization or Incineration/Grinding
Dialysis unit waste	Steam sterilization
Contaminated and unused sharps	Steam sterilization and Incineration/ grinding
Pharmaceutical waste	See separate Pharmaceutical waste guidelines
Anti-neoplastic drug waste	Incineration
Low level radioactive waste	Consult Radiation Protection Board

Note:

- Chemical treatment using at least 1% hypochlorite solution or any other equivalent chemical reagent. It must be ensured that the chemical treatment.
- Mutilation/shredding must be such so as to prevent unauthorized reuse.
- There will be no chemical pretreatment before incineration.
- Chlorinated plastics shall not be incinerated.
- Deep burial shall be an option available only in towns with population less than five hundred thousand and in rural areas.

[Subsidiary]

TENTH SCHEDULE

(*Regulation 35*)

STANDARDS FOR WASTE AUTOCLAVING

The autoclave should be indicated for the purposes of disinfecting and treating bio-medical waste,

I. When operating a gravity flow autoclave, medical shall be subjected to:

(i) a temperature of not less than 121°C and pressure of 15 pounds per square inch (psi) for an autoclave residence time of not less than 60 minutes; or

(ii) a temperature of not less than 135°C and a pressure of 31 psi for an autoclave residence time of not less than 45 minutes; or

(iii) a temperature of not less than 149°C and a pressure of 52 psi for an autoclave residence time of not less than 30 minutes

II. When operating a vacuum autoclave, medical waste shall be subjected to a minimum of one pre-vacuum pulse to purge the autoclave of all air. The waste shall be subjected to the following:

(i) a temperature of not less 121°C and a pressure of 15 psi per autoclave residence time of not less than 45 minutes; or

(ii) a temperature of not less than 135°C and a pressure of 31 psi for an autoclave residence time of not less than 30 minutes;

III. Medical waste shall not be considered properly treated unless the time temperature and pressure indicators indicate that the required time, temperature and pressure were reached during the autoclave process. If for any reasons, time temperature, pressure or residence time was not reached, the entire load of medical waste must be autoclaved again until proper temperature, pressure and residence time were achieved.

IV Recording of operational parameters

Each autoclave shall have graphic or computer recording devices, which will automatically and continuously monitor and record dates, time of the day, load identification number and operating parameters throughout the entire length of the autoclave cycle.

V Validation test

Spore testing**:**

The autoclave should completely and consistently kill biological indicator at the maximum design capacity of each autoclave unit. Biological indicator for autoclave shall be *Bacillus stearothermophilus* spore using vials or spore strips, with at least 1 x 10^4 spores per milliliter. Under no

circumstances will an autoclave have minimum operating parameters less than a residence time 30 minutes, regardless of temperature and pressure, a temperature less than 121°C or pressure less than 15 psi.

VI Routine Test

A chemical indicator strip/tape that changes colour when a certain temperature is reached can be used to verify that a specific temperature has been achieved. It may be necessary to use more than one strip over the waste package at different location to ensure that the inner content of the package has been adequately autoclaved.

STANDARDS FOR LIQUID WASTE

The effluent generated from the hospital should conform to the following limits:

PARAMETERS	PERMISSIBLE LIMITS
pH	6.5-9.8.5
Suspended solids	100 mg/l
Oil and grease	Nil
BOD	30 mg/l
COD	50 mg/l
Bio-assay test	90% survival of fish after 96 hours in 100% effluent

These limits are applicable to those hospitals, which are either connected with sewers without terminal sewage treatment plant or not connected to sewage. For discharge into public sewers with terminal facilities, the general standards as notified under the Environmental Management Coordination (Water Quality) Regulations 2005 shall be applicable.

STANDARDS FOR MICROWAVING

1. Microwave treatment shall not be used for cytotoxic, hazardous or radioactive wastes, contaminated animal carcasses, body parts and large metal items.

2. The microwave system shall comply with the efficacy test/routine tests and a performance guarantee may be provided by the supplier before operation of the unit.

3. The microwave should completely and consistently kill the bacteria and other pathogenic organisms that is ensured by approved biological indicator at the maximum design capacity of each microwave unit. Biological indicators for microwave shall be *Bacillus subtilis* spores using vials strips with at least 1 x 10^4 spores per milliliter.

STANDARDS FOR DEEP BURIAL

1. A pit trench should be dug about 2 metres deep. It should be filled with waste, and then covered with lime within 50 cm of the surface, before filling the rest of the pit with soil.

2. It must be ensured that animals do not have any access to burial sites. Covers of galvanized iron/wire meshes may be used.

3. On each occasion, when wastes are added to the pit, a layer of 10 cm of soil shall be added to cover the wastes.

4. Burial must be performed under close and dedicated supervision.

5. The deep burial site should be relatively impermeable, and no shallow well should be close to the site.

6. The pits should be distant from habitation, and sited so as to ensure that no contamination occurs of any surface water or groundwater. The area should not be prone to flooding or erosion.

7. The Authority will authorize the location of the deep burial site.

8. The institution shall maintain a record of all pits for deep burial

ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION (FOSSIL FUEL EMISSION CONTROL) REGULATIONS, 2006 L.N.131/2006.

1. These Regulations may be cited as the Environmental Management and Co-ordination (Fossil Fuel Emission Control) Regulations, 2006 and shall come into operation on 1st February, 2007. Citation.

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

"air pollution control methods" means the mechanisms and technologies aimed at emission control or methods or processes that can be used separately or together to reduce emissions and improve air quality standards;

"air pollution" means the introduction by man, directly or indirectly, of substances in the air which results in harmful effects of such nature as to endanger human health, harm living resources and eco-systems, cause material damage, interfere with amenities and other legitimate uses of the environment;

"emissions inspection" means the determination of the level of emissions from a motor vehicle, plant or industry;

"fossil fuels " means petrol, diesel fuel oils and kerosene;

"fossil fuels emissions" means emissions causing air pollution from the use of any fossil fuel where the constituent properties are not properly combusted

[Subsidiary]

in an internal combustion engine and are emitted out as toxic carbon gases and particulates matter.

"fuel catalyst" means a liquid supplement added to refined fossil fuels for use in internal combustion engines to act in a manner that speeds up the fuel burning process, causes a more complete combustion of fuel by optimizing the molecular combustion process to significantly improve fuel economy as well as reduce harmful toxic emissions without altering the quality of fuel and is completely safe to use with no harm or damage to the environment, human health and the internal combustion engines.

"internal combustion engine" means any engine that is mobile (as in a vehicle) or stationary (as in a generator) that uses fossil fuels in order to derive their required energy and will emit the same properties and levels of pollution given its choice of fuel and application.

"polluter" means an individual or organization causing, or operating a source of, air pollution.

Emmission inspection.

3. (1) The Authority—

(*a*) shall administer a system for emissions inspection of all internal combustion engines within Kenya; and

(*b*) may require every internal combustion engine to be inspected at least once annually.

(2) The Authority may liaise with lead agencies dealing with internal combustion engine inspection and may delegate the responsibility of undertaking emission inspection to such agencies, and any power exercised by any such lead agencies as regards emission inspection will be deemed to have been exercised under these Regulations.

Emission standards.

4. (1) Any internal combustion engine is subject to inspection under these Regulations and shall, as a condition of compliance with the inspection, pass such tests as may be required to demonstrate that the internal combustion engine complies with any standards and requirements for the control of air pollution or contamination as may be prescribed.

(2) The emission standards to be complied with by any internal combustion engine shall be those set out in the First Schedule to these Regulations.

(3) Any person who operates or owns an internal combustion engine and permits it to be operated upon any road, street, public highway or any premises, which emits smoke or other air contaminants in excess of emission standards set out in the First Schedule commits an offence and shall be liable, upon conviction, to the penalty prescribed in section 144 of the Act.

Environmental inspectors.

5. The Authority may appoint such number of environmental inspectors as it may deem appropriate for purposes of carrying out emissions inspection under these Regulations and may, without prejudice to the foregoing, appoint any employee of a lead agency conducting inspection of internal combustion engines on behalf of the Government.

Power of inspectors.

6. An environmental inspector shall, in the discharge of his functions under these Regulations, have such powers as are conferred on an inspector under sections 117 and 118 of the Act.

Approval of catalyst.

7. (1) The Authority may approve any substance to be used as a fuel catalyst if, in the opinion of the Authority, the substance improves fuel economy, enhances combustion and reduces harmful emissions that adversely affect human, animal and plant health and degrade the environment.

(2) The Minister shall publish in the gazette, on the recommendation of the Authority, any substance that has been approved as a fuel catalyst under these Regulations.

Fuel catalyst.

8. (1) For the better control of toxic emissions, no internal combustion engine shall use any fuel other than fuel that has been treated using a fuel catalyst approved by the Authority.

(2) A person who knowingly offers for sale any fuel that has not been treated using an approved fuel catalyst commits an offence and shall be liable upon conviction, in addition to the penalty prescribed in section 144 of the Act, to confiscation of the fuel.

Application for approval of fuel catalyst.

9. A person seeking approval of a substance as a fuel catalyst shall apply to the Authority in the prescribed Form 1 set out in the Second Schedule, and the application shall be accompanied by—

(*a*) the prescribed fee;

(*b*) details of the manufacturer of the substance;

(*c*) manufacturer's authorization in case of an application by an agent;

(*d*) chemical composition of the substance; and

(*e*) empirical evidence supporting use and effects of the substance on the environment.

Licensing of persons to treat fuel.

10. (1) The Authority may issue a licence in the prescribed Form II set out in the Second Schedule to a person to sell or treat fuel through the addition of an approved fuel catalyst and may impose such conditions as it may deem appropriate.

(2) A person who offers for sale any fuel catalyst without a licence issued by the Authority commits an offence and shall be liable, upon conviction to the penalty prescribed in section 144 of the Act.

Partnership with Authority.

11. (1) The Authority may enter into a partnership arrangement with any person designed to provide—

(*a*) a facility for internal combustion engine emission inspection; or

[Subsidiary]

(*b*) services to fuel marketers, vendors or producers for treatment of fuel by supplementing an approved fuel catalyst;

(*c*) capacity building on air quality management with emission reduction methods, technologies and with real-time ambient air quality monitoring networking capacity.

(2) The Authority may enter into any partnership arrangement aimed at enhancing control of fossil fuel emissions and to this end, may train environmental inspectors, set up or license private emissions inspection workshops.

Cost of clearing pollution.

12. The direct cost of clearing pollution through fuel emission shall be borne by the polluter.

Fees.

13. The fees payable for the application for approval of a substance as a fuel catalyst under these Regulations shall be ten thousand shillings.

FIRST SCHEDULE (r. 4 (2)

A. PETROL POWERED MOTOR VEHICLE EMISSION STANDARDS

Vehicle Class and Model Year	*Maximum Emission Concentration HP (ppm)*	*CO (percentage)*
Class I:		
Gross vehicle weight of 6000 pounds or less.		
1975-1977	500	5.0
1978-1979	400	4.0
1980	300	3.0
1981 +	220	1.2
Class II:		
Gross vehicle weight of 6001 pounds to 10,000 Pounds		
1975-1977	750	6.5
1978-1979	600	5.5
1980	400	4.5
1981-1984	300	3.0
1985 +	220	1.2

B. DIESEL POWERED MOTOR VEHICLE EMISSION STANDARDS

Standards and Procedures for Inspection of Diesel Fueled Vehicles-Pass/Fail Criteria

1. Dynamometer Conditions

(*a*) A diesel-powered vehicle with a net weight greater than or equal to 6001 pounds and less than or equal to 10,000 pounds shall be tested on a loaded dynamometer by applying a single load of 30Hp (±2Hp) while being operated at a drive wheel speed of 50 mph (±2mph).

(*b*) A diesel-powered vehicle with a net weight of 6000 pounds or less shall be tested on a loaded dynamometer by applying a single load of 9Hp (±2Hp) while being operated at a drive wheel speed of 30mph (±2mph).

2. Opacity Standard

No diesel-powered vehicle shall emit visible emissions in excess of 20% opacity for 5 consecutive seconds or more when under the applicable loading.

(*a*) All diesel-powered motor vehicles shall be inspected with an opacity meter that meets the requirements of the Authority.

(*b*) Separate measurements shall be made on each exhaust outlet on diesel-powered motor vehicles equipped with multiple exhaust outlets. For vehicles equipped with more than one exhaust pipe, the reading taken from the outlet giving the highest opacity reading shall be used for comparison with the standard. Exhaust tail pipes on diesel-powered motor vehicles shall allow for safe attachment of the opacity meter sensor unit. Dual or multiple exhaust motor vehicles will be tested by sampling all exhaust tail pipes simultaneously or individually.

(*c*) Any diesel-powered motor vehicle not meeting the opacity standard shall fail the inspection.

3. Idle Mode Test

When it is necessary to omit the loaded mode test, as specified below, an opacity measurement shall be made while the vehicle is operating at idle under no load.

(*a*) If the opacity measured during the idle mode test is greater than 5%, the vehicle shall fail the inspection.

(*b*) The loaded mode test shall be omitted on any motor vehicle if—

(i) The motor vehicle is in any condition that precludes loaded

mode testing for reasons of health or safety, or both, or personnel, facility, equipment or vehicle.

(ii) The motor vehicle is unable to be tested because of the vehicle's inability to attain the speeds specified on the dynamometer.

(iii) The motor vehicle is equipped with a constant four-wheel drive.

(*c*) Re-inspection stations shall not be allowed to perform the idle mode test for diesel-fueled vehicles.

4. Inspection Rejection

The emissions inspector may refuse to perform the opacity test required by these Regulations for any motor vehicle if the motor vehicle has an obvious exhaust system leak or other condition that could affect the validity of the opacity reading, as determined by the emissions inspector.

SECOND SCHEDULE

FORM I (NEMA/FC/1)

Application Reference No. …….

Applicable Fee: Ksh. 10,000

APPLICATION FOR LICENCE FOR FUEL CATALYST TO SUPPLEMENT THE SPECIFIED FOSSIL FUELS

[Regulation 7]

Name of Applicant …….....……

Person Authorized to Act on behalf of Applicant (Name and Title) ……

…….....…….....

Contact Person (Name and Title) …….

……

National Identification Card/Passport No. ……

Contact Person's Physical and Postal Address: (Business) ……

.....……..

Company Name: …….……

Physical Address: ……...……..

Postal Address: ……..……

Main Business Activity ……

Tel/Fax/Email contacts: ……..

Kenyan Business Registration Certificate No. ……

PIN number …….. hereby applies for approved fuel catalyst

Type of Fuel Catalyst	*Scientific Formula of Fuel Catalyst*	*Kenya Bureau of Standards KS' Number*
1. …….....……	……	……..
2. …….....……	……	……..
3. …….....……	……	……..
4. …….....……	……	……..
5. …….....……	……	……..
6. …….....……	……	……..

I declare that the information provided in this application is correct and accurate and that the applicant makes this application in support of a request for approval by NEMA of a fuel catalyst to be supplemented to the specified fossil fuels and in compliance with the provisions of these Regulations.

Dated …… 20 ……..……..

Name ……Signature ……

Witness …….....……

Address …….....……

Occupation …….....……

FORM II (NEMA/FC2)

LICENCE FOR APPROVED FUEL CATALYST

(*Regulation 7*)

Licence No. FF/FC ……

Name …….....……

Address …….....……

…….....……..

The Authority has evaluated your Application Ref. No …… and a license hereby issued for use of the following fuel catalyst:

Type of Fuel Catalyst	*Scientific Formula of Fuel Catalyst*	*Kenya Bureau of Standards KS' Number*
1. …….....……	……	……..
2. …….....……	……	……..
3. …….....……	……	……..
4. …….....……	……	……..
5. …….....……	……	……..
6. …….....……	……	……..

for use in specified fossil fuels and is granted subject to the following conditions:

CONDITIONS OF LICENCE

1. This Licence will be valid for the project period of …… from the date hereof.

2. ……..

3. ……..

4. ……..

5. ……..

…….....……..

Director General
National Environment Management Authority
(*Signature and official stamp*)

[Subsidiary]

THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION (CONSERVATION OF BIOLOGICAL DIVERSITY AND RESOURCES, ACCESS TO GENETIC RESOURCES AND BENEFIT SHARING) REGULATIONS, 2006

ARRANGEMENT OF REGULATIONS

PART I—PRELIMINARY

1—Citation.
2—Interpretation.
3—Application.

PART II—CONSERVATION OF BIOLOGICAL DIVERSITY

4—Environmental Impact Assessment Licence.
5—Conservation of threatened species.
6—Inventory of biological diversity.
7—Monitoring of status.
8—Protection of environmentally significant areas.

PART III—ACCESS TO GENETIC RESOURCES

9—Access permit.
10—Notification of application.
11—Determination of application.
12—Form of access permit.
13—Communication of decision.
14—Validity and renewal of access permit.
15—Terms, conditions of an access permit, etc.
16—Suspension, cancellation, etc, of access permit.
17—Register of access permits.
18—Material Transfer Agreement.

PART IV—BENEFIT SHARING

19—Application of Part.
20—Benefits sharing.

PART V—MISCELLANEOUS

21—Confidentiality.
22—Transition.
23—Offences.
24—Penalties.

First Schedule — Form of Application of an Access Permit

Second Schedule — Fees

Third Schedule — Form of Access Permit

[Subsidiary]

L.N. 160/2006.

THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION (CONSERVATION OF BIOLOGICAL DIVERSITY AND RESOURCES, ACCESS TO GENETIC RESOURCES AND BENEFIT SHARING) REGULATIONS, 2006

PART I—PRELIMINARY

Citation.

1. These Regulations may be cited as the Environmental Management and Co-ordination (Conservation of Biological Diversity and Resources, Access to Genetic Resources and Benefit Sharing) Regulations, 2006.

Interpretation.

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

"access" means obtaining, possessing and using genetic resources conserved, whether derived products and, where applicable, intangible components, for purposes of research, bio-prospecting, conservation, industrial application or commercial use;

"access permit" means a permit that allows a person to access genetic resources issued under regulation 4;

"benefit sharing" means the sharing of benefits that accrue from the utilization of genetic resources;

"endangered species" means any species which is in danger of extinction throughout all or a significant portion of its range (due to man-made or natural changes in the environment);

"genetic material" means any genetic material of plant, animal, microbial or other origin containing functional units of heredity;

"habitat" means the place or type of site where an organism or population naturally occurs and includes areas colonized by introduced organisms;

"holotype" means the single specimen chosen for designation of a new species;

"intangible components" means any information held by persons that is associated with or regarding genetic resources within the jurisdiction of Kenya;

"inventory" means a detailed list, report or record of resources, or the process of making such a list, report or record;

"Material Transfer Agreement" means an agreement negotiated between the holder of an access permit and a relevant lead agency or community on access to genetic resources and benefit sharing;

"natural environment system" means relatively intact ecosystems of unique value, such as perennial and seasonal wetlands, highly diverse aquatic ecosystems, or ecosystems promoting a high concentration of rare and unusual species;

"Prior Informed Consent" means an international operation procedure for exchanging, receiving and handling notification and information by a competent authority; and

"threatened species" means any species of plant or animal which is likely to become an endangered species within the foreseeable future throughout all or significant portion of its range.

Application.

3. These Regulations shall not apply to—

(*a*) the exchange of genetic resources, their derivative products, or the intangible components associated with them, carried out by members of any local Kenyan community amongst themselves and for their own consumption;

(*b*) access to genetic resources derived from plant breeders in accordance with the Seeds and Plant Varieties Act;

Cap. 326.

(*c*) human genetic resources; and

(*d*) approved research activities intended for educational purposes within recognized Kenyan academic and research institutions, which are governed by relevant intellectual property laws.

PART II—CONSERVATION OF BIOLOGICAL DIVERSITY

Environmental Impact Assessment Licence.

4. (1) A person shall not engage in any activity that may—

(*a*) have an adverse impact on any ecosystem;

(*b*) lead to the introduction of any exotic species;

(*c*) lead to unsustainable use of natural resources,

without an Environmental Impact Assessment Licence issued by the Authority under the Act.

(2) In this regulation, "exotic species" means any species of plant or animal or microorganism (life form) whose natural range does not, or did not in the past, exist in a specific part of, or the whole of, Kenya and which out-competes all other life forms.

Conservation of threatened species.

5. (1) The Authority shall, in consultation with the relevant lead agencies, impose bans, restrictions or similar measures on the access and use of any threatened species in order to ensure its regeneration and maximum sustainable yield.

(2) Without prejudice to the generality of the foregoing, the Authority shall, in consultation with the relevant lead agencies—

(*a*) issue licenses for the establishment and maintenance of facilities for the recovery and rehabilitation of threatened species.

(*b*) determine full recovery and rehabilitation measures of threatened species to ensure its restoration into its natural habitat.

Inventory of biological diversity.

6. (1) Within twenty-four months from commencement of these Regulations, the Authority shall, in consultation with the relevant lead agencies, identify and prepare an inventory of biological diversity of Kenya.

(2) The inventory shall include threatened, endangered, or rare species.

(3) The inventory shall be maintained and updated every year thereafter by the Authority.

(4) The inventory shall be a public record of the Authority and shall be accessible, in a prescribed manner, to any person on application to the Authority, and upon payment of such fees as may be prescribed by the Authority.

Monitoring of status.

7. The Authority shall, in consultation with the relevant lead agencies, monitor the status and the components of biological diversity in Kenya and take necessary measures to prevent and control their depletion.

Protection of environmentally significant areas.

8. This Part shall apply to any area of land, sea, lake or river which the Minister has, by notice in the Gazette, declared to be a protected natural environment system for purposes of promoting and preserving biological diversity in accordance with section 54 of the Act.

Part III—Access to Genetic Resources

Access permit.

9. (1) Any person who intends to access genetic resources in Kenya shall apply to the Authority for an access permit in the form set out in the First Schedule, and such application shall be accompanied by the fees prescribed in the Second Schedule to these Regulations.

(2) The application shall be accompanied by evidence of Prior Informed Consent from interested persons and relevant lead agencies, and a research clearance certificate from the National Council for Science and Technology.

Notification of application.

10. The Authority shall, upon receipt of the application, give notice thereof by publication in the Gazette and at least one newspaper with nationwide circulation, or in such other manner as the Authority may consider appropriate, specifying—

(*a*) the name and other particulars of the applicant;

(*b*) the activity to be undertaken for which the access permit is required; and

(*c*) the time within which representations or objections in respect of the proposed access permit may be made to the Authority.

Determination of application.

11. (1) The Authority shall, on receipt of representations or objections to the proposed access permit from the public, review the application and if satisfied that the activity to be carried out shall facilitate the sustainable management and utilization of genetic resources for the benefit of the people of Kenya, issue an access permit to the applicant.

(2) Where the Authority has reasonable grounds for refusing to issue an access permit, it shall inform the applicant of the reasons of such refusal in writing.

(3) A person aggrieved by refusal of the Authority to grant a licence may appeal to the Tribunal in accordance with section 129 of the Act.

Form of access permit.

12. The form set out in the Third Schedule is prescribed as the form of access permit.

Communication of decision.

13. The Authority shall, within sixty days of receipt of an application for an access permit, determine the application and communicate its decision in writing to the applicant.

Validity and renewal of access permit.

14. (1) An access permit shall be valid for a period of one year from the date of issue and shall not be transferable.

(2) Upon expiry, an access permit may be renewed for a further period of one year upon payment of the fee prescribed in the Second Schedule and upon such terms and conditions as the Authority may deem necessary to impose.

Terms, conditions of an access permit, etc.

15. (1) An access permit shall contain such terms and conditions as the Authority may deem necessary to impose.

(2) In addition to such terms and conditions as may be contained in an access permit, the following conditions shall be implied in every access permit—

(*a*) Duplicates and holotypes of all genetic resources collected shall be deposited with the relevant lead agency.

(*b*) Records of all intangible components of plant genetic material collected shall be deposited with the Authority.

(*c*) Reasonable access to all genetic resources collected shall be guaranteed to all Kenyan citizens whether such genetic resources and intangible components are held locally or abroad.

(*d*) All agreements entered into with respect to access of genetic resources shall be strictly for the purposes for which they were entered into.

(*e*) The furnishing of quarterly reports to the Authority on the status of research, including all discoveries from research involving genetic resources and/or intangible components thereof.

(*f*) The holder of an access permit shall inform the Authority of all discoveries made during the exercise of the right of access granted under the access permit.

(*g*) The holder of an access permit shall provide the following reports—

(i) a semi-annual status report on the environmental impacts of any ongoing collection of genetic resources or intangible components thereof;

(ii) a final status report on the environmental impacts of collection of genetic resources or intangible components thereof, in the event that the collection is of a duration of three months or less.

(*h*) The holder of an access permit shall abide by the laws of the country.

(3) The Authority may, on its own volition or on the application by an access permit holder, vary the conditions of an access permit.

Suspension, cancellation, etc, of access permit.

16. (1) The Authority may suspend, cancel or revoke any access permit issued under these Regulations where the holder thereof is in contravention of any of the conditions imposed on the access permit or those implied under these Regulations, or of the agreements concluded pursuant to its grant.

(2) The Authority shall, before suspending, cancelling or revoking an access permit, give a written notice of its intention to suspend, cancel or revoke the permit to the holder thereof, and shall accordingly invite the holder to make representations within thirty days from the date of such notice.

(3) Where the Authority suspends, cancels or revokes a permit, it shall publish the order suspending, cancelling or revoking the permit in the Gazette and in at least one newspaper with nationwide circulation.

(4) The provisions of regulation 11(3) shall apply *mutatis mutandis* to the suspension, cancellation or revocation of an access permit.

Register of access permits.

17. The Authority shall keep, manage and update as appropriate a register of all access permits which it has granted, and the register shall be a public record of the Authority and shall be accessible, in a prescribed manner, to any person on application to the Authority, and upon payment of the fees prescribed in the Second Schedule.

Material Transfer Agreement.

18. Notwithstanding any provisions contained in these Regulations, no person shall transfer any genetic resources outside Kenya unless such person has executed a Material Transfer Agreement.

Part IV—Benefit Sharing

Application of Part.

19. This Part shall apply subject to the laws in force relating to intellectual property rights.

[Subsidiary]

Benefits sharing.

20. (1) Without prejudice to the generality of the foregoing, the holder of an access permit shall facilitate an active involvement of Kenyan citizens and institutions in the execution of the activities under the permit.

(2) The facilitation by the holder of an access permit shall include enjoyment of both monetary and non-monetary benefits arising from the right of access granted and the use of genetic resources.

(3) Monetary benefits include—

(*a*) access fees or fee per sample collected or acquired;

(*b*) up-front payments;

(*c*) milestone payments;

(*d*) payment of royalties;

(*e*) licence fees in case genetic resources are to be utilised for commercial purposes;

(*f*) fees to be paid to trust funds supporting conservation and sustainable use of biodiversity;

(*g*) salaries and preferential terms where mutually agreed;

(*h*) research funding;

(*i*) joint ventures;

(*j*) joint ownership of relevant intellectual property rights.

(4) Non-monetary benefits include—

(*a*) sharing of research and development results;

(*b*) collaboration, co-operation and contribution in scientific research and development programmes, particularly biotechnological research activities;

(*c*) participation in product development;

(*d*) admittance to *ex situ* facilities of genetic resources and to databases by participating institutions;

(*e*) transfer to Kenya of genetic resources of knowledge and technology under fair and most favourable terms, including concessional and preferential terms where agreed, in particular, knowledge and technology that make use of genetic resources, including biotechnology, or that are relevant to the conservation and sustainable utilization of biological diversity;

(*f*) strengthening capacities for technology transfer to Kenya;

(*g*) institutional capacity building;

(*h*) human and material resources to strengthen the capacities for the administration and enforcement of access regulations;

(*i*) training related to genetic resources with the full participation of Kenya and where possible, in Kenya;

(*j*) access to scientific information relevant to conservation and sustainable use of biological diversity, including biological inventories and taxanomic studies;

(*k*) institutional and professional relationships that can arise from access and benefit sharing agreements and subsequent collaborative activities;

(*l*) joint ownership of relevant intellectual property rights.

PART V—MISCELLANEOUS

Confidentiality.

21. (1) On the request of an applicant of an access permit, the Authority may hold some information relating to access to genetic resources the subject of the application as confidential.

(2) Where an access permit is granted, information held as confidential under paragraph (1), with respect to the relevant applicant, shall not be accessible to a person inspecting the register of access permits in accordance with regulation 17.

Transition.

22. A person carrying out any activities involving access to genetic resources immediately before the coming into force of these Regulations shall, within six months from the coming into force thereof, take all necessary measures to ensure full compliance with these Regulations.

Offences.

23. A contravention or failure to comply with any of the matters provided in these Regulations shall constitute an offence.

Penalties.

24. Any person convicted of an offence under these Regulations shall be liable to imprisonment for a term not exceeding eighteen months, or to a fine not exceeding three hundred and fifty thousand shillings, or both.

[Subsidiary]

FIRST SCHEDULE (r. 9)

FORM OF APPLICATION FOR AN ACCESS PERMIT

Applicants applying as individuals should fill Part I.

Applicants applying as corporates (organisations) should fill Part II.

All applicants must fill Part III.

All applicants must submit ten (10) hard copies and one (1) soft copy of this application to the Authority.

PART I

FOR APPLICANTS WHO ARE INDIVIDUALS

(*a*) Name of applicant …….

(*b*) Identification Card No./Passport No. …….

(*c*) Postal Address …….

(*d*) PIN No. …….

(*e*) Permanent Residential Address ……..……
…….

(*f*) Qualifications (*Curriculum Vitae* to be attached) ……...……..

PART II

FOR APPLICANT WHO ARE CORPORATE (ORGANIZATIONS)

(*a*) Name of Organization ……

(*b*) Permanent Address ……

(*c*) Registered Address …….

(*d*) Registration No. (Attach copy of certificate of registration) ……

(*e*) Qualification of individuals in the project (*Curriculum Vitae* to be attached)
.....…….....……

(*f*) Details (if any) of:

(i) Holding and subsidiary institutions; or

(ii) Individuals connected to the project ……

(*g*) Name of the contact person in regard to this application and the position held in the organization …..…….....….……

PART III

FOR ALL APPLICANTS

1.0 Financial Details

Sources:

(i) The total budget of the project ……

(ii) Details of any corporate or individual sponsors of the project ……..……
……
……..……..……

2.0 Technical Particulars

(*a*) What are the details of your previous collection/research (if any) conducted in any of the East African country (Kenya, Uganda and/or Tanzania)?

(*b*) With regard to genetic resources for which access is sought, the following must be provided—

(i) scientific names of taxa;

(ii) specific sites in which access will be undertaken;

(iii) possible location;

(iv) parts of the genetic resource to be collected (tissues, cells, seeds, leaves, microbes, etc);

(v) derivatives and/or products;

(vi) quantities to be collected;

(vii) any known uses of the genetic resources;

(viii) in case of genetic resources held *ex-situ*, details of the relevant depository institution(s).

(*c*) With regard to the planned collecting mission, the following must be provided—

(i) identification of the provider(s) of the genetic resources for which access is sought;

(ii) collection methods to be used;

(iii) if there are Kenyan nationals or institutions to be used, their particulars;

(iv) expected date of commencement and completion of the activity;

(v) information regarding immigration status in Kenya of foreign individuals that will visit Kenya.

(*d*) Proposed use of genetic resources—

(i) form of use to which the genetic resources will be put;

(ii) expected research results;

(iii) geographical location in which each element of the research programme will take place.

(*e*) Details of any royalties, payments and/or other compensation that the applicant offers for access to genetic resources.

(*f*) Will the applicant require assistance to identify and access the genetic resources described in this application? If yes, give details of the assistance that will be required.

(*g*) A copy of the Prior Informed Consent document signed by the relevant lead agencies, local community or private owner of the genetic resources.

(*h*) A copy of research clearance document from the National Council of Science and Technology.

(*i*) Any other information in the possession of the applicant which might be useful for the National Environment Management Authority to make an informed decision in granting an access permit.

3.0 Renewal Details

Is this an application for renewal of an access permit?

YES ……...…….. NO……

Access Permit No. …… Granted on …… (*Date*)

All applicants are forewarned that it is an offence to give false information to the National Environment Management Authority punishable under the Environmental Management and Co-ordination (Conservation of Biological Diversity and Resources, Access to Genetic Resources and Benefit Sharing) Regulations, 2006.

I undertake to provide progress and full reports as required under the Regulations.

I declare that to the best of my knowledge the information given in respect of this application is true.

For individual applicants:

Name of Applicant …….....…….....……

Signature …….....……

Date …….....……

For Companies/Institutions—

(Affix company seal)

In the presence of—

Name of Director …….....……

Signature ……...……..

Name of Director/Company Secretary: …….....……

Signature …….....……

Date ……

SECOND SCHEDULE (r. 9, 14 (2), 17)

Fees

KSh.

(*a*) To apply for an access permit:

(i) Individual applicants …….. ……20,000.00

(ii) Corporate applicants …… 50,000.00

(*b*) To renew an access permit:

(i) Individual applicants …… 10,000.00

(ii) Corporate applicants ……25,000.00

(*c*) To peruse the register of access permits:

(i) Residents …… …….. 1,000.00

(ii) Non-residents ……..……5,000.00

THIRD SCHEDULE (r. 12)

Form of Access Permit

This permit is hereby granted to M/s. …….....……

…….....…….....……

…….....……

…….....……

(insert name, contact address and description of applicant) in accordance with regulation 11 of the Environmental Management and Co-ordination (Conservation of Biological Diversity and Resources, Access to Genetic Resources and Benefit Sharing) Regulations, 2006 for the collection of the following genetic resources:

……

…….....…….....……

…….....……

…….....……

(insert description of the genetic resource, its derivative product(s) or intangible component(s) as stated in the Materials Transfer Agreement) located at …....

.....…….....

……

(insert geographical description of the location of the genetic resources).

This permit is issued subject to the Regulations and all agreements concluded pursuant to its grant, and may be suspended, cancelled or revoked should the holder breach any of those agreements and the conditions of issue and those contained in the Regulations.

M/s. ……..…….....…….
(*insert name of applicant*) being the holder of this permit, including his agents and assignees, undertake to abide by the conditions of this permit and to promptly report to the National Environment Management Authority any matter that may prejudice the interests of Kenya and other parties concluded pursuant to the grant of this permit.

Signed: …….....……...…… Date: ……

Director General,
National Environment Management Authority.

THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION (CONTROLLED SUBSTANCES) REGULATIONS, 2007

ARRANGEMENT OF REGULATIONS

PART 1—PRELIMINARY

1—Citation.
2—Interpretation.

PART II—CLASSIFICATION AND CONTROL MEASURES

3—Classification of Controlled Substances.
4—Packaging of Controlled Substances.
5—Labeling of Controlled Substances.
6—Storage, distribution, transportation or handling a Controlled Substance.
7—Disposal of Controlled Substance.
8—Advertisement of Controlled Substances.

PART III—LICENSING AND PERMIT PROVISIONS

9—Manufacturing of Controlled Substances.
10—Application for Export.
11—Importation of Controlled Substances.
12—Application for Controlled Substances in transit.
13—Application for permit to import or export.
14—Acknowledgement of application.
15—Communication of decision and issue of licence.
16—Validity and renewal of licence.
17—Condition of licence.
18—Licence not transferable.
19—Revocation or suspension of licence.
20—Variation of licence.
21—Maintenance of a register.
22—Exemptions.
23—Illegal procurement.

PART IV—MONITORING PROVISIONS

24—Role of the Authority.
25—Obligation of licensee.
26—Submission of Report by Licensee.

PART V—MISCELLANEOUS PROVISIONS

27—Publication of Controlled Substances and of persons holding permits.
28—General penalty for offences.
29—Public access to records.
30—Transitional Provision.

SCHEDULES

First Schedule—Classification of Substances.

Second Schedule (Form 1)—Application for Licence to Produce Controlled Substances.

Second Schedule (Form 2)—Application for Licence to Import Controlled Substances.

Second Schedule (Form 3)—Application to Transport Controlled Substances through Kenya.

Second Schedule (Form 4)—Application for Licence to Export Controlled Substances.

Second Schedule (Form 5)—Application for Permit to Import/Export Controlled Substances.

Second Schedule (Form 6)—Licence to Produce Controlled Substances.

Second Schedule (Form 7)—Permit to Import/Export Controlled Substances.

Third Schedule (Form A)—Register of Licence Application Received.

Third Schedule (Form B)—Register of Licence Issued.

Third Schedule (Form C)—Register of Permits Issued.

Third Schedule (Form D)—Register of Controlled Substances Imported, Exported or Disposed and their Quantities.

Third Schedule (Form E)—Register of Returns made by Licensees.

Fourth Schedule—Declaration by the Recipient/Buyer of Controlled Substances.

Fifth Schedule—Report on the Importation/Exportation of Controlled Substances.

Sixth Schedule—Fees.

[Subsidiary]
L.N. 73/2007.

THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION (CONTROLLED SUBSTANCES) REGULATIONS, 2007

Part 1—Preliminary Provisions

Citation.

1. These Regulations may be cited as the Environmental Management and Co-ordination (Controlled Substances) Regulations, 2007.

Interpretation.

2. In these Regulations, unless the context otherwise requires:

'competent authority' means a competent authority on matters relating to controlled substances designated by an importing country;

'consumption' means production including imports excluding exports of controlled substances;

'controlled substances' means the controlled substances as set out in the First Schedule to these Regulations;

'Material data safety sheet' includes written instructions given by a manufacturer on how to store, transport or handle controlled substances;

'Ozone Secretariat' means the Secretariat for the 1985 Vienna Convention on the Protection of the Ozone Layer and the 1987 Montreal Protocol on Substances that Deplete the Ozone Layer;

'Prior Informed Consent' means such consent as may be given by the competent Authority before the importation or exportation of a controlled substance;

'production' means amount of controlled substances produced minus the amount destroyed by approved technologies and minus the amount entirely used as feedstock in the manufacture of other chemicals and does not include recycled and reused amounts;

'Secretariat to the Multilateral Fund' means the Secretariat for the Multilateral Fund for the Implementation of the Montreal Protocol as established in 1990.

Part II—Classification and Control Measures

Classification of controlled substances.

3. (1) The Authority, shall, in consultation with the relevant lead agency, prepare and submit to the Minister for approval, a list of controlled substances.

(2) The list to be prepared under this Regulation shall be divided into three groups as follows—

(*a*) group 1 of the list shall consist of partially halogenated flourochemicals with ozone depleting substances of less than 0.12 and defined as transitional substances;

(*b*) group 2 of the list shall consist of hydrobromoflourocarbons with ozone depleting substances estimated to vary from 0.1 to 1.00; and

(*c*) group 3 of the list shall consist of bromochloromethane with ozone depleting substances.

(3) The Minister may, on the advice of the Authority, in consultation with the relevant lead agency, ban or restrict the production or consumption of specified controlled substances by Order in the Gazette.

Packaging of controlled substances.

4. No person shall keep, sell or consign for transport a controlled substance unless—

(*a*) the controlled substance is in a container impervious to the controlled substance; and

(*b*) the container is sufficiently strong to prevent leakage arising from the ordinary risks of handling and transport.

Labeling of controlled substances.

5. (1) No controlled substance shall be supplied without a label on the container.

(2) Every label on a controlled substance container shall show—

(*a*) the name of the controlled substance or product;

(*b*) the name and address of the manufacturer of the controlled substance or product;

(*c*) the name of the country of origin of the controlled substance or product;

(*d*) the words 'Controlled Substance – Not ozone friendly';

(*e*) a symbol indicating that the substance or product is harmful to the ozone layer;

(*f*) the name of the seller and address of the premises on which it is sold if supplied on sale, other than wholesale; and

(*g*) the name and address of the supplier if supplied otherwise than on sale.

Storage, distribution, transportation or handling a controlled substance.

6. (1) No person shall store, distribute, transport or otherwise handle a controlled substance unless the controlled substance is accompanied by the material safety data sheet.

(2) Any person producing or importing a controlled substance shall at the time of production, packaging or importation, ensure that the material safety data sheet accompanies the produced, packaged or imported controlled substance.

Disposal of controlled substance.

7. (1) Any person wishing to dispose of a controlled substance shall inform the Authority which shall ensure that the controlled substance is disposed of in an environmentally sound manner.

(2) The Authority shall liaise with the Ozone Secretariat in matters relating to the disposal of a controlled substance.

Advertisement of controlled substances.

8. Any person who advertises any controlled substances shall ensure that the advertisement carries the words— 'Warning: contains chemicals, materials or substances that deplete or have potential to deplete the stratospheric ozone layer'.

PART III—LICENSING AND PERMIT PROVISIONS

Manufacturing of controlled substances.

9. (1) No person shall manufacture for sale a controlled substance unless the person has a valid licence issued by the Authority.

(2) An application for a licence to produce or manufacture a controlled substance shall be made to the Authority in the prescribed Form 1 set out in the Second Schedule to these Regulations and shall be accompanied by the prescribed fee.

(3) Upon the application for a licence under this Regulation, the Authority may grant the licence unconditionally, impose conditions on the licence or refuse to grant the licence.

(4) The licence under this Regulation shall be in the prescribed Form 6 set out in the Second Schedule.

Application for Export.

10. (1) No person shall export a controlled substance unless such person has a valid licence issued by the Authority.

(2) An application to export a controlled substance shall be made to the Authority in the prescribed Form 4 set out in the Second Schedule to these Regulations and shall be accompanied by—

(*a*) a Prior Informed Consent issued by the competent Authority of the importing country; and

(*b*) the prescribed fee.

Importation of controlled substances.

11. (1) No person shall import into Kenya a controlled substance unless such person has a valid licence issued by the Authority.

(2) The application shall be in the prescribed form and the applicant shall indicate the purpose for which the controlled substance is required.

(3) An application to import a controlled substance shall be made to the Authority in the prescribed Form 2 set out in the Second Schedule to these Regulations and shall be accompanied by the prescribed fee.

(4) Upon the application for a licence under this Regulation, the Authority may grant the licence unconditionally, impose conditions on the licence or refuse to grant the licence.

(5) A licence under this Regulation shall be in the prescribed Form.

(6) A person issued with an import licence shall keep a full and accurate record of such importation.

Application for controlled substances in transit.

12. (1) Any person transporting through Kenya any controlled substance, that is not destined for use in Kenya shall—

(*a*) apply for approval to transport such controlled substance through Kenya; and

(*b*) ensure that the controlled substance is properly packaged and transported in accordance with these Regulations and International Standards.

(2) An application for approval to transport through Kenya a controlled substance shall be made to the Authority in the prescribed Form 3 as set out in the Second Schedule to these Regulations and shall be accompanied by—

(*a*) a copy of the Prior Informed Consent issued by the competent Authority of the importing country; and

(*b*) the prescribed deposit bond which shall be refundable.

Application for permit to import or export different quantities.

13. (1) Where a person licensed to import or export any controlled substance wishes to import or export the controlled substance in different quantities and at different times, the person shall make an application for a permit for every importation or exportation that is to be made.

(2) An application for a permit to import or export a controlled substance in different quantities shall be in Form 5 in the Second Schedule to these Regulations and shall be accompanied by the prescribed fee.

(3) Any person issued with a permit to import or export a controlled substance shall submit a copy of the permit to the custom officials at the port of entry or exit.

(4) The customs official at the port of entry or exit shall verify that the controlled substance permitted to be imported or exported is in accordance with the conditions set out in the licence and permit.

Acknowledgement of application.

14. (1) Upon the receipt of any application under these Regulations, the Authority shall screen the application for completeness and shall acknowledge receipt of the application within fourteen days.

(2) Where the application is not complete, the Authority shall inform the applicant and shall request the applicant to furnish the Authority with additional information.

(3) Where the application is for the importation of a controlled substance, the Authority shall prepare the Prior Informed Consent and submit the same to

[Subsidiary]

the competent authority of the exporting country.

(4) The Authority shall liaise with the relevant lead agencies in determining the application and where the Authority is satisfied that the applicant meets the requirements set out, the Authority shall approve the application.

(5) Where the application does not meet the requirements set out, the Authority shall reject the application.

(6) A permit to import or export a controlled substance shall be in the prescribed Form 7 set out in the Second Schedule.

Communication of decision and issue of licence.

15. The Authority shall communicate its decision to the applicant, in writing, within forty-five (45) days of receipt of the application and shall state the reasons for such decision where the application has been rejected.

Validity and renewal of licence.

16. A licence issued under these Regulations, shall be valid for a period of one year from the date of issue and may be renewed on application.

Condition of Licence.

17. The Authority may impose any conditions upon the licence it deems necessary for the compliance with these Regulations.

Licence not transferable.

18. A licence issued under these Regulations shall relate only to the specific activity for which it was issued and shall not be transferable.

Revocation or suspension of licence.

19. The Authority may suspend or revoke a licence where the licensee has contravened any of the conditions set out in the licence or any provisions of these Regulations.

Variation of licence.

20. The Authority may vary a licence or the conditions of the licence either upon the application of the licensee or on its own motion where new information is available to the Authority or to the licensee and the Authority is of the opinion that the information may affect the conditions imposed on the licence.

Maintenance of a register.

21. (1) The Authority shall establish and maintain a register in the manner prescribed in the Third Schedule to these Regulations.

(2) The register shall contain—

(*a*) information on every application received;

(*b*) information on every decision document;

(*c*) information on every licence issued;

(*d*) a record of controlled substances imported, exported, disposed of or in use in the country;

(*e*) a record of quantities of controlled substances imported, exported, disposed of or in use in the country;

(*f*) a record of returns made by licensees; and

(*g*) any other information that the Authority may deem necessary to preserve.

Exemptions.

22. The Minister may on the advice of the Authority, in consultation with the relevant lead agencies Order in the Gazette that a controlled substance for essential use be exempt from the provisions of these Regulations.

Illegal procurement.

23. (1) Where an imported controlled substance does not meet the specifications of the licensed controlled substance, the Authority shall require the licensee to—

(*a*) return the controlled substance to the country of origin at the cost of the licensee; or

(*b*) pay for the cost of disposal of the controlled substance by the Authority.

(2) The Authority shall revoke the licence of any person in contravention of a licence under subsection (1).

PART IV—MONITORING PROVISIONS

Role of the Authority.

24. (1) The Authority shall in consultation with the relevant lead agencies, monitor the activities of the licensees to—

(*a*) determine effects of the controlled substances on human health and environment; and

(*b*) to ensure that the licensees comply with the provisions of these Regulations.

(2) In carrying out its monitoring role the Authority shall be responsible for—

(*a*) disposal of controlled substances;

(*b*) periodic reporting to the Ozone Secretariat and the Multilateral Fund Secretariat on the produced, imported, exported or consumed controlled substances;

(*c*) receiving returns from licensees;

(*d*) processing and forwarding Prior Informed Consent to the Competent Authority of the countries of importation;

(*e*) receiving Prior Informed Consent from the Competent Authority of the country of exportation or liaising with the competent Authority of the country of exportation to verify the Prior Informed Consent; and

(*f*) any other matters that the Authority may deem necessary for the effective implementation of these Regulations.

Obligation of licensee.

25. (1) Any licensee who imports or produces any controlled substances shall ensure that all persons who receive or buy such substances sign a declaration prescribed in the Fourth Schedule to these Regulations.

(2) Any licensee who supplies, sells or distributes any controlled substances shall keep a record of the declaration forms and submit the record to the licensing Authority after every six months.

Submission of Reports by Licensee.

26. (1) Every person licensed under these Regulations shall make and submit reports containing information relating to the licence, activities undertaken under the licence and conditions imposed under the licence to the Authority after every six months or whenever the Authority may demand.

(2) The report shall be in the prescribed form set out in the Fifth Schedule to these Regulations.

PART V—MISCELLANEOUS PROVISIONS

Publication of controlled substances and of persons holding permits.

27. (1) The Authority shall on or before 31st December of every year, publish a list of controlled substances in the Kenya Gazette. This list shall consist of—

(*a*) controlled substances that were imported in the year, together with their quantities;

(*b*) controlled substances that were exported in the year and their quantities;

(*c*) quantities of all controlled substances that were imported or exported in the year;

(*d*) all persons holding licences to import and export controlled substances and their annual permitted allocations of the controlled substances.

General penalty for offences.

28. (1) Any person who contravenes any provision of these Regulations commits an offence and is liable on conviction to a fine not exceeding three hundred and fifty thousand shillings or to imprisonment for a term not exceeding eighteen months or to both such fine and imprisonment.

(2) In addition to any sentence that the Court may impose on a person convicted under subsection (1), the Court may direct that the person pays the full cost of disposal of the controlled substance by the Authority.

Public access to records.

29. Any person may on application to the Authority and upon payment of the prescribed fee have access to any records submitted to the Authority under these Regulations.

Transitional Provision.

30. Any person who is producing, importing, exporting or transporting through Kenya a controlled substance shall within two months of the commencement of these Regulations, comply with the provisions of these Regulations.

[Subsidiary]

FIRST SCHEDULE (r. 4)

CLASSIFICATION OF SUBSTANCES

ITEM	COLUMN I	COLUMN II	COLUMN III
		Controlled Substances	*Ozone Depleting Potential (ODP)*
ANNEX A	GROUP I		
	CFC-11	Tricholoroflouromethane	1.0
	CFC-12	Dichlorodiflouromethane	1.0
	CFC-113	1, 1, 2 – Trichloro– 1,2, 2— trifluoroethane	0.8
	CFC-114	1, 2 – Dichlorotetrafluoroethane	1.0
	CFC-115	Chloropentafluoroethane	0.6
	GROUP II		
	Halon 1211	Bromochlorodifluoromethane	3.0
	Halon 1301	Bromotriflouromethane	10.0
	Halon 2402	Dibromotetrafluoroethane	6.0
ANNEX B	CONTROLLED SUBSTANCES		
	CFC-13	Chlorotrifluoromethane	1.0
	CFC-111	Pentachlorofluoroethane	1.0
	CFC-112	Tetrachlorodifluoroethane	1.0
	CFC-211	Heptachlorofluoropropane	1.0
	CFC-212	Hexachloridefluoropropane	1.0
	CFC-213	Pentachlorotrifluoropropane	1.0
	CFC-214	Tetrachlorotetraflouropropane	1.0
	CFC-215	Trichloropentafluoropropane	1.0
	CFC-216	Dichlorohexafluoropropane	1.0
	CFC-217	Chloroheptafluoropropane	1.0
	GROUP II		
	CCl_4	Carbon Tetrachloride (Tetracloromethane)	1.1
	GROUP III C_2, H_3, Cl_3	Methyl Chloroform (1, 1, 1—Trichloroethane)	0.1

ANNEX C: GROUP I

Partially halogenated fluorochemicals (40 compounds including HCFC-21, HCFC-22, HCFC-123, HCFC-124, HCFC-141b, HCFC-142) all with ODPs of less than 0.12, are defined as transitional substances.

Group I	*Controlled Substance*	*Number of isomers*	*Ozone-Depleting Potential (ODP)*
CHF_2Cl	HCFC-22**	1	0.055
CH_2FCl	HCFC-31	1	0.02
C_2HFCl_4	HCFC-121	2	0.01-0.04
$C_2HF_2Cl_3$	HCFC-122	3	0.02-0.08
$C_2HF_3Cl_3$	HCFC-123	3	0.02-0.06
$CHCL_2CF_3$	HCFC-123**	-	0.02
C_2HF_4Cl	HCFC-124	2	0.02-0.04
$CHFCLCF_3$	HCFC-124**	-	0.022
$C_2H_2FCl_3$	HCFC-131	3	0.007-0.05
$C_2H_2F_2Cl_2$	HCFC-132	4	0.008-0.05
$C_2H_2F_3Cl$	HCFC-133	3	0.02-0.06
$C_2H_3FC_2$	HCFC-141	3	0.005-0.07
CH_3CF_2Cl	HCFC-141b**	-	0.11
$C_2H_3F_2Cl$	HCFC-142	3	0.008-0.07
CH_3CF_2Cl	HCFC- -142b**	-	0.065
C_2H_4FCl	HCFC-151	2	0.003-0.005
C_3HFCl_6	HCFC-221	5	0.015-0.07
$C_3HF_2Cl_5$	HCFC-222	9	0.01-0.09
$C_3HF_3Cl_4$	HCFC-223	12	0.01-0.08
$C_3HF_4Cl_3$	HCFC-224	12	0.01-0.09
$C_3HF_5Cl_2$	HCFC-225	9	0.02-0.07
$CF_3CF_2CHCl_2$	HCFC-225ca**	-	0.025
CF_2ClCF_2CHClF	HCFC-cb-225	-	0.033
C_3HF_6Cl	HCFC-226	5	0.02-0.10
$C_3H_2FCl_5$	HCFC-231	9	0.05-0.09
$C_3H_2F_2Cl_4$	HCFC-232	16	0.008-0.10
$C_3H_2F_3Cl_3$	HCFC-233	18	0.007-0.23
$C_3H_2F_4Cl_{12}$	HCFC-234	16	0.01-0.28
$C_3H_2F_5Cl$	HCFC-235	9	0.03-0.52
$C_3H_3FCl_4$	HCFC-241	12	0.004-0.09
$C_3H_3F_2Cl_3$	HCFC-242	18	0.005-0.13

[Subsidiary]

Group I	*Controlled Substance*	*Number of isomers*	*Ozone-Depleting Potential (ODP)*
$C_3H_3F_3Cl_2$	HCFC-243	18	0.007-0.12
$C_3H_3F_4Cl$	HCFC-244	12	0.009-0.14
$C_3H_4FCl_3$	HCFC-251	12	0.001-0.01
$C_2H_4F_2Cl_2$	HCFC-252	16	0.005-0.04
$C_3H_4F_3Cl$	HCFC-253	12	0.003-0.03
$C_3H_5FCl_2$	HCFC-261	9	0.002-0.02
$C_3H_5F_2Cl$	HCFC-262	9	0.002-0.02
C_3H_6FCl	HCFC-271	5	0.001-0.03

GROUP II

Hydrobromofluorocarbons (34 compounds with ODPs estimated to vary from around 0.1 up to 1.00)

Group II	*Controlled Substance*	*Number of isomers*	*Ozone-Depleting Potential (ODP)*
$CHFBr_2$		1	1.00
CHF_2Br	(HBFC-22B1)	1	0.74
CH_2FBr		1	0.73
$C_2HF_2Br_4$		2	0.3-0.8
$C_2HF_2Br_3$		3	0.5-1.8
$C_2HF_3Br_2$		3	0.4-1.6
C_2HF_4Br		2	0.7-1.2
$C_2H_2FBr_3$		3	0.1-1.1
$C_2H_2F_2Br_2$		4	0.2-1.5
$C_2H_2F_3Br$		3	0.7-1.6
$C_2H_3FBr_2$		3	0.1-1.7
$C_2H_3F_2Br$		3	0.2-1.1
C_2H_4FBr		2	0.07-0.1
C_3HFBr_6		5	0.3-1.5
$C_3HF_2Br_5$		9	0.2-1.9

[Subsidiary]

Group II	*Controlled Substance*	*Number of isomers*	*Ozone-Depleting Potential (ODP)*
$C_3HF_3Br_4$		12	0.3-1.8
$C_3HF_4Br_3$		12	0.5-2.2
$C_3HF_5Br_2$		9	0.9-2.0
C_3HF_6Br		5	0.7-3.3
$C_3H_2FBr_5$		9	0.1-1.9
$C_3H_2F_2Br_4$		16	0.2-2.1
$C_3H_2F_3Br_3$		18	0.2-5.6
$C_3H_2F_4Br_2$		16	0.3-7.5
$C_3H_2F_5Br$		8	0.9-14.0
$C_3H_3FBr_4$		12	0.08-1.9
$C_3H_3F_2Br_3$		18	0.1-3.1
$C_3H_3F_3Br_2$		18	0.1-2.5
$C_3H_3F_4Br$		12	0.3-4.4
$C_3H_4FBr_3$		12	0.03-0.3
$C_3H_4F_2Br_2$		16	0.1-1.0
$C_3H_4F_3Br$		12	0.07-0.8
$C_3H_5FBr_2$		9	0.04-0.4
$C_3H_5F_2Br$		9	0.07-0.8
C_3H_6FBr		5	0.02-0.7

GROUP III

CH_2BrCl	bromochloromethane	0.12

*Where a range of ODPs is indicated, the highest value in that range shall be used for the purposes of these Regulations. The ODPs listed as a single value have been determined from calculations based on laboratory measurements. Those listed as a range are based on estimates and are less certain. The range pertains to an isomeric group. The upper value is the estimate of the ODP of the isomer with the highest ODP, and the lower value is the estimate of the ODP of the isomer with the lowest ODP.

** Identifies the most commercially viable substances with ODP values listed against them to be used for the purposes of these Regulations.

ANNEX D*

PRODUCTS** CONTAINING CONTROLLED SUBSTANCES

Products**

1 Automobile and truck air conditioning units (whether incorporated in vehicles or not)

2 Domestic and commercial refrigeration and air conditioning/heat pump equipment***

e.g. Refrigerators
Freezers
Dehumidifiers
Water coolers
Ice machines
Air conditioning and heat pump units

3 Aerosol products, except medical aerosols
4 Portable fire extinguisher
5 Insulation boards, panels and pipe covers
6 Pre-polymers

* This Annex was adopted by the Third Meeting of the Parties in Nairobi, 21st June 1991 as required by paragraph 3 of Article 4 of the Protocol.

** Though not when transported in consignments of personal or household effects or in similar non-commercial situations normally exempted from customs attention.

***When containing controlled substances in Annex A as a refrigerant and/or in insulating material of the product.

ANNEX E

Group	*Controlled Substance*	*Ozone-Depleting Potential*
Group I		
CH_3Br	Methyl bromide	0.6

SECOND SCHEDULE

FORM 1

THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION ACT

(*No*. 8 *of* 1999)

Application Reference No ..……

(r. 9 (2))

APPLICATION FOR LICENCE TO PRODUCE CONTROLLED SUBSTANCES

Name of Applicant: …….....

Person Authorized to act on behalf of Applicant: (Name and Title) ….....……..

…….....……..

Contact Person: (Name and Title) …….....

National Identification Card /Passport No: …….....

Contacts Person's Physical and Postal Address: (Business) ……....

…….....

Contacts Person's Physical and Postal Address: (Residential) …….....……

……

Company Name: …….....

Physical Address: …….....

Postal Address: …….....

……

…….....

Main Business Activity: …….....

Tel/Fax/Email contacts: …….....

Registration Certificate No.: …….....

PIN number: …….....

hereby applies for a licence to produce the following types of controlled substances.

[Subsidiary]

Type of Controlled Substances	*Quantity to be produced (Kgs.)*
1. …….....……..	…….....……
2. …….....……..	…….....……
3. …….....……..	…….....……
4. …….....……..	…….....……
5. …….....……..	…….....……

I declare that the information provided in this application is correct and accurate, and that the applicant undertakes to produce the controlled substance in compliance with the provisions of these Regulations.

Date …….....…….....…… 20 ……

Name …….....…… Signature …….....……

Witness …….....……..

Address …….....……

Occupation …….....……

OFFICIAL USE ONLY:

Date Received …….....…….……

Amount Paid …….....……

Receipt No …….....……

Signature …….....……

Official Stamp …….....……

Accepted/Rejected

Reason(s) for rejection …….....……
……
…….....……

Complaint against decision should be addressed to the Tribunal and submitted not later than ……..

Date …….....……

……
(*Name and Signature of duly authorized officer*)

FORM 2

THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION ACT

(*No*. 8 *of* 1999)

Application Reference No ……

(r. 11 (3))

APPLICATION FOR LICENCE TO IMPORT CONTROLLED SUBSTANCES

Name of Applicant: …….....

Person Authorized to act on behalf of Applicant: (Name and Title) ….....…….

…….....…….

Contact Person: (Name and Title) …….....

National Identification Card /Passport No. …….....

Contacts: Person's Physical and Postal Address: (Business) ……....

…….....

Contacts: Person's Physical and Postal Address: (Residential) …….....……

……

Company Name …….....

Physical Address …….....

Postal Address …….....

……

Main Business Activity …….....

Tel/Fax/Email contacts …….....

Registration Certificate No. …….....

PIN …….....…….....

hereby applies for a licence to import the following controlled substances.

[Subsidiary]

	Type of Controlled Substances	*Quantity to be Produced (Kgs)*	*Country of Origin*	*Name and Address of Licensee*
1				
2				
3				
4				
5				
6				
7				

I declare that the information provided in this application is correct and accurate, and that the applicant undertakes to import the controlled substance in compliance with the provisions of these Regulations.

Date ……..…… 20 ……...……...…..

Name ……...…… Signature …….....……

Witness …….....……

Address …….....……

Occupation …….....……

Official Use Only:

Date Received …….....……

Amount Paid …….....……

Receipt No ……..……

Prior Informed Consent (PlC) Issued: Yes/No

PlC Number: …….....……

Date of Issue: …….....……

Signature: …….....……

Official Stamp …….....……

Accepted/Rejected

Reason(s) for rejection:

……

……

……

FORM 3

THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION ACT

(*No*. 8 *of* 1999)

(r. 12 (2))

Application Form No ……..

APPLICATION TO TRANSPORT CONTROLLED SUBSTANCES THROUGH KENYA

1. Exporter Registration No. …….....……

Name: …….....……

Address: …….....……

Contact Person: …….....……

Telephone: ……...……Fax: …….....……..

E-mail: …….....……

2. Importer Registration No. …….....……

Name: …….....……

Address: …….....……

Contact Person: …….....……

Telephone: …….. Fax:…….....……

E-mail: …….....……

3. Classification and qualities of Controlled Substances to be transported

	Class	Quantities in Kgs/Litres
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		

4. Intended period of time for transport:

   Expected entry date: ……

   Expected exit date: ……

5. Description of packaging type(s)

   ……

   …… ……

   …… ……

6. Intended carrier(s) Registration No.

   Name ……

   Address …… ……

   Contact Person …… ……

   Telephone …… …… Fax: ……

   Means of transport ……

7. Written Prior Informed Consent (PIC) from relevant Competent Authority of country of import:

   Has consent been given? YES _ NO_

   If YES, attach a copy of the PIC

I/We …… hereby confirm that the above information and particulars is true and correct.

Signature and stamp ……

Date: ……

[Subsidiary]

FORM 4

THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION ACT
(*No*. 8 *of* 1999)

(r. 10 (2))

Application Reference No ……

APPLICATION FOR LICENCE TO EXPORT CONTROLLED SUBSTANCES

Name of Applicant: …….....

Person Authorized to act on behalf of Applicant (Name and Title) ….....……..

…….....……..

Contact Person (Name and Title) …….....

National Identification Card /Passport No: …….....

Contacts: Person's Physical and Postal Address: (Business) ……....

…….....

Contacts: Person's Physical and Postal Address: (Residential) …….....……

……

Company Name: …….....

Physical Address: …….....

Postal Address: ……....……

Main Business Activity: …….....

Tel/Fax/Email contacts: …….....

Registration Certificate No. …….....

PIN …….....…….....

hereby applies for a licence to export the following types of controlled substances.

	Type of Controlled Substances	*Quantity (Kgs)*	*Country of Export*	*Name and Address of Importer*
1				
2				
3				
4				
5				
6				
7				
8				
9				

I declare that the information provided in this application is correct and accurate, and that the applicant undertakes to export the controlled substance in compliance with the provisions of these Regulations

Date ……..…….....…… 20 ……...……

Name …….....…… Signature ……..…

Witness …….....……

Address …….....……

Occupation: …….....……

Official Use Only:

Prior Informed Consent Received: YES/NO

Date Received …….....……

PIN: …….....……

Amount Paid …….....……

Receipt No …….....……

Signature …….....……

Official Stamp …….....……

Accepted/Rejected

Reason(s) for rejection:

……..……

……

FORM 5

THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION ACT
(*No*. 8 *of* 1999)

(r. 13 (2))

Application Ref. No. ……..

APPLICATION FOR PERMIT TO IMPORT/EXPORT CONTROLLED SUBSTANCES

Name of Applicant: …….....

Licence Number: ……...……. Control Period: ……....……..

Quantity licensed to be Imported/Exported: …….....……

Person Authorized to act on behalf of Applicant (Name and Title):

……....……..

Contact Person (Name and Title): …….....

……....……..

National Identification Card /Passport No: …….....

Contact Person's Physical and Postal Address (Residential): ……....

…….....

[Subsidiary]

Company Name: …….....

Physical Address: …….....

Postal Address: ……...……

Main Business Activity: …….....

Telephone/Fax/E-mail contacts: ……...…….....

Registration Certificate No. : …….....

Personal Identification Number (PIN): …….....……

hereby applies for a permit to import/export the following controlled substances.

Class/ Type of Controlled Substance	*Trade Name*	*Quantity (Kg) to be imported/ exported*	*Balance of Quantity to be imported/ exported*	*Country of origin/ destination*	*Name and address of importer/ exporter*

I declare that the information provided in this application is correct and accurate, and that the applicant undertakes to import/export the controlled substance in compliance with the provisions of these Regulations.

Date: …….....…… 20 ….....……

Name: …….....…… Signature: ……...……

Witness: …….....……

Address: …….....……

Occupation: …….....……

OFFICIAL USE ONLY:

Date Received: …….....……

Amount Paid: …….....……

Receipt No …….....……

Signature: …….....……

Official Stamp: …….....……

Accepted/Rejected:

Reason(s) for rejection: ……...…….....……

…….....…….....

.....…….....…….....……

FORM 6

THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION ACT

(*No*. 8 *of* 1999)

(r. 9 (4))

LICENCE TO PRODUCE CONTROLLED SUBSTANCES

…….. is hereby licensed to produce the following controlled substance(s) for the period running from …….....…… to …….....……

List of controlled substances:

Type of Controlled Substances	*Quantity to be Produced (Kgs)*

Conditions attached to this licence:

1. ……....…..

2. …….....……

3. …….....……

Date: …….....…….....……

……..……

DIRECTOR GENERAL
NATIONAL ENVIRONMENT MANAGEMENT AUTHORITY

SEAL

[Subsidiary]

FORM 7

THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION ACT

(*No*. 8 *of* 1999)

(r. 14 (6))

PERMIT TO IMPORT/EXPORT CONTROLLED SUBSTANCES

…… is hereby permitted to import/export the following shipment of controlled substance(s):

Licence No.	*Type of Controlled Substance*	*Trade Name*	*Approved/ Licenced Quantity (Kgs)*	*Quantity Previously Imported/ Exported*	*Quantity to be Imported/ Exported*	*Balance of Quantity to be Imported/ Exported*	*Country of origin/ destination*	*Name and address of importer/ exporter*

Conditions attached to this Permit:

1. ……

2. ……

3. ……

4. ……

5. ……

Date: ……

……

DIRECTOR GENERAL
NATIONAL ENVIRONMENT MANAGEMENT AUTHORITY

……

SEAL

THIRD SCHEDULE

FORM A

THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION ACT

(*No*. 8 *of* 1999)

(r. 21)

REGISTER OF LICENCE APPLICATIONS RECEIVED

Name of Applicant	*Application No.*	*Date Received*	*Type/Class of Controlled Substance to be imported/exported*	*Trade Name*	*Activity to be licensed Import/ Export*	*Quantity to be Imported/ Exported (Kgs)*	*Contact Address of Importer/ Exporter*	*Country of Origin/ Destination*	*Decision of NEMA*

FORM B

THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION ACT

(*No*. 8 *of* 1999)

(r. 21)

REGISTER OF LICENCES ISSUED

Licence No.	*Name of Licence*	*Date of Issue*	*Type/Class of Controlled Substance to be imported/exported*	*Trade Name*	*Activity licensed Import/ Export*	*Quantity to be Imported/ Exported (Kgs)*	*Contact Address of Licensee*	*Country of Origin/ Destination*	*Conditions attached to the Licence*

FORM C

THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION ACT
(*No*. 8 *of* 1999)

(r. 21)

REGISTER OF PERMITS ISSUED

Permit No.	*Licence No.*	*Name of Person Issued with the Permit*	*Date of Issue*	*Type/Class of Controlled Substance to be imported/ exported*	*Trade Name*	*Activity Permitted, Import/ Export*	*Quantity to be Imported/ Exported (Kgs)*	*Contact Address of Licensee*	*Country of Origin/ Destination*	*Conditions Attached to the Permit*

FORM D

THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION ACT
(*No*. 8 *of* 1999)

(r. 21)

THIRD SCHEDULE

REGISTER OF CONTROLLED SUBSTANCES IMPORTED, EXPORTED OR DISPOSED AND THEIR QUANTITIES

Type/Class of Controlled Substance to be Imported/Exported/ Disposed	*Trade Name*	*Date of Importation/ Exportation/ Disposal*	*Quantity to be Imported/ Exported/ Disposed (Kgs)*	*Country of Origin/ Destination/ Disposal*	*Contact Address of Importer/ Exporter or Disposer*	*Quantity of the Controlled Substance in use in the country (Kgs)*	*NEMA Remarks*

FORM E

THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION ACT
(*No*. 8 *of* 1999)

(r. 22)

THIRD SCHEDULE

REGISTER OF RETURNS MADE BY LICENSEES

Name of Licensee	*Contact Address of Licensee*	*Licence No.*	*Type/Class of Controlled Substance to be imported/ exported*	*Trade Name*	*Actual Date of Import/ Export*	*Quantity Imported/ Exported (Kgs)*	*Ozone Depleting Potential (ODP)*	*Calculated level of Import/ Export Quantity of the Controlled Substance in use in the country*	*Date of Control*	*Name and Address of Recipients of the Controlled Substance(s)*

FOURTH SCHEDULE

THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION ACT

(*No*. 8 *of* 1999)

(r. 25 (1))

Declaration No. ……..

DECLARATION BY THE RECIPIENT/BUYER OF CONTROLLED SUBSTANCE(S)

Information concerning the vendor/supplier:

Name of Vendor/Supplier: …….....……

PIN Number: ……..…… Telephone: ….....……

Licence Number: …….....……

Address: …….....……

Information concerning the Buyer/Recipient

Contact person (Name and Title): …….....……

……..……

National Identification Card/Passport Number: ….……

Contact person's physical and postal address: (Residential)……...……

……

Company Name: …….....……

Physical address: …….....……

Postal address: …….....……

Main business activity: …….....……..

Telephone/Fax/E-mail contacts: …….....……..

Registration Certificate Number: …….....……..

PIN: …….....……

Type of Controlled Substance	*Quantity (Kgs)*	*Trade Name*	*Purpose*

I undertake not to sell or otherwise supply any of the quantity of the controlled substances received to any person who has not signed a declaration in this format.

I also undertake to use all of the controlled substances received for the purpose set out in the declaration but not for any other purpose.

I declare that the information provided in this declaration is correct to the best of my knowledge and belief.

Designation: ……....…… Signature: ……

Company: ……..…… Address: …….....……

Occupation: …….....……

Witness: ……....…… Signature: …….……

Official Use Only:

Date Received: …….....……

Amount paid: …….....……

Receipt No. …….....……

Licence No. …….....……..

Signature: ……..

Official Stamp: ……..

FIFTH SCHEDULE

THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION ACT

(*No*. 8 *of* 1999)

(r. 26 (2))

REPORT ON THE IMPORTATION/EXPORTATION OF CONTROLLED SUBSTANCES

Name of Licensee: …….....……

Application Number: …….....……

Licence Number: …….....……

Name of Licensing Officer: …….....……

Contact Person (Name and Title) …….....……

National Identification Card/Passport Number: …….....……

[Subsidiary]

Contact person's physical and postal address: .....……..……

……

Company Name: …….....……

Physical Address: …….....……

Postal Address: …….....……

Main Business Activity: …….....……..

Telephone/Fax/E-mail contacts: …….....……..

Registration Certificate Number: …….....……..

Personal Identification Number: .....

…… hereby submits a report on the importation/ exportation of the following controlled substances

Class/ Type of Controlled Substance	*Trade Name*	*Quantity (Kg) licenced to be imported/ exported*	*Date of import/ export*	*Quantity imported/ exported*	*Balance to be imported/ exported*	*Country of origin/ destination*	*Name and address of importer/ exporter*

Use(s) of the Controlled Substance Imported/Exported:

(*a*) ……..

(*b*) ……

(*c*) ……

(*d*) ……

Date of Clearance: ……

I declare that the information provided in this report is correct and accurate to the best of my knowledge and belief.

…….....…… …….....…… ….....……

Date *Name* *Signature*

Designation: …….....……

Company: …….....……

Address: …….....……

Occupation: …….....……

Official Use Only

Date Received: …….....……

Amount Paid: …….....……

Receipt Number: …….....……

Signature: …….....……

Official Stamp: …….....……

SIXTH SCHEDULE

ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION ACT

(*No*. 8 *of* 1999)

(r. 9 (2), 10 (2), 11 (3), 12 (2) (*b*), 13 (2), 30)

FEES

The fees chargeable under these Regulations shall be as specified hereunder and shall be non-refundable except as indicated.

(*a*) Application for a licence to produce controlled substances …… KSh.15,000

(*b*) Application for a licence to import a controlled substance ……. KSh.15,000

(*c*) Deposit bond - 15% of Cost, Insurance and Freight value (CIF) (Refundable)

(*d*) Application to export a controlled substance …… KSh.7,500

(*e*) Application for a permit to export or import a controlled substance KShs.1,500

(*f*) Inspection of records …….....…… KShs.200

[Subsidiary]

THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION (WETLANDS, RIVER BANKS, LAKE SHORES AND SEA SHORE MANAGEMENT) REGULATIONS, 2009

ARRANGEMENT OF REGULATIONS

PART 1—PRELIMINARY

1—Citation.
2—Interpretation.

PART II—MANAGEMENT OF WETLANDS AND WETLAND RESOURCES

3—Application of Part.
4—Objectives of Part.
5—General Principles.
6—The Standards Enforcement Review Committee.
7—The District Environment Committee.
8—Protected Wetlands.
9—Procedure for Declaration of Protected Wetlands.
10—Inventory of Wetlands.
11—Permitted use of Wetlands.
12—Wetland Resource Use Permit.
13—Temporary Permit.
14—Duty of Land Owners, users and occupiers.

PART III—MANAGEMENT OF RIVER BANKS, LAKE SHORES AND SEA SHORE

15—Application of Part.
16—Objective of Part.
17—General Principles.
18—Identification of Degraded River banks, Lakes shores and Sea shore.
19—Resource Use Permit.
20—Duty of District Environment Committee.

PART IV—MISCELLANEOUS

21—Requirement for Environmental Impact Assessment.
22—Environmental Restoration Order.
23—Duty of Environment Officer.
24—Sanitation.
25—Transition.
26—Improvement Notice.
27—Offences and Penalties.
28—Appeals.
29—Delegation of Powers and Functions.
30—Operation of Regulations.

SCHEDULE—Regulated Activities Permitted within Protected Wetlands

[Subsidiary]

L.N. 19/2009.

THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION (WETLANDS, RIVER BANKS, LAKE SHORES AND SEA SHORE MANAGEMENT) REGULATIONS, 2009

PART 1—PRELIMINARY

Citation.

1. These Regulations may be cited as the Environmental Management and Co-ordination (Wetlands, River Banks, Lake Shores and Sea Shore Management) Regulation, 2009.

Interpretation.

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

"agriculture" means all farming activities including cultivation, agroforestry, bee keeping, livestock management and aquaculture;

"alien species" means any exotic non-indigenous life forms originating from outside a given ecological location, accidentally or deliberately introduced to the location by human activity or by natural means;

"beach" means a geological landform of loose particles often composed of rock, sand, gravel, shingle, pebbles or cobble, found at the landward margin of a lake or coast line, the lower limits approximating to the position of the highest and lowest tidal water levels;

"beach front" means a strip of land facing or running along a beach;

"Board" means the Board of Management of the Authority established under section 10 of the Act;

"community" means community of people living in a defined geographical area and identified by common history, common culture or common residence in an area, and may comprise of representative members of the organized institutions in the private sector or members of the civil society;

"conservation" means the care and management of a resource so that the resource maintains its ability to fulfill its functions and provide goods and services for present and future generations;

"District Environment Committee" means the District environment committee appointed under section 29 of the Act;

"drainage of wetlands" means the removal or exclusion of water from a wetland by pumping, excavation of channels, planting of fast growing non-wetland trees or plants, abstraction of water from a river entering a wetland, channeling, or reclamation,

"Director-General" includes, for the purposes of these Regulations, a person authorized by the Director-General to act on his behalf;

"high water mark" means the historical recorded point of the highest level of contact between the water and the shore or bank, as the case may be;

"hunting" includes the doing of an act immediately directed at killing, wounding, injuring or capture of any animal and the taking or willful interference with any nest, lair or other place where a dependent young animal is born, hatched, or reared;

"inspector" means an inspector designated as an environmental inspector under section 117 of the Act;

"interested parties" includes the community the lead agency, the Provincial Environment Committee, the District Environment Committee and the Local Environment Committee, and any other party having a discernible interest or a concern;

"lake" means a body of fresh or salt water of considerable size, completely surrounded by land, or a natural body or pool of water;

"Lake shore" means the rising ground from the highest normal water mark, bordering or adjacent to a lake in the form of rock, mud, gravel or sand;

"lead agency" means any Government ministry, department, state corporation or local authority in which any law vests functions of control or management of any element of the environment or natural resource;

"livestock" includes cattle, horses, donkeys, mules, pigs, sheep, goats, camels and all other domesticated animals;

"low water mark" means the historical recorded point of the lowest level of contact between the water and the shore or the bank as the case may be;

"management plan" means a management plan for a wetland, riverbank, lakeshore or seashore, prepared under regulation 9;

"Minister" means the Minister for the time being responsible for matters relating to the environment;

"modification" means any man-made change in the natural state of a wetland, riverbank or lake shore;

"natural resources" include resources of the land, air, water, animals and plants including their aesthetic qualities;

"occupier" means a person in possession or control of any land in which there is a wetland, riverbank, lakeshore, sea shore or beach front;

"polluter pays principle" means that the cost of cleaning up any element of the environment damaged by pollution, compensating victims of pollution, cost of beneficial uses lost as a result of an act of pollution and other costs that are connected with or incidental to the foregoing, is to be paid or borne by the person convicted of pollution under this Act or any other applicable law;

"pre-cautionary principle" is the principle that where there are threats of

damage to the environment, whether serious or irreversible, lack of full scientific certainty shall not be used as a reason for postponing cost effective measures to prevent environmental degradation;

"protected species" means any plant or animal species declared as endangered or threatened species under the Wildlife (Conservation and Management) Act; Cap. 376.

"endangered species" means any species which is in danger of extinction throughout all or a significant portion of its range due to man-made or natural changes in the environment or as may be declared by the relevant national authority;

"threatened species" means any species of plant or animal is likely to become an endangered species within the foreseeable future throughout or in a significant portion of its range or as may be declared by the relevant national authority;

"protected wetlands" means an area declared as a protected wetland under these Regulations or any other written law;

"provincial environment committee" means the Provincial Environment Committee appointed under section 29 of the Act;

"restoration" means regeneration or putting back a wetland, riverbank or lake shore or sea shore to the state it was in or near to what it was before it was modified;

"river bank" means the rising ground from the highest normal water mark, bordering or adjacent to a river in the form of rock, mud, gravel or sand and in cases of flood plains includes the point where the water surface touches the land, that land not being the bed of the river;

"river" includes a permanent and seasonal river;

"riverine wetlands" includes wetlands along rivers and streams;

"soil" includes earth, sand, rock, shale, minerals, and the flora and fauna in the soil and the derivates thereof;

"soil erosion" means, a general process whereby soil articles are worn away or removed by natural agencies;

"sustainable use" means present use of the environment or natural resources which does not compromise the ability to use the same by future generations or degrade the carrying capacity of supporting ecosystems;

"Tribunal" means the National Environment Tribunal established under section 125 of the Act;

"water" includes drinking water, river, stream water course, reservoir, well, dam, canal, channel, lake ,swamp, open drain or underground water;

"wetlands" means areas permanently or seasonally flooded by water where plants and animals have become adapted; and include swamps, areas of marsh, peat land, mountain bogs, bank of rivers, vegetation, areas of impeded drainage or brackish, salt or alkaline; including areas of marine water the depth of which at low tide does not exceed 6 meters. It also incorporates riparian and coastal zones adjacent to the wetlands;

"wetland products" includes fish, fibre, fruit, papyrus, grass, soil, stone, gravel, sand and such other things as the Minister may by statutory instrument declare to be wetland produce;

"Wetland resource use permit" means a permit granted to a person, community or organization to make extractive utilization of wetlands and other non-extractive uses such as tourism and cultural activities in accordance with the grant under these Regulations or any other law;

PART II—MANAGEMENT OF WETLANDS AND WETLAND RESOURCES

Application of Part.

3. This part applies to all wetlands in Kenya whether occurring in private or public land.

Objectives of Part.

4. The Objectives of this Part of the Regulations include—

(*a*) to provide for the conservation and sustainable use of wetlands and their resources in Kenya;

(*b*) to promote the integration of sustainable use of resources in wetlands into the local and national management of natural resources for socio-economic development;

(*c*) to ensure the conservation of water catchments and the control of floods;

(*d*) to ensure the sustainable use of wetlands for ecological and aesthetic purposes for the common good of all citizens;

(*e*) to ensure the protection of wetlands as habitats for species of fauna and flora;

(*f*) provide a framework for public participation in the management of wetlands;

(*g*) to enhance education research and related activities; and

(*h*) to prevent and control pollution and siltation.

General Principles.

5. (1) The following principles shall be observed in the management of all wetlands in Kenya;

(*a*) Wetland resources shall be utilized in a sustainable manner compatible with the continued presence of wetlands and their

hydrological ,ecological, social and economic functions and services;

(*b*) Environmental impact assessment and environmental audits as required under the Act shall be mandatory for all activities likely to have an adverse impact on the wetland;

(*c*) Special measures shall be essential to promote respect for, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits arising from the utilization of such knowledge, innovations and practices;

(*d*) Sustainable use of wetlands shall be integrated into the national and local land use plans to ensure sustainable use and management of the resources;

(*e*) The principle of public participation in the management of wetlands;

(*f*) The principle of international co-operation in the management of environmental resources shared by two or more states;

(*g*) The polluter-pays principle.

(*h*) The pre-cautionary principle.

(*i*) Public and private good.

(2) The obligations under these Regulations shall at all times take into account the provisions of other statutes.

The Standards Enforcement Review Committee.

6. (1) The Standards and Enforcement Review Committee established under the Act shall be responsible for advising the Authority on the wise use, management and conservation of wetland resources.

(2) The functions of the Committee in relation to wetlands shall include—

(*a*) reviewing the implementation guidelines for wetlands management and making the necessary recommendations to the Authority;

(*b*) reviewing and recommending regulations or guidelines to be issued by the Authority to developers, occupiers and users;

(*c*) advising the Authority on any other issues relating to conservation and management of wetland resources.

The District Environment Committee.

7. The District Environment Committee shall be responsible for coordinating, monitoring, and advising on all aspects of wetland resource management within the District.

Protected Wetlands.

8. (1) The Minister may, by notice in the Gazette, declare an area to be a protected wetland where such area has national and international significance due to its—

(*a*) biological diversity;

(*b*) ecological importance;

(*c*) landscape;

(*d*) natural heritage, or

(*e*) aesthetic value.

(2) Upon declaration of an area to be a wetland, the following shall be the only activities be permitted to be carried out in the area—

(*a*) research;

(*b*) eco-tourism;

(*c*) restoration or enhancement of the wetland; or

(*d*) any other activities identified in the Management plan.

(3) Notwithstanding sub-regulation (2), a protected wetland may be used for the regulated activities set out in the Schedule.

Procedure for declaration of a protected wetland.

9. (1) The declaration of a protected wetland under regulations 8 may be done by the Minister—

(*a*) in consultation with the relevant lead agency; or

(*b*) On the recommendation of the Authority on its own motion or in consultation with the lead agency, a registered civil society organization or an individual person.

(2) Where the Authority of its own motion or in consultation with the relevant lead agency initiates the process of declaring an area to be a protected wetland under sub-regulation (1), the Authority shall—

(*a*) by notice in the Gazette and in at least one newspaper circulating in the local area, notify the public of its intention to declare the area to be a protected wetland, which notice shall identify and assign terms of reference to a task force which shall be mandated to prepare the wetland management plan;

(*b*)set up a task force to prepare a wetland management plan by, incorporating the views of the people inhabiting the areas contiguous to the wetland;

(*c*) cause a Strategic Environmental Assessment of the management plan to be undertaken in accordance with the Act;

(*d*) review the report containing the findings under paragraphs (*b*) and (*c*) of this sub-regulation.

(3) Where the Authority is satisfied with the findings under sub-regulation (2) (*d*), it shall submit its recommendations to the Minister for the gazettement of the wetland.

(4) Where a lead agency, a member of the public or a registered civil society organization petitions the Authority to initiate the process for declaration of an area as a protected wetland, the Authority shall consider the petition and may initiate the process as set out in sub-regulation (2).

(5) Without prejudice to the foregoing, a petitioner for the declaration of a wetland, may cause a wetland management plan to be developed in consultation with the Authority, and the such costs associated with the activities thereto shall be borne by the petitioner.

(6) Where, following a petition under subregulation (4) and (5), the Authority declines to initiate the process of declaring an area to be a protected wetland, it shall communicate its decision together with its reasons, to the petitioner within 60 days of the decision to decline.

Inventory of Wetlands.

10. (1) Within three years from the date of commencement of these Regulations, the Authority shall, in consultation with the relevant lead agency, prepare and maintain an inventory of all wetlands in Kenya, and shall cause such measures, including the development of wetland management plans, to prevent and control degradation of such wetlands.

(2) The inventory in sub-regulation (1) shall show for each wetland—

(*a*) the location;

(*b*) the type of fauna and flora;

(*c*) the soil and hydrological characteristics;

(*d*) the discharge, volume fluctuations and quality of water where possible;

(*e*) the existing uses;

(*f*) use of the wetland;

(*g*) the density of the population in the wetland catchment, drawing attention especially to those most dependant on the wetland;

(*h*) the conservation status;

(*i*) the area of the wetland;

(*j*) the land tenure system in the wetland catchment, and

(*k*) any other factor relevant to the wetland.

(3) The boundaries of such wetlands shall be shown on all official boundary maps of Kenya.

(4) The Authority shall periodically inspect the wetlands to determine the necessity for revision or correction of the inventory maintained under this Regulation.

(5) The Authority may, in consultation with the relevant lead agency, register changes in the boundaries of wetlands on maps in the inventory referred to in sub-regulation (3), and make any other necessary changes in the inventory to reflect the actual situation on the ground.

(6) In preparing an inventory of wetlands, the Director-General shall consult with the District Environment Committees with a view to involving the public in determining whether a wetland should be included in the list of wetlands of national or international importance.

(7) The Authority shall, in consultation with the relevant lead agency, publish the inventory of wetlands after every two years, reflecting the current state of wetlands included in the inventory.

Permitted use of Wetlands.

11. The following sustainable uses of wetland resources shall not be subject to these Regulations—

(*a*) subsistence harvesting of papyrus, medicinal plants, trees and reeds;

(*b*) any cultivation where the cultivated area is not likely to adversely affect the wetland;

Cap. 378.

(*c*) fishing, subject to the provisions of the Fisheries Act;

(*d*) collection of water for domestic use;

Cap. 376.

(*e*) hunting, subject to the provisions of the Wildlife (Conservation and Management) Act;

(*f*) small-scale fish farming; and

(*g*) grazing of livestock.

Wetland Resource Use Permit.

12. Subject to the provisions of Section 42 of the Act, no person shall carry out any of the activities stipulated therein without a permit issued by the relevant lead agency and an Environmental Impact Assessment License issued by the Authority where applicable.

Temporary Permit.

13. (1) The lead agency may, after consultation with the Director-General, a grant a temporary permit to an applicant for the use of a wetland where—

(*a*) there is need to use water for emergency situations pending the availability of alternative sources of supply; or

(*b*) a special research project requires the use of the wetland for a specified period of time;

(2) The temporary permit issued under this Regulation therein shall be valid for a maximum period of three months, and may be renewed for a further period of three months upon application by the holder with reasons to the satisfaction of the Director-General.

Duty of land owners users and occupiers.

14. (1) Every owner, occupier or user of land which is adjacent or contiguous to a wetland shall, with advice from the Authority, have a duty to prevent the degradation or destruction of the wetland, and shall maintain the ecological and other functions of the wetland.

(2) Any person who fails, neglects, or refuses to protect a wetland under sub-regulation (1) commits an offence.

PART III—MANAGEMENT OF RIVER BANKS, LAKE SHORES AND SEA SHORE

Application of Part.

15. This part shall apply to all river banks, lake shores and to the sea shore in Kenya.

Objectives of Part.

16. The objectives of this Part include—

(*a*) to facilitate the sustainable utilization and conservation of resources on river banks, lake shores, and on the seashore by and for the benefit of the people and community living in the area;

(*b*) promote the integration of sustainable use of resources in riverbanks lake shores and the seashore into the local and national management of natural resources for socio-economic development;

(*c*) enhance education, research and research related activities; and

(*d*) prevent siltation of rivers and lakes and control pollution or and other activities likely to degrade the environment.

General Principles.

17. The following principles shall be observed in the management and conservation of river banks, lake shores and the seashore;

(*a*) Resources on the river banks, lake shores and the sea shore shall be utilized in a sustainable manner;

(*b*) Environmental impact assessment as required under the Act shall be mandatory for all major activities on river banks, lake shores and the seashore; and

(*c*) Special measures, including prevention of soil erosion, siltation and water pollution are essential for the protection of river banks, lake shores and the seashore.

Identification and inventory of degraded river banks, lake shores and sea shores and conservation measures.

18. (1) Within five years from the date of commencement of these Regulations, the Authority shall, in consultation with the relevant lead agencies—

(*a*) identify river banks, lake shores and the part of the seashore which are at risk from environmental degradation;

(*b*) prepare and maintain an inventory of the river banks, lakeshore and the part of the sea shore which are at risk from environmental degradation, and cause such measures as are necessary to be taken to prevent and reduce degradation of such areas;

(*c*) Promote soil conservation measures along river banks, lake shores, and the seashore, including the following—

(i) bunding;

(ii) terracing;

(iii) mulching;

(iv) tree planting or agro forestry;

(v) grassing;

(vi) Soil engineering, compaction and placement of fills;

(vii) zoning and planning;

(viii) building of gabions;

(ix) control of grazing, and

(x) recommending the promulgation of appropriate by-laws by the relevant local authorities.

Resource use permit.

19. Subject to the provisions of Section 42 of the Act, no person shall carry out any of the activities stipulated in that section without a permit issued by the relevant lead agency and an environmental impact assessment licence issued by the Authority where applicable.

Duty of District Environment Committee.

20. A District Environment Committee within whose jurisdiction an activity likely to degrade the environment, river banks, lake shores or sea shore is taking place, shall—

(*a*) in writing require the lead agency to take appropriate action;

(*b*) ensure protection of all the riverbanks and shores; and

(*c*) assist local communities in conservation and sustainable utilization of the resources and services for ecological, aesthetic and social economic purposes.

PART IV—MISCELLANEOUS

Requirement for Environmental Impact Assessment.

21. (1) A developer intending to undertake a project which may have a significant impact on a wetland, river bank, lake shore or the sea shore shall carry out an environmental impact assessment in accordance with the provisions of the Act.

(2) The developer referred to in sub-regulation (1) shall carry out an environmental audit as provided for by the Act, and the Authority to monitor such activities in accordance with the Act.

Environmental Restoration Orders.

22. The Director-General may issue Environmental Restoration orders pursuant to the provisions of the Act in order to allow a wetland, riverbank, lake shore or the sea shore area which has been degraded to regenerate.

Duty of Environment Officer.

23. An environment officer within whose jurisdiction activities likely to degrade or are degrading, river banks, lake shores or the sea shore are taking place, shall ensure that the communities living near such areas participate in conservation activities and assist them in implementing these Regulations and any other law that protects.

Sanitation.

Cap. 342.

24. (1) Each local authority shall, on the advice of the Authority, make by-laws managing solid waste and waste waters in lake shores, river banks and the sea shore areas in accordance with the Public Health Act.

(2) Where two or more districts share a river bank or lake shore, minimum sanitation standards shall be prescribed by the Authority.

Transition.

25. Any person carrying out any activities on a wetland, riverbank, lake shore or the sea shore immediately before the coming into force of these Regulations, shall within six months from the coming into force thereof, take all necessary measures to ensure full compliance with these Regulations.

Improvement Notice.

26. (1) Where an inspector has reasonable cause to believe that any person is violating the provisions of these Regulations, the inspector may—

(*a*) issue against such person an improvement notice in accordance with the provisions of the Act; or

(*b*) take such measures as are provided for under the Act.

Offences and Penalties

27. Any person who contravenes the provisions of these Regulations commits an offence and shall be liable on conviction to imprisonment for such term and such fine as are provided for in the Act.

[Subsidiary]

Appeals.

28. A person aggrieved by a decision of the Director- General under these Regulations may appeal to the Tribunal in the manner as prescribed in the Act.

Delegation of powers and functions.

29. The Director-General may where necessary, delegate any of the functions and powers provided for within these Regulations to any officer of the Authority or to a lead agency.

Operations of Regulations.

30. These Regulations shall be in addition and not in derogation from any other regulations relating to the environment made under any other law.

SCHEDULE (Reg. 8 (3))

REGULATED ACTIVITIES PERMITTED WITHIN PROTECTED WETLANDS

1. Brick making.
2. Sports fishing and other recreational activities.
3. Cultivation.
4. Drainage.
5. Commercial exploitation of wetland resources, e.g. harvesting of papyrus.
6. Sewage filtration.
7. Fishing using fishing gear and weirs.
8. Fishing farming and other forms of aquaculture.
9. Construction of roads and railways.
10. Installation of telephone lines and other communication facilities, and
11. Burning.

[Subsidiary]

THE ENVIRONMENTAL MANAGEMENT AND COORDINATION (NOISE AND EXCESSIVE VIBRATION POLLUTION) (CONTROL) REGULATIONS, 2009

ARRANGEMENT OF REGULATIONS

Part I—Preliminary

Regulation

1—Citation.
2—Interpretation.

Part II—General Prohibitions

3—General Prohibitions.
4—Excessive vibrations.
5—Permissible noise levels.
6—Measurement and control.
7—Exemptions.

Part III—Provisions Relating to Noise from Certain Sources

8—Radio, TV, other sound amplifying devices.
9—Parties and social events.
10—Hawkers, peddlers, touts, street preachers.
11—Machinery.
12—Noise from motor vehicles.
13—Construction at night.
14—Noise, excessive vibrations from construction, demolition, mining or quarrying sites.
15—Environmental Impact Assessment.

Part IV—Provisions Relating to Licensing Procedures for Certain Activities

16—Licence.
17—Additional powers to the lead agencies.
18—Application to be made to the Authority.
19—Permits for fireworks, demolition, firing ranges and specific heavy industries.
20—Noise from workplaces.
21—Appeals to the Tribunal.

Part V—Noise and Excessive Vibrations Mapping

22—Noise and excessive vibrations mapping bodies.
23—Strategic noise and excessive vibrations maps.
24—Action plans.
25—Improvement notice.
26—Closure Notice.
27—General penalty.
28—Existing activities.

SCHEDULES

First Schedule—Maximum Permissible Intrusive Noise Levels.

Second Schedule—Maximum Permissible Noise Levels for Construction Sites.

Third Schedule—Maximum Permissible Noise Levels for Mines and Quarries.

Fourth Schedule—Application for a License to Emit Noise/ Vibrations in Excess of Permissible Levels.

Fifth Schedule—License to Emit Noise/ Vibrations in Excess of Permissible Levels.

Sixth Schedule —Application for a Permit to Carry out Activities.

Seventh Schedule—Permit to Emit Noise in Excess.

Eighth Schedule—Minimum Requirements for Strategic Noise and Excessive Vibrations Mapping.

Ninth Schedule—Minimum Requirements for Action Plans.

Tenth Schedule—Improvement Notice.

Eleventh Schedule—Fees.

[Subsidiary]

L.N. 61/2009.

THE ENVIRONMENTAL MANAGEMENT AND COORDINATION (NOISE AND EXCESSIVE VIBRATION POLLUTION) (CONTROL) REGULATIONS, 2009

Part I—Preliminary Provisions

Citation.

1. These Regulations may be cited as the Environmental Management and Coordination (Noise and Excessive Vibration Pollution) (Control) Regulations, 2009.

Interpretation.

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

"action plan" means a plan designed for the purpose of managing noise or excessive vibrations and their effects, including reduction of noise or excessive vibrations;

"Authority" means the National Environment Management Authority established under Section 7 of the Act;

"Commercial zone" means any place where goods and services are exchanged, bought or sold;

"construction" includes erection, alteration, repair, dismantling, demolition, structural maintenance, painting, mowing, land-clearing, earth-moving, landscaping, grading, excavating, laying of pipes and conduits whether above or below ground level, road, railway and highway building, concreting, installation and alteration of equipment, and the structural installation of construction components and materials in any form or for any purpose that includes any work in connection with the construction;

"dB(A)" means decibels of noise, measured with an A-weighted filter;

"decibe" means a dimensionless unit used in comparison of the magnitude of sound pressure or power;

"intermittent noise" means a noise whose level suddenly drops to several times the level of the background noise;

"intrusive noise" means external noise, or noise from another part of the building, which penetrates the structural defences of a room or building;

"lead agency" means any Government ministry, department, parastatal, state corporation or local authority, in which any law vests functions of control or management of any element of the environment or natural resources;

"mapping" means the presentation of data on an existing or predicted noise or excessive vibration situation, indicating breaches of any relevant limit value in force, the number of people affected in a certain area or the number of dwellings exposed to certain values of noise or excessive vibration limit in a certain area;

"mapping–body" means a noise-mapping or excessive vibration-mapping body as designated in Regulation 22 of these Regulations;

"noise" means any undesirable sound that is intrinsically objectionable or that may cause adverse effects on human health or the environment;

"noise pollution" means the emission of uncontrolled noise that is likely to cause danger to human health or damage to the environment;

"place of entertainment" means premises or any other place where activities including amusement, enjoyment, playing of music, dancing, performing of shows take place;

"property boundary" means the surveyed line at ground surface which separates the facility owned, rented or leased by one or more persons from any other such facilities;

"silent zone" means designated area that includes health facilities, educational and research institutions, courts, and any other area declared as such by the Authority;

"sound" means an oscillation in pressure, particle displacement, particle velocity or other physical parameter in a medium with internal forces that causes compression and rarefaction of that medium;

"sound source" means any person or thing from which sound is emitted;

"Tribunal" means the National Environment Tribunal established under section 125 of the Act;

"vibration" means an oscillatory motion of solid bodies of deterministic or random nature described by displacement, velocity or acceleration with respect to a given reference point;

"excessive vibration" means the presence of vibration which—

(*a*) is of such intensity, duration, frequency or character as to annoy, disturb, or cause or tend to cause adverse psychological or physiological effects on persons, or to damages or tend to damage personal or real property; and,

(*b*) exceeds 0.5 centimetres per second beyond any source property boundary or 30 metres from any moving source.

Part II—General Prohibitions

General Prohibitions.

3. (1) Except as otherwise provided in these Regulations, no person shall make or cause to be made any loud, unreasonable, unnecessary or unusual noise which annoys, disturbs, injures or endangers the comfort, repose, health or safety of others and the environment.

(2) In determining whether noise is loud, unreasonable, unnecessary or unusual, the following factors may be considered—

(*a*) time of the day;

(*b*) proximity to residential area;

(*c*) whether the noise is recurrent, intermittent or constant;

(*d*) the level and intensity of the noise;

(*e*) whether the noise has been enhanced in level or range by any type of electronic or mechanical means; and,

(*f*) whether the noise can be controlled without much effort or expense to the person making the noise.

(3) Any person who contravenes the provisions of this Regulation commits an offence.

Excessive vibrations.

4. (1) Except as otherwise provided in these Regulations, no person shall—

(*a*) make or cause to be made excessive vibrations which annoy, disturb, injure or endanger the comfort, repose, health or safety of others and the environment; or

(*b*) cause to be made excessive vibrations which exceed 0.5 centimetres per second beyond any source property boundary or 30 metres from any moving source;

(2) Any person who contravenes the provisions of this Regulation commits an offence.

Permissible noise levels.

5. No person shall make, continue or cause to be made or continued any noise in excess of the noise levels set in the First Schedule to these Regulations, unless such noise is reasonably necessary to the preservation of life, health, safety or property.

Measurement and control.

6. (1) No person shall cause noise from any source which exceeds any sound level as set out in the applicable column in the First Schedule to these Regulations.

(2) Measurements shall be taken by the relevant lead agency.

(3) In any cases where there is no relevant lead agency to take the measurements, or where the lead agency has failed to take action after being given reasonable notice by the Authority, the measurement shall be taken by a person dully authorized by the Authority, who is knowledgeable in the proper use of the measuring equipment.

(4) The Authority in consultation with the relevant lead agency may issue guidelines for the measurement of noise and excessive vibration.

(5) Any person who makes noise in excess of the prescribed levels commits an offence.

Exemptions.

7. These Regulations shall not apply to—

(*a*) the emission of noise for the purpose of alerting persons to the existence of an emergency;

(*b*) the emission of noise in the performance of emergency response;

(*c*) the emission of noise in connection with the protection of the health and safety of residents or their property during emergency conditions;

(*d*) warning devices necessary for the protection of public safety, such as police, fire and ambulance sirens, and train horns; or

(*e*) Parades and national celebrations.

PART III—PROVISIONS RELATING TO NOISE FROM CERTAIN SOURCES

Radio, TV, other sound amplifying devices.

8. (1) No person shall use or operate any radio or receiving set, musical instrument, phonograph, television set, any other machine or device for the producing or reproducing of sound or any other sound-amplifying equipment in a loud, annoying or offensive manner such that the, noise from the device—

(*a*) interferes with the comfort, repose, health or safety of members of the public;

(*b*) creates a risk thereof, within any building or, outside of a building, at a distance of 30 meters or more from the source of such sound; or

(*c*) interferes with the conversation of members of the public who are 30 meters or more from the source of such sound.

(2) Any person who contravenes this Regulation commits an offence.

(3) For the purposes of this Regulation, "person" includes—

(*a*) in the case of an offence that occurs on any public property where permission was obtained to use that public property, the person or persons who obtained permission to utilize that property for that event.

(*b*) in the case of an offence that occurs on private property, any adult person or persons who live in or on the property that is involved in the offence; and

(*c*) in the case of an offence that occurs after granting of a license pursuant to this Regulation, the person or persons who are listed on the license.

Parties and social events.

9. (1). Any person in charge of a party or other social event which occurs on any private or public property shall ensure that the party or event does not produce noise in a loud, annoying or offensive manner such that noise from the party interferes with the comfort, repose, health or safety of members of the public within any building or, outside of a building, or recklessly creates the risk thereof, at a distance of 30 meters or more from the source of such sound.

(2) Any person who contravenes this Regulation commits an offence.

(3) For the purposes of this Regulation, a "person in charge of a party or other social event"—

(*a*) that occurs on any public property shall include the person or persons who obtained permission to utilize that property for that event;

(*b*) that occurs on private property shall include the person who owns the premises involved and any adult person who lives in or on the premises involved in such party or social event;

(*c*) shall include the person who is listed on a permit issued by the Commissioner of Police, Local Authority or Provincial Administration with respect to such event.

Hawkers, peddlers, touts street preachers.

10. (1) No person shall—

(*a*) preach, tout, advertise, promote or sell any goods; or

(*b*) engage in any commercial activity,

in such manner as to emit noise by shouting within the Central Business District of any town, a residential area, a silent zone, or any other area declared as a silent zone by the Authority,

Provided that the provisions of this Regulation shall not be construed to prohibit the selling by shouting of merchandise, food and beverages at licensed sporting events, parades, fairs, circuses and other similar licensed public entertainment events.

(2) Any person who contravenes this Regulation commits an offence.

Machinery.

11. (1) Any person wishing to—

(*a*) operate or repair any machinery, motor vehicle, construction equipment or other equipment, pump, fan, air-conditioning apparatus or similar mechanical device; or

(*b*) engage in any commercial or industrial activity,

which is likely to emit noise or excessive vibrations shall carry out the activity

or activities within the relevant levels prescribed in the First Schedule to these Regulations.

(2) Any person who contravenes this Regulation commits an offence.

Noise from motor vehicles.

12. (1) No person shall operate a motor vehicle which—

(a) produces any loud and unusual sound; and

(b) exceeds 84 dB(A) when accelerating.

(2) No person shall at any time sound the horn or other warning device of a vehicle except when necessary to prevent an accident or an incident.

Sub. Leg.

(3) The provisions of the Traffic Rules shall apply to this Regulation.

(4). Any person who contravenes the provisions of this Regulation commits an offence.

Construction at night.

13. (1) Except for the purposes specified in sub-Regulation (2) hereunder, no person shall operate construction equipment (including but not limited to any pile driver, steam shovel, pneumatic hammer, derrick or steam or electric hoist) or perform any outside construction or repair work so as to emit noise in excess of the permissible levels as set out in the Second Schedule to these Regulations.

(2). This Regulation shall not be deemed to prohibit—

(*a*) any work of an emergency nature;

(*b*) work of a domestic nature on buildings, structures or projects being undertaken by a person residing in such premises; or

(*c*) public utility construction, or, with respect to construction of public works, projects exclusively relating to roads, bridges, airports, public schools and sidewalks:

Provided that, if any domestic power tool, including but not limited to mechanically powered saws, sanders, grinders and lawn and garden tools used outdoors, is operated during the night-time hours, no person shall operate such machinery so as to cause noise within a residential building or across a residential real property boundary where such noise interferes with the comfort, repose, health or safety of members of the public within any building or, outside of a building, at 30 meters or more from the source of the sound.

Noise, excessive vibrations from construction, demolition, mining or quarrying sites.

14. (1) Where defined work of construction, demolition, mining or quarrying is to be carried out in an area, the Authority may impose requirements on how the work is to be carried out including but not limited to requirements regarding—

(*a*) machinery that may be used, and

(*b*) the permitted levels of noise as stipulated in the Second and Third Schedules to these Regulations.

(2) The relevant lead agency shall ensure that mines and quarries where explosives and machinery used are located in designated areas and not less than two kilometers away from human settlements.

(3) Any person carrying out construction, demolition, mining or quarrying work shall ensure that the vibration levels do not exceed 0.5 centimetres per second beyond any source property boundary or 30 metres from any moving source.

(4) Any person who contravenes sub-regulations (1) and (3) of this Regulation commits an offence.

Environmental Impact Assessment.

15. Any person intending to carry out construction, demolition, mining or quarrying work shall, during the Environmental Impact Assessment studies—

(*a*) identify natural resources, land uses or activities which may be affected by noise or excessive vibrations from the construction, demolition, mining or quarrying;

(*b*) determine the measures which are needed in the plans and specifications to minimize or eliminate adverse construction, demolition, mining or quarrying noise or vibration impacts; and

(*c*) incorporate the needed abatement measures in the plans and specifications.

Part IV—Provisions Relating to Licensing Procedures for Certain Activities

Licence.

16. (1) Where a sound source is planned, installed or intended to be installed or modified by any person in such a manner that such source shall create or is likely to emit noise or excessive vibrations, or otherwise fail to comply with the provisions of these Regulations, such person shall apply for a licence to the Authority.

(2) No person shall use any sound-amplifying equipment in such a way that such equipment is or is likely to be heard outside of any building between 9:00 p.m. of any day and 7:30 a.m. of the next day, without a valid license.

(3) Where any person uses or plans to use a public-address system which is likely to emit sound outside of a building, such person shall secure a license under these Regulations.

(4) An application for the license shall provide the following information—

(*a*) the reasons for such usage, including a demonstration as to why it is desirable or necessary that the sound source involved be authorized by a licence pursuant to this Regulation;

(*b*) plans and specifications of the use;

(*c*) noise-abatement and control methods to be used with respect to the sound source involved;

(*d*) the period of time during which the license shall apply.

(*e*) the name of the person(s) who is responsible for ensuring that the activity complies with any license issued for it pursuant to this Regulation; and

(*f*) evidence that notification of the application for the license has been given to each person reasonably expected to be affected by the noise, the content of such notification and the manner in which such notification has been given, if the event is not a community-wide or public event.

Provided that the notification shall state that any person objecting to the granting of such a license may contact the appropriate office to whom the application is being made to express his/her opposition to the granting of the license.

(5) Any licence granted shall state that the licence only applies to these Regulations.

Additional powers to the lead agencies.

17. In order to further the purposes of these Regulations and to facilitate compliance and enforcement, the relevant lead agencies shall have power to attach such other conditions in relation to these Regulations as they may deem necessary to a license or permit issued thereunder.

Application to be made to the Authority.

18. (1) An application for a license shall be made to the Authority in the form prescribed in the Fourth Schedule to these Regulations and shall be accompanied by the prescribed fee.

(2) When determining if a licence should be issued, the factors the Authority shall consider shall include but shall not be limited to—

(*a*) the level of the noise or excessive vibrations;

(*b*) the proximity of the noise or excessive vibrations to accommodation or residential facilities;

(*c*) the time of the day or night the noise or excessive vibrations occur;

(*d*) the time duration of the noise or excessive vibrations;

(*e*) the impact of the noise on persons living or working in different places or premises who are affected by the noise or excessive vibrations;

(3) The Authority shall process the application for a licence within two (2) days from the date of receipt of the application, failure to which the applicant shall be free to proceed with the activity in respect of which the application is made.

(4) A license shall contain requirements relating to the manner in which the activities are to be carried out and may, in particular specify—

(*a*) the equipment or material to be used;

(*b*) the hours during which the activities may be carried out;

(*c*) the level of noise or vibrations which may be emitted in excess of the permissible levels;

(*d*) the activities and the method by which they are to be carried out; and

(*e*) the steps proposed to be taken to minimize noise or excessive vibrations resulting from the activities.

(5) The Authority shall issue a license in the form prescribed in the Fifth Schedule to these Regulations.

(6) A license issued under this Regulation shall be valid for a period not exceeding seven (7) days.

Permits for fireworks, demolition, firing ranges and specific heavy duty industry.

19. (1) No person shall carry out activities relating to fireworks, demolitions, firing ranges or specific heavy industry without a valid permit issued by the Authority.

(2) An application for a permit shall be made to the Authority in the form prescribed in the Sixth Schedule to these Regulations and shall be accompanied by the prescribed fee.

(3) The Authority may, on receiving an application , issue the applicant with a permit to carry out fireworks, demolitions, firing ranges and specific heavy industrial work, in the form set out in the Seventh Schedule to these Regulations, on such terms and conditions as may be contained in the permit.

(4) A permit to carry out activities such as fireworks, demolitions, firing ranges and specific heavy industry shall be valid for a period not exceeding three months.

(5) Any person who contravenes the provisions of this Regulation commits an offence.

Noise from workplaces. L.N. 24/2005.

20. The provisions of the Factories and Other Places of Work (Noise Prevention and Control) Rules, 2005 shall apply *mutatis mutandis* to these Regulations.

Appeals to the Tribunal.

21. Any applicant who is aggrieved by the refusal of the Authority to grant a license or a permit may appeal to the Tribunal.

PART V—MAPPING OF NOISE AND EXCESSIVE VIBRATIONS

Noise and excessive vibrations mapping bodies.

22. The following shall be the designated mapping bodies for the purpose of making and approving strategic noise or vibration maps:

(*a*) the Ministry responsible for physical planning;

(*b*) local authorities;

(*c*) for railways, the Kenya Railways Corporation;

(*d*) for airports, the Kenya Airports Authority;

(*e*) for mines and quarries, the Mines and Geology Department;

(*f*) for weather and instrumentation, the Meteorological Department;

(*g*) the Kenya Bureau of Standards; and,

(*h*) for major roads—

(i) where such roads are classified as national roads in accordance with the Kenya Roads Act, 2007, Highway Act, the Kenya Roads Board; and

(ii) for any other road, the relevant local authority; and

(iii) such other body or institution as the Minister may deem appropriate.

Strategic noise and excessive vibrations maps.

23. (1) Each mapping body shall make a strategic noise or vibration map for its area.

(2) Each mapping body shall review its strategic noise or vibration map every five years from the date on which the strategic noise or vibration map was made, or earlier where there is significant change in land use or noise or vibration level.

(3) A strategic noise or excessive vibration map shall satisfy the minimum requirements set out in the Eighth Schedule to these Regulations.

(4) Every mapping body shall take immediate action to mitigate any significant noise or excessive vibration that may cause damage to the environment or human beings.

Action plans.

24. (1) Each mapping body shall prepare an action plan relevant to its area.

(2) An action plan shall—

(*a*) satisfy the minimum requirements set out in the Ninth Schedule to these regulations; and

(*b*) aim to protect silent zones.

(3) A mapping body shall ensure that—

(*a*) the public is consulted on proposals for each action plan;

(*b*) the public is given early and effective opportunities to participate and review action plans;

(*c*) a time limit not exceeding sixty (60) days is given for the submission of written comments by the public;

(*d*) the results of public participation are taken into account in finalizing action plans or review of action plans;

(*e*) the public is informed of the decision taken in relation to action plans;

(*f*) reasonable time frames are adopted to allow sufficient time for each stage of public participation.

(4) An action plan shall be reviewed every five years after the date on which it was made or last reviewed, provided that an action plan may be reviewed earlier in the event of a material change in land use or noise or vibration level in the area concerned.

Improvement notice.

25. (1) Where an Environmental Inspector has reasonable cause to believe that any person is emitting or is likely to emit noise or excessive vibration in any area in excess of the maximum permissible levels, or is causing or is likely to cause annoyance, the Environmental Inspector may, with the approval of the Director-General, in consultation with the relevant lead agency, serve an improvement notice on that person in the form prescribed in the Tenth Schedule, directing all or any of the following:—

(*a*) the cessation of the noise or excessive vibration, or prevention or discontinuance of any annoyance, or prohibiting or restricting its occurrence or reoccurrence;

(*b*) compliance with the permissible noise or excessive vibration levels;

(*c*) the reduction of the level of noise or excessive vibration emanating from the premises to a level specified in the notice;

(*d*) requiring the carrying out of an environmental audit;

(*e*) compelling a lead agency to take measures to prevent, discontinue or stop the emission of the noise or excessive vibration;

(*f*) the prevention of any subsequent increase in the level of noise or excessive vibration emanating from the premises or area;

(*g*) issue such directions intended to contribute to the reduction of emission of noise or excessive vibration from or within the vicinity of a specified area;

(*h*) the execution of such works, and the taking of such steps, as may be specified in the notice; or

(*i*) carrying out of any other order as may be issued.

(2) Any person who fails or refuses to not comply with the conditions in an improvement notice commits an offence and is liable, upon conviction, to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding more than twenty four months, or to both.

Closure Notice.

26. Where there is continuous emission of noise or excessive vibration after the Environmental Inspector has issued an improvement notice, the Environmental Inspector may, with the approval of the Director General, and in consultation with the relevant lead agency, order the closure of an establishment or undertaking emitting such noise or excessive vibration.

Existing activities.

27. Any person carrying out activities that emit noise or excessive vibration immediately before the coming into force of these Regulations shall, within six months from the coming into force thereof, these Regulations, take all necessary measures to ensure full compliance with these Regulations.

General penalty.

28. Any person who contravenes any of the provisions of these Regulations, for which no penalty is stipulated, commits an offence and is liable, upon conviction, to a fine not exceeding more than three hundred and fifty thousand shillings or to imprisonment for a term not exceeding eighteen months or to both.

FIRST SCHEDULE (reg. 5, 6 (1), 11 (1))

MAXIMUM PERMISSIBLE NOISE LEVELS

Zone		*Sound Level Limits dB(A) (Leq,14 h)*		*Noise Rating Level (NR) (Leq,14 h)*	
		Day	Night	Day	Night
A.	Silent Zone	40	35	30	25
B.	Places of worship	40	35	30	25
C.	Residential : Indoor	45	35	35	25
	Outdoor	50	35	40	25
D.	Mixed residential (with some commercial and places of entertainment)	55	35	50	25
E.	Commercial	60	35	55	25

Time Frame

Day: 6.01 a.m. – 8.00 p.m. (Leq, 14 h)

Night: 8.01 p.m. – 6.00 a.m. (Leq, 10h)

SECOND SCHEDULE (r. 13 (1), 14 (1) (*b*))

MAXIMUM PERMISSIBLE NOISE LEVELS FOR CONSTRUCTIONS SITES

(Measurement taken within the facility)

Facility		*Maximum Noise Level Permitted (Leq) in dB(A)*	
		Day	Night
(i)	Health facilities, educational institutions, homes for disabled etc.	60	35
(ii)	Residential	60	35
(iii)	Areas other than those prescribed in (i) and (ii)	75	65

Time Frame:

Day: 6.01 a.m. – 6.00 p.m. (Leq, 14 h)

Night: 6.01 p.m. – 6.00 a.m. (Leq, 14 h)

THIRD SCHEDULE (R. 14 (1) (*b*))

MAXIMUM PERMISSIBLE NOISE LEVELS FOR MINES AND QUARRIES

(*Measurement taken within the facility*)

	Facility	*Limit Value in dB (C) Max*
1.	For any building used as a health facility, educational institutions, convalescent home, old age home or residential building	109 dB (C)
2.	For any building in an areas used for residential and one or more of the following purposes: commerce, small-scale production, entertainment, or any residential apartment in an area that is used for purposes of industry, commerce or small-scale production, or any building used for the purpose of industry, commerce or small-scale production.	114 dB (C)

FOURTH SCHEDULE (r. 18 (1))

APPLICATION FOR A LICENSE TO EMIT NOISE/ VIBRATIONS IN EXCESS OF PERMISSIBLE LEVELS

1. Name of Applicant:…….

   Address:……

   ID No./Passport No.…….....……

   Tel.:…… Mobile:……..

   Fax…… E-mail: ……

2. Physical Address of Premises or facility where Noise/Excessive vibrations will be produced …….....……

   ….....……...……..…

   (*Sub-location, Location, Division, District, Street, House Number*)

3. Source of noise……

   Activity/Purpose..……

   Predicted levels: ……

4. Describe the neighborhood within a radius of 2 kms (describe whether industrial, residential, commercial and whether it is near a school, hospital or residential area):

……

……

……

5. State the measures intended to be used in controlling the noise/excessive vibrations (may attach separate sheet): ……

……

……

……

6. Intended time of noise/ excessive vibrations emission (indicate time of day):

……

……

……

Date: …….. Signature of Applicant: ……..

FOR OFFICIAL USE ONLY

Date received ……

Fees paid ……..

Approved / Not Approved ……

Comments ……

……

……

……

……

Officer …… Sign …… Date ……

Countersigned …… Date ……

FIFTH SCHEDULE (R. 18 (5))

LICENSE TO EMIT NOISE/ VIBRATIONS IN EXCESS OF PERMISSIBLE LEVELS

License No..... NEMA/LNC/(NAME) ……

……...

of …….....……..

(Address)

Is hereby licensed to cause emission or emit noise/excessive vibrations in excess

of the permissible noise levels at…….....…

…….....……

(Location, Street, District)

Activity: …….....

...…….....…….....……

This License is valid from: …...……/…….....……/20……

to ….....…../.....…….…/20……. from the hours of

…… to …… of each day.

This License is granted subject to the following conditions:—

1. …….....……

2. ……

3. ……...……

Date: ……Signature ……..

(SEAL)

……

DIRECTOR GENERAL,
NATIONAL ENVIRONMENT MANAGEMENT AUTHORITY.

[Subsidiary]

SIXTH SCHEDULE (R. 19 (2))

APPLICATION FOR A PERMIT TO CARRY OUT ACTIVITIES

FIREWORKS

DEMOLITIONS

FIRING RANGES

SPECIFIC HEAVY INDUSTRIES

OTHER (SPECIFY) ……...……

1. Name of Applicant: ……..…….……

   Address: ……....……

   ID No. / Passport No…….....……..

   Tel: ……...…… Mobile: ……...……..

   Fax …….…….....…… E-mail:…….....……....…

   Personal Identification No. (PIN): ……....……

2. Physical Address of Premises or facility where Noise will be produced: ….....

   ...…….....……

   …….....…

   (Sub-location, Location, Division, District, Street, House Number)

3. Source of noise…….……

   Activity/Purpose..……...……

   Predicted levels …….....……

4. Describe the neighborhood within a radius of 2 km. (describe whether industrial, residential, commercial and whether it is near a school, hospital or residential area): ……...……

   …….....……....……

   …….....…….....

5. State the measures intended to be used in controlling the noise (may attach separate sheet): ……

   …….....…….....

   ..…….....

6. Intended time of noise emission (indicate time of day):

…….....……

…….....……

…….....……

Date: …… Signature of Applicant: …….....……...

FOR OFFICIAL USE ONLY

Date received …….....……....……

Fees paid ….....……...…….

Approved/ Not Approved…….....……

Comments …….....……

…….....

…….....

…….....

…….....

Officer …….....…… Sign ……...…… Date ……...……

Countersigned…….....……Date ……..

[Subsidiary]

SEVENTH SCHEDULE (R. 19 (3))

PERMIT TO EMIT NOISE IN EXCESS FOR THE FOLLOWING ACTIVITIES

FIREWORKS

DEMOLITIONS

FIRING RANGES

SPECIFIC HEAVY INDUSTRIES

OTHER (SPECIFY) ……...……

Permit No.....NEMA/PNC/ (NAME)…….....……

of …….....……..... …. (Address)

Is hereby permitted to cause emission or emit noise in excess of the permissible noise levels at……...…… ……
…….....……
(Location, Street, District)

Activity: Fireworks/ Demolition/ Firing range/ Heavy industry*(specify)

This Permit is valid from: ……/…….....……/20 ……
to ….....…../….....…/20 …… …. from the hours of
…… to …… of each day.

This Permit is granted subject to the following conditions:

1. This Permit shall be for the period provided in the validity clause above.

2. …….....……
……..

3. …….....……
…….....……

Date ..……Signature: …….. .

(*SEAL*)

……
DIRECTOR GENERAL,
NATIONAL ENVIRONMENT MANAGEMENT AUTHORITY.

EIGHTH SCHEDULE (r. 23 (3))

MINIMUM REQUIREMENTS FOR STRATEGIC NOISE AND EXCESSIVE VIBRATIONS MAPPING

1. A strategic noise or excessive vibration map is the presentation of data on the following aspects—

(*a*) an existing, previous or predicted noise or excessive vibration situation in terms of a noise or vibration level;

(*b*) the exceeding of a limit value;

(*c*) the estimated number of buildings, educational institutions and health facilities in a certain area that are exposed to specific noise or excessive vibration levels;

(*d*) the estimated number of people located in an area exposed to noise or excessive vibration.

(*e*) The mitigation measures for minimizing the noise or excessive vibration.

2. strategic noise or excessive vibration maps may be presented to the public as—

(*a*) graphical plots;

(*b*) numerical data in tables; or

(*c*) numerical data in electronic form.

NINTH SCHEDULE (r. 24 (2) (*a*))

MINIMUM REQUIREMENTS FOR ACTION PLANS

1. An action plan shall indicate the following elements—

(*a*) A description of the local authority, the major road, the railway or airport and other noise or excessive vibrations sources taken into account;

(*b*) The responsible lead agency;

(*c*) The legal context;

(*d*) Any statutory limit values in place;

(*e*) a summary of the results of the noise or excessive vibration mapping

(*f*) a record of the public consultations organized

(*g*) any noise or excessive vibration reduction measures already in force and any projects in preparation;

(*h*) actions which the mapping body intends to take in the next five years, including any measures to preserve silent areas;

(*i*) long-term strategy

2. The actions which the mapping body intends to take in the field within its competence may include—

(*a*) traffic planning;

(*b*) land- use planning;

(*c*) technical measures at noise or excessive vibration sources;

(*d*) selection of quieter sources;

(*e*) reduction of sound transmission;

(*f*) regulatory or economic measures or incentives;

(*g*) Procedure for carrying out an activity.

TENTH SCHEDULE (r. 25 (1))

IMPROVEMENT NOTICE

Form NEMA/NC

To: …….....……

……

TAKE NOTICE that on the …… of .....…… 20 …… an Environmental Inspector carried out an inspection of your establishment/ facility located in …….....……

……

(*physical address*) where it was found that you or your agents were generating or producing noise/ excessive vibration in excess of the permissible levels in contravention of the Environmental Management and Co-ordination (Noise and Excessive Vibration Pollution Control) Regulation, 2008.

The Environmental Inspector particularly found the following:

1. ……

…….....……

2. ……

…….....……

3 ……

…….....……

4 ……......

…….…….....…….....

(attach more paper if necessary)

You ARE HEREBY DIRECTED to reduce the noise/ excessive vibration levels to the permissible levels in the above mentioned facility/establishment within a period of …….hours/ days from the date of this Notice.

You ARE NOTIFIED THAT in accordance with Sections 137 and 140 of the Environmental Management and Coordination Act, 1999, failure to comply with this Notice shall result in criminal prosecution being instituted against you and/or your agent or both

Name: …….....……

Signature: …….....……..

ENVIRONMENTAL INSPECTOR
c.c.

ELEVENTH SCHEDULE (r. 18 (1) 19 (2))

FEES

	KSh.
Application for a license ……..……..	200
License ……..	2,000
Application for a permit ……..….....	500
Permit ……...……	5,000

[Subsidiary]

L.N. 112 /2012.

THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION (PUBLIC COMPLAINTS COMMITTEE) REGULATIONS, 2012

PART 1—PRELIMINARY

Citation.

1. These Regulations may be cited as the Environmental Management and Co-ordination (Public Complaints Committee) Regulations, 2012.

Interpretation.

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

"Committee" means the Public Complaints Committee established under section 31 of the Act;

"complaint" means an oral or written communication made or addressed to the Committee relating to any matter set out under Section 32 of the Act;

"investigation panel" means the unit of the Committee set up for the purpose of investigating complaints, allegations or matters relating to the condition of the environment or environmental degradation;

"Tribunal" means the National Environmental Tribunal established under section 125 of the Act.

PART II—COMPLAINTS

Lodging of complaints.

3. (1) A complaint may be lodged at the offices of the Committee or at such other place as the Committee may determine.

(2) A complaint may be lodged by the complainant in person or by another person authorized to act for the complainant

Mode of a complaint.

4. (1) A complaint may be made either orally or in writing.

(2) A complaint made orally or in a manner other than that set out in Form 1 in the Schedule shall be reduced into writing as soon as practicable, and in any event not later than forty–eight hours from the date of the complaint.

(3) A person who reduces a complaint into writing under paragraph (2) shall—

(a) read over and explain the contents of the complaint to the complainant;

(b) note on the form that the complainant has understood the contents;

(c) state his name and designation; and

(d) cause the complainant or the duly authorized agent to sign or affix a thumbprint at the bottom of each page of the document

where practicable.

(4) A written complaint shall be in Form 1 in the Schedule and shall include—

(a) the name, address, telephone contact of the complainant;

(b) a concise statement of the nature of the violation of the environment; and

(c) the date and place and occurrence of the violation of the environment.

(5) A complainant shall, upon completing Form 1 set out in the Schedule attach any document in support of the complaint.

(6) The Committee shall upon receipt of the complaint provide the complainant or his agent with a copy of the complaint Form under Paragraph 5 and a formal acknowledgement of the receipt of the complaint in Form 2 set out in the Schedule.

(7) No provision of this regulation shall bar the Committee from entertaining any complaint from any aggrieved party.

Fees.

5. (1) No fee shall be charged on the lodging or determination of a complaint.

(2) Notwithstanding the provisions of paragraph (1), a nominal fee may be prescribed where copies of the proceedings or documents of the committee have been applied for by a party.

(3) The Committee may waive any fee chargeable under this regulation upon satisfaction that a person is unable to pay the fee.

Service of documents.

6. (1) Any document required to be served under these Regulations shall, where practicable, be served personally on the person by delivering or tendering the document to the person or, if it cannot be so served, shall be served by sending the document to the person's proper address by registered post or by other verifiable form of posting.

(2) Every document issued under these Regulations and requiring service shall be served under the authority of the Committee by an authorized person, a chief or a police officer.

(3) Any document required to be served on an incorporated body shall be deemed to be duly served if served upon an authorized officer of the incorporated body.

(4) Where a person on whom a document is required to be served cannot be found, service may be made by—

(a) publishing the particulars of the document in a newspaper with the circulation in the area where the person resides;

(b) leaving the duplicate of the document with any adult member residing with the person; or

(c) affixing the duplicate of the document to some conspicuous place in the premises in which the person ordinarily resides and also to a conspicuous place at the offices of the Committee.

(5) No objection may be made on the service of a document on the grounds that the person who served the document exceeded or failed to comply with the authority.

(6) The Secretary shall, in respect of any special investigation, serve all affected persons with a concise statement of the matters forming the subject of an intended investigation.

Language.

7. Proceedings before the Committee shall be conducted in English or Kiswahili.

Withdrawal of complaint and lapse of time.

8. (1) A complainant may, in writing, withdraw a complaint at any stage of the proceedings and before any finding or recommendation is made, but such withdrawal shall not automatically terminate the investigation.

(2) The Committee may, in its discretion, continue with the investigation of any complaint, if, on the basis of evidence before it, such investigation is in the public interest.

(3) Where a Complainant fails or neglects to respond to communication from the Committee within twelve months from the date of such communication, the Committee may deem the complaint to have lapsed save that the Committee may on its own motion, commence the investigation of the complaint as if the same was a complaint requiring special investigation.

Register of complaints.

9. (1) The Committee shall keep a register of complaints in which all the complaints shall be entered.

(2) A complaint shall be numbered and recorded sequentially in the register of complaints in the order it was received.

(3) Subject to the provisions of regulation 16 of these Regulations the Committee, may publish or otherwise disclose to any person any information held on the register if it is of the opinion that the publication or disclosure is necessary for or conducive to the purpose of—

(a) raising public awareness of the complaints system; or

[Subsidiary]

(b) improving the complaints system.

Rejection of complaints.

10. (1) The Committee may within two months from the date of lodging of a complaint reject it and the Committee shall record its reasons for rejecting that complaint.

(2) A complainant shall be informed of the rejection of a complaint within thirty days from the date of its rejection.

(3) Subject to paragraph (1) the Committee shall reject a complaint where it considers that—

(a) the matter is the subject of a complaint pending under investigation;

(b) the complaint is vexatious, frivolous, oppressive or otherwise an abuse of the procedures for dealing with complaints; or

(c) the complaint is repetitive.

(4) For the purposes of paragraph (3), a complaint is repetitive if it is substantially the same as a previous complaint, whether made by or on behalf of the same or a different complainant, or it concerns the same subject as a previous complaint;

(5) Nothing in this regulation shall prevent the Committee from investigating a complaint if it considers that it is in the public interest to do so.

Processing of complaints.

11. (1) Every complaint registered under these Regulations shall be forwarded to the Committee for assessment.

(2) The Committee shall assess the complaint and may—

(a) admit the complaint and recommend investigations;

(b) advise the complainant that the matter is not within the statutory mandate of the Committee; or

(c) give such other advise as shall be necessary in the circumstances of the case.

Rejection of Complaint.

12. (1) Where the Committee assesses a complaint, it shall form an opinion on whether—

(a) the contents of the complaint are within the statutory jurisdiction of the Committee;

(b) justifiable; or

(c) otherwise merits admission.

(2) Where, in the opinion of the Committee a complaint does not fall within the statutory jurisdiction of the Committee, is unjustifiable or otherwise does not merit admission, such complaint shall be rejected.

(3) The Committee shall record its reasons for rejecting a complaint and shall send a copy of its opinion and recommendation to the complainant within thirty days.

Application for review.

13. (1) Any person who is aggrieved by a decision to reject a complaint may make an application for review of that decision.

(2) An application for review shall only be made upon the discovery of new and important matter or evidence which was not within the knowledge of the applicant when the decision was made or for any other sufficient reason.

(3) An application for review shall be in writing and shall state -

(a) the details of the complaint;

(b) the date on which the complaint was made;

(c) the ground on which the application is based; and

(d) the date on which the complainant was notified of the rejection of the Complaint.

(4) The Committee shall consider the application and allow or disallow it.

(5) The Committee shall determine the outcome of an application for review as soon as practicable and shall notify the appellant of the reason for its determination.

(6) Where the Committee receives an application for review it may request any information from any person which it considers necessary to dispose of the application.

(7) Where an application for review is disallowed, the complaint shall be closed and the applicant shall be notified accordingly.

PART III—INVESTIGATIONS

Preliminary investigations and notification.

14. (1)The Committee shall, initiate in the first instance, preliminary investigation into all the complaints it admits.

(2) A person against whom a complaint is made shall be served with a copy of the complaint and shall, within twenty one days from the date of receipt of the complaint, submit comments to the Committee.

Information.

15. (1) The Committee may receive or obtain information from such persons as it may deem proper, including, information from such persons as the Committee considers to possess knowledge or experience in matters relating

[Subsidiary]

to any complaint before it.

(2) Where a complaint is not disposed of after the preliminary investigation, the Committee shall review the Complaint with a view to initiating further investigations.

(3) Subject to the provisions of these regulations, the Committee may regulate its procedure in such manner as it deems fit.

Confidentiality.

16. The Committee shall not disclose or publish information received by it in confidence without the prior consent of the informant.

Further investigations.

17. (1) The Committee may undertake further investigation on a complaint through site visits, hearings and summoning of witnesses.

(2) Hearing notices shall be in Form 3 in the Schedule.

(3) Witness summons shall be in Form 4 in the Schedule.

(4) During the site visit, or so soon as may be practicable thereafter, the Committee shall issue the parties with an interim site visit report.

(5) During the interim site visit, the Committee may in writing, require any party to the complaint or any other person in whose custody certain relevant information which is in the consideration of the Committee, necessary for the proper determination of the dispute, to furnish the Committee with such documentary or other evidence of any facts within such a period as will be stated in the interim site visit report.

(6) A requisition for evidence under subparagraph 5 shall be in Form 5 in the Schedule.

(7) Upon completion of further investigations the Committee may—

(a) refer the complaint to the investigation panel;

(b) make such other recommendations as shall be necessary.

The Investigation Committee.

18. (1)The Chairman shall preside at every meeting of the Committee at which the chairman is present, and, in the absence of the Chairman at any meeting the Committee members present shall elect one of their numbers who shall, with respect to that meeting and the business transacted in that meeting have all the powers of the Chairman.

(2) A meeting held under paragraph (1) shall, have powers to constitute an investigation panel.

The Investigation panel and quorum.

19. (1) An investigation panel shall only investigate complaints referred to it by the Public Complaints Committee.

(2) An investigation panel shall consist of—

(a) a presiding Chairman and such number of Committee members appointed by the Chairman; or

(b) a person qualified in law who shall act as the secretary;

(c) such other persons as may be appointed by the Committee.

(3) Any act or thing done by the investigation panel shall be deemed to have been done by the Committee.

Disclosure of interest.

20. (1) If a member of the Committee or investigation panel is directly or indirectly interested in any matter before the Committee and is present at a meeting of the Committee at which a matter is the subject of investigation, the member shall, at the meeting and as soon as reasonably practicable after the commencement of the meeting, disclose that fact and shall not take part in the consideration or discussion or, or vote on, any questions in respect of the matter, or be counted in the quorum of the meeting considering the matter.

(2) A person shall be deemed to be directly or indirectly interested in a matter before the Committee if—

(a) the person has any social, financial or other connection with the person being investigated which could, on an objective appraisal of all material facts, give rise to a legitimate fear as to whether that investigation can be carried out impartially;

(b) the person works or has in the past worked, directly or indirectly, under the management of the person being investigated.

(3) A disclosure of interest made under this request shall be recorded in minutes of the meeting at which it is made.

Consolidation and splitting of investigations.

21. (1) The Committee, in the carrying out of any investigation under these regulations may—

(a) consolidate that investigation with another such investigation; or

(b) split that investigations in remove space to two or more such separate investigations if it considers that it is efficient and effective; or is otherwise in the public interest, to do so.

(2) Nothing in this regulation shall prevent the Committee from determining that–

(a) where an investigation is split into two or more separate investigations the investigations may take different forms;

(b) two or more separate investigations which take different form may be combined into a single investigation.

[Subsidiary]

Investigation panel.

22. (1) The investigation panel shall investigate complaints referred to it by the Committee.

(2) The investigation panel shall, upon receipt of a complaint, issue a notice to the concerned parties informing them of the intended investigation.

(3) An investigation notice shall be in Form 6 in the Schedule.

Investigation Procedures.

23. (1) A person appearing before the investigation panel shall be entitled to give evidence, call witnesses and address the investigation panel on the subject matter of the complaint.

(2) Subject to these Regulations, the investigation panel shall regulate its own procedure.

(3) Evidence before the investigation panel may be given orally, or if the investigation panel so orders, by affidavit or written statement.

(4) The investigation panel may require any person who in its opinion is able to give information relating to the subject matter before it, to produce such documents or objects in the possession or under the control of that person, which in the opinion of the investigation panel are relevant to the subject matter of the investigation.

Summoning of experts.

24. (1) The investigation panel may summon before it and examine on oath any expert who in its opinion is able to give evidence relating to the subject matter of the investigation.

(2) The Committee may order payment at its own expense of reasonable expenses to an expert assisting in an investigation.

Avoidance of technicalities and formality.

25. The Committee shall conduct its business in such manner as it considers most suitable for the just execution of its business and shall, avoid legal technicality and formality in all its proceedings save where it acts in compliance with an order issued by the High Court.

Failure to obey summons

26. If without sufficient cause, a witness does not appear in obedience to summons issued by the Committee, that person shall have committed an offence under Section 33 of the Act.

Duty to provide information and exceptions.

27. (1) The Committee shall inform the complainant, and the respondent, or any interested party, of the findings of the investigation panel.

(2) The Committee may withhold any information or report of its findings if the non-disclosure of such information or report is necessary for the purposes of—

(a) preventing the premature or inappropriate disclosure of information that is relevant to, or may be used in, any actual or prospective criminal proceedings,

(b) preventing the disclosure of information or finding in which its non-disclosure—

(i) is in the interests of public safety;

(ii) is for the purposes of further investigations; or

(iii) is otherwise in the public interest.

(3) The Committee may, on the application of a party or on its own motion, exclude the public generally or any particular person from the venue where its proceedings take place.

(4). A notification of the findings and recommendations of the Committee shall be in Form 7 in the Schedule.

Suspension of Investigation.

28. (1) The Committee may suspend any investigation or other procedure provided for under these regulations, which would, if it were to continue, prejudice any criminal proceedings.

(2) The Committee may direct that any investigation which is liable to be suspended under sub-regulation (1) shall continue if it is of the view that it is in the public interest to do so.

(3) Where an investigation has been suspended until the conclusion of any criminal proceedings, the investigation panel may resume the investigation upon the conclusion of the criminal proceedings.

(4) Where an investigation panel forms an opinion that it is necessary to suspend an investigation, such opinion shall be tabled before the Committee as soon as practicable, but a decision to suspend an investigation shall only be made by the Committee.

PART IV—SPECIAL INVESTIGATION

Special investigation.

29. (1) The Committee may on its own motion or on the basis of a complaint conduct an investigation into—

(a) any allegation or complaints against any person, or the Authority in relation to the condition of the environment in Kenya; or

(b) any suspected case of environmental pollution or degradation.

(2) In determining whether an investigation should be commenced, the Committee shall first be satisfied that the Complaint or the matter falls within the provisions of section 32 of the Act.

Procedure of Investigation.

30. The Committee may designate a sub-committee for the purposes of an investigation under regulation 29 of these Regulations.

[Subsidiary]

Reports.

31. (1) Upon the conclusion of an investigation, the sub-committee shall submit its report to the Committee.

(2) A report submitted under paragraph (1) may be adopted by the Committee and forwarded to the Council.

32. (1) The Committee shall in the last quarter of every year, appoint a technical sub- committee to draft the various reports required under these Regulations.

(2) The Secretary shall be a member of, and the convenor of the sub-committee appointed under these Regulations.

PART V —MISCELLANEOUS

Proceedings

33. A member of the Committee shall be free from any liability for anything done or said by him in his capacity as such member.

Forms.

34. Except as specifically provided in these regulations, the forms used under these regulations shall be such forms as the Committee may, from time to time design or approve with such modification as may be necessary.

Effect of Regulations.

35. (1) These Regulations shall apply, as far as practicable to allegations investigated by the Committee on its own initiative.

(2) Non compliance with any of these Regulations shall not render void any action taken by Committee.

Time.

36. The Committee may in writing extend the time or period specified for the performance of any act or thing required to be done by these regulations.

Referral to the Tribunal.

37. (1) The Committee may, in its discretion, refer any matter relating to a complaint to the Tribunal.

(2) Any matter referred to the Tribunal shall be dealt with in accordance with the provisions of Section 126(2) of the Act.

Pending Complaints.

38. These Regulations shall apply to any complaint lodged before the Committee in respect of which investigation has not commenced.

[Subsidiary]

SCHEDULE

FORM I (r 4(4)

REPUBLIC OF KENYA
THE ENVIRONMENTAL MANAGEMENT AND COORDINATION ACT 1999
COMPLAINT NO_____ OF 20_____

Public Complaints Committee

COMPLAINT FORM

1. Complainant identity
Name of the complainant (person or firm)……
Address …….....
Telephone Number…….....
Fax Number…….....……
Name of the Respondent (person or Firm)
Address…….....……
Telephone Number……
E-mail Address……..……
Area polluted or degraded……

2. Nature of the Complaint
(*briefly state the facts of the matter and give concise details of the complaint in numbered paragraphs including a statement as to whether any issues relating to the complaint are before a Court of Law*);

3. Declaration by the Complainant.
I hereby certify that the particulars given above are correct and true to the best of my knowledge.
Name……...……
Position ……...……
Signature…….....……
On behalf of……...……..
Date ……...……...

FORM 2 {r 4(6)}

PUBLIC COMPLAINTS COMMITTEE Date:……..
P. O. Box 74772 – 00200 Nairobi
Bellevue Area, Popo Road
Tel: +254-20-609692 / 020-2405782
+254-20-2304474 / 2182791
Fax: +254-20-609692
Email: pcc.environment@gmail.com

COMPLAINT ACKNOWLEDGEMENT FORM
Complainant (s) ……...……
…….....

Respondent (s) …….....……

[Subsidiary]

…….....……...

Nature of complaint …….....
.....……...

Location …….....

Action to be taken …….....
.....……...
…….....
.....……...

Received by
Name ……
…….....

Signature…….....
Date……..
For Chairman, PCC

FORM 3 {r 17(2)}

REPUBLIC OF KENYA
THE ENVIRONMENTAL MANAGEMENT AND COORDINATION ACT 1999
PCC COMPLAINT NO_____ OF 20_____

HEARING NOTICE

TO……..
……
……..…..

Whereas this Committee has admitted the above complaint made against .....
…….....……and intends to investigate the same
NOW TAKE NOTICE that the Committee will hold a hearing of the parties in the complaint on the ……..…..……..day of…….....……20……

You are hereby required TO APPEAR PERSONALLY or through your representative on the aforementioned date at…….. at……o'clock, in the morning or afternoon, and to provide such documentary and oral information to the Committee regarding the complaint.

ISSUED under my hand this…….day of…….. 20……

Chairman/Secretary.
The Public Complaints Committee.

[Subsidiary]

FORM 4 (r 17(3)

REPUBLIC OF KENYA
THE ENVIRONMENTAL MANAGEMENT AND COORDINATION ACT 1999
COMPLAINT NO_____ OF 20_____
Public Complaints Committee

WITNESS SUMMONS

To …….....…
of…….....……
…….....……..
Whereas this Committee is investigating the above complaint; you are therefore required to attend before the Public Complaints Committee on Environment in regard to ……
……at……on……..……..day of……20……at……
O'clock, and so from day to day until the matter is disposed of, to give evidence on behalf of ……..and also to bring with you and to produce at the time and place aforesaid…….....…….....……
(*specify the documents to be produced*)…….....……

ISSUED under my hand this…….....…….day of…….....…….. 20……
Your attention is particularly drawn to section 33 (2) of the ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION Act, 1999 that makes it an offence for anyone to refuse to comply with the requirements of the Committee.
In the name of the Public Complaints Committee

FORM 5 {r 17(6)}

PUBLIC COMPLAINTS COMMITTEE Date:……..
P. O. Box 74772 – 00200 Nairobi
Bellevue Area, Popo Road
Tel: +254-20-609692 / 020-2405782 +254-20-2304474 / 2182791
Fax: +254-20-609692
Email: pcc.environment@gmail.com

INTERIM ON SITE INVESTIGATION REPORT

Location…….....……..……
Nature of complaint
.....…….....……
Respondent (s)
…….....……
Observations
…….....…… ……
…….....
.....…….....…….....…...

Documents/items to be availed to PCC and name of the person to avail them.
……
……
……..
Interim Recommendations
…….....……...……
Signed …….....……..……

Date …….....
Name……..……
Chairman, PCC
Acknowledged by respondent
Signed ……Date……..

Note: Section 33 (1) (a) and (2) (a) of the Environmental Management and Coordination Act provides as follows:

"The Complaints Committee may, by notice in writing, require any person to – 1 (a) Give to the complaints committee all reasonable assistance in connection with the investigation of any complaint.

2 (a) a person who refuses to comply with the requirement of the Complaints Committee which is applicable to him, to the extent to which he is able to comply with it commits an offence.

FORM 6 (r 22(3)

REPUBLIC OF KENYA
THE ENVIRONMENTAL MANAGEMENT AND COORDINATION ACT 1999
COMPLAINT NO_____ OF 20_____
Public Complaints Committee

INVESTIGATION NOTICE

TO……
……
……..
Whereas this Committee has admitted the above complaint made against…….and intends to investigate the same

NOW TAKE NOTICE that the Committee shall investigate the said complaint on the …….....……..day of…..……....……20……

You are hereby required to personally or through your representative TO APPEAR at the ……on the aforementioned date at ……o'clock, in the forenoon, and to provide such documentary and oral information to the Committee regarding the complaint.

ISSUED under my hand this…….day of……. 20……

In the name of the Public Complaints Committee.

[Subsidiary]

FORM 7 {r 27(4)}

PUBLIC COMPLAINTS COMMITTEE Date:…...……..
P. O. Box 74772 – 00200 Nairobi
Bellevue Area, Popo Road
Tel: +254-20-609692 / 020-2405782
+254-20-2304474 / 2182791
Fax: +254-20-609692
Email: pcc.environment@gmail.com

PCC: COMPLAINT No. ..…/……..
RESPONDENT……..

RE: FINDINGS AND RECOMMENDATIONS

Enclosed please find a report of the investigation regarding a complaint against you dated …… under Section 32 of the Environmental Management and Coordination Act (EMCA) 1999.

This is a summary of the report for your ease of reference.

Kindly take the necessary action in consultation with the area NEMA District Environment Officer.
Sincerely
…….....……..
Chairman, PCC

c. c.
1. Secretary, NEC
2. Director General, NEMA
3. Complainant