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GOVERNMENT NOTICE No. 420 published on 28/12/2012

THE PETROLEUM ACT

(CAP. 392)

RULES

(Made under section 5(3))

THE PETROLEUM (LIQUEFIED PETROLEUM GAS) RULES, 2012

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GOVERNMENT NOTICE No. 420 published on 28/12/2012

THE PETROLEUM ACT

(CAP. 392)

RULES

(Made under Section 5(3))

THE PETROLEUM (LIQUEFIED PETROLEUM GAS) RULES, 2012

PART 1

PRELIMINARY PROVISIONS

- Citation 1. These Rules may be cited as the Petroleum (Liquefied Petroleum Gas) Rules, 2012.
- Applica- 2. These rules shall apply to regulate LPG wholesale business, LPG tion distribution business and LPG retail business.
- Interna- 3. In these Rules, unless the context otherwise requires:- tion “Act’ means the Petroleum Act;
- Cap. 392 “annual fee” means a fee payable annually by a licensee as shall be prescribed by the authority from time to time;
- “applicable law” means any principal law, treaty, proclamation, regulation, rule, order or a by-law that is customarily treated in Tanzania as having legally binding force in matters pertaining to regulation of Liquefied Petroleum Gas.
- Cap.130 “approved specification” means any specification or standard in relation to a petroleum product applied by the authority and as approved pursuant to the standards act, and any other standards that are widely used for good petroleum industry practices;
- “Authority” means the Energy and Water Utilities Regulatory Authority established under the provisions of the EWURA Act;;
- Cap. 414 “bulk customer” means a customer buying or who has a contract

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G.N. No 420 (contd.)

with a wholesaler or super dealer to be supplied with LPG in bulk quantity;

“bulk quantity” means a single container of LPG of not less than 250 kg;

“Certification Authority” means the Weights and Measures Agency established under the provisions of the Executive Agencies Act;

“Compliance Order” means an order issued by the Authority pursuant to section 39 of the EWURA Act;

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“customer” means any person supplied or that has a contract to be supplied with LPG on retail basis;

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“cylinder” means any portable or stationary pressure container, together with all of its permanent supports and attachments installed for the storage and handling of LPG;

“dangerous situation” means a situation involving a petroleum product that:-

- (a) endangers the safety or health of a person, or the safety of a person’s property; or
- (b) creates an immediate risk of significant environmental harm;

“dealer” means any person conducting an LPG retail business and for the purpose of these rules shall be deemed as an agent of a super dealer;

“dealership agreement” means the contractual arrangement that establishes, *inter alia*, an exclusive relationship between a wholesaler and a super dealer or between a super dealer and a dealer with respect to the purchase and sale of LPG and it shall contain the minimum mandatory requirements specified in rule 35(4);

“decant” means transfer of LPG from one cylinder to another;

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

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“fire safety certificate” means safety certificate issued by the fire and Rescue Authority pursuant to the fire and Rescue Forces Act;

“Good Petroleum Industry Practises” means any conduct related to a petroleum product intended to preserve product quality and meeting generally accepted health, safety and environmental requirements;

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“habitual offender” means any supplier found for the third time during the licence term selling, offering for sale under filled cylinders, or fail or refuses to maintain a calibrated weighing scale for weighing purpose at its licensed facility or who fails or refuses to weigh the LPG contents in a cylinder;

“hazardous waste” means any petroleum product that by reason of any of its physical, chemical, reactive, toxic, flammable, explosive or corrosive characteristics causes danger or is likely to cause danger to health or environment, whether alone or when in contact with other wastes or substances;

“import of LPG” means the delivery of LPG in bulk quantity into Tanzania;

“incident” means:-

- (a) an event that involves the leakage of a petroleum product from a transport unit or a spill of a petroleum product resulting from the dispensing or offloading activities;
- (b) death or personal injury occurring as a result of the conduct of a licensed activity or LPG retail business;
- (c) a fire or an event incidental to a fire resulting from the conduct of a licensed activity or LPG retail business; or
- (d) any other significant event that may adversely affect the conduct of a licensed activity or LPG retail business.

“inspector” means an officer of the authority or an agent of the authority appointed by the authority to perform the functions of inspection as required under the act and applicable law;

“leak” means the discharge of LPG into the air, or into any structure or thing;

“licence” means an authorization issued by the authority to conduct a licensed activity pursuant to these rules;

“licensee” means a holder of the licence;

“licensed activity” means an activity related to the fulfilment of the licence obligations related to the LPG wholesale business or an LPG distribution business;

“licensed facility” includes the buildings, cylinders, storage tanks

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G.N. No 420 (contd.)

and parking areas, associated equipment and accessories used to conduct a licensed activity;

“licence fee” means a fee payable by a licensee as shall be prescribed by the authority;

“Liquefied Petroleum Gas” (“LPG”) means any material having a vapour pressure not exceeding that allowed for commercial propane and composed predominantly of the following hydrocarbons, either by themselves or as mixtures, propane, propylene, butane and butylenes;

“LPG distribution business” means:-

- (a) storing, handling, filling and selling of LPG by a super dealer to a dealer;
- (b) selling of LPG directly to a customer through a super dealer; or
- (c) re-filling of LPG by a super dealer through the use of a re-filling facility.

“LPG (Distribution and Retail Business) Operational Guidelines” a manual prepared by the Authority with instructions on how LPG distribution and retail business is to be conducted;

“LPG retail business” means an activity necessary for storing, handling and selling LPG to a customer through a retail outlet;

“LPG wholesale business” means an activity necessary for the supplying, filling, re-filling or importation of LPG in bulk quantity;

“operator” means a person who is responsible for the day-to-day activities of a licensed facility, whether such person is located on the relevant premises during business hours or is the owner of such facility and who for the purpose of these rules, shall be deemed to have the authority and the ability to:-

- (a) grant an inspector access to relevant premises and facilities to facilitate the performance of their duties;
- (b) detect any defect weakness within a licensed facility and make an authoritative judgment as to its suitability for further use;
- (c) answer questions raised by the inspectors; and
- (d) witness the inspections process.

“refilling center” means a facility operated by a wholesaler or a super

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dealer and duly authorized by the Authority to decant LPG cylinders in terms of rule 40;

“retail outlet” means any place where LPG is sold or offered for sale to a customer on retail basis;

“super dealer” means any person who either handles at any one time not less than three thousand kilogrammes of LPG or has a re-filling center and has a dealership agreement with a wholesaler and shall have the rights and obligations to:-

- (a) store, handle and sell LPG to a dealer;
- (b) sell LPG to a customer or a bulk customer; or
- (c) refill LPG to a customer through a refilling center;

“supplier” means a person conducting a licensed activity in connection with a LPG wholesale business or LPG distribution business;

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“Tribunal” means the Fair Competition Tribunal established under the provisions of the Fair Competition act; and

“wholesaler” means any person that imports, stores, handles, fills, decants and sells LPG directly to a bulk customer or a super dealer.

PART II

APPLICATION FOR A CONSTRUCTION APPROVAL

Applica-
tion for
constru-
ction
approval

4.—(1) No person shall construct a licensed facility without seeking and obtaining a construction approval from the Authority in a manner provided herein

(2) Any person who wishes to construct a licensed facility shall lodge an application with the Authority by filling in the application form with the following information:-

- (a) the applicant’s name and business address, telephone and fax number;
- (b) the location and complete address of the proposed licensed facility;
- (c) proof of land ownership and right of use;
- (d) a project or business plan describing the scope of the licensed activity;
- (e) a list of facilities to be constructed;

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- (f) an environmental impact assessment certificate from relevant authorities;
- (g) a list of personnel and proof of training and qualification;
- (h) an engineering layout plan signed by a registered engineer which shall specify:-
 - (i) the number of storage tanks and dispensing pumps;
 - (ii) the location and distances between building structures and facilities and equipment;
 - (iii) entry and exit;
 - (iv) perimeter wall and property boundaries; and
 - (v) location and identification of dispensing unit's including hose reach zone; and
 - (vi) that the engineering, design and construction has been carried out in accordance with approved specifications; and
 - (vii) any other information as shall be required by the Authority.

5. An application for a construction approval in rule 4 shall be accompanied by a non-refundable application fee as shall be prescribed by the Authority from time to time.

Application to be accompanied by a fee

6.—(1) The Authority shall, upon receipt of an application under rule 5, proceed to evaluate such application and decide whether to grant or deny the application.

Grant of a construction approval

(2) The Authority shall, while making a decision whether to grant or deny a construction approval, consider the following:—

- (a) Applicant's compliance with rule 4(2);
- (b) applicant's compliance with land ownership and land use laws; and
- (c) applicant's compliance to health, safety and environmental requirements.

(3) The Authority shall, after issuing a construction approval under sub-rule (1), cause it to be published in the *Gazette* as required by the provisions of the Act.

(4) After issuance of an approval, the applicant shall be notified to collect the approval from the Authority.

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Validity and duration of a construction approval	(5) The Authority shall, in the event that it denies an application for a construction approval, inform the applicant of such decision in writing together with the reasons thereof.
Notice of commencement	7. A construction approval issued by the Authority under rule 6 shall remain in force for such a period as the Authority may allow provided that in the event the holder of the construction approval fails to commence construction within twelve months from the date issuance of such construction approval, shall cease to have effects.
Suspension and revocation of a construction approval	8. A holder of a construction approval shall issue a notice to the Authority of the commencement of construction not less than thirty days prior to the start of construction.
	9.—(1) The Authority may, by notice in the <i>Gazette</i> , withdraw or suspend a construction approval if any of the terms and conditions thereof has not been complied with.
	(2) Where the Authority intends to withdraw, suspend or amend a construction approval, it shall, at least twenty-one days before the date of intended revocation, suspension or amendment, notify the holder of such approval about the intention and the reasons thereof.
	(3) Notwithstanding the provisions of sub-rule (1) and (2), the Authority may, by notice in the <i>Gazette</i> , withdraw or suspend a construction approval on the application or with the consent of the holder of such approval.
	(4) The Authority may, by notice in the <i>Gazette</i> , reinstate a construction approval revoked or suspended under sub-rule (1) if satisfied that the reasons for the revocation or suspension do no longer exist.
	(5) Without prejudice to the provisions of sub-rule (2), the Authority may, pending the expiry of the notice under that sub-rule and where there are compelling reasons to do so, order the holder of the construction approval to stop the construction work.
Appeal	10. Any person who is aggrieved by the decision of the Authority under this part may lodge an appeal to the tribunal pursuant to the provisions of the Fair Competition Act.

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PART III

LICENSING PROCEDURES

11.—(1) No person shall conduct a licensed activity without seeking and obtaining a licence. Licensed Activity

(2) The Authority shall issue licenses in respect of the following activities:-

- (a) LPG wholesale business; and
- (b) an LPG distribution business.

(3) A person who conducts a licensed activity shall, not later than three months after coming into force of these Rules, apply to the Authority for a licence in respect of its licensed activity.

(4) Any person who contravenes the provisions of sub-rule (1) and (3), commits an offence and shall be liable on conviction, to a fine of not less than five million shillings or imprisonment for a term not exceeding two years or to both.

12. Notwithstanding the penalty prescribed under rule 11 (4) of this rule, the Authority shall, in the event it determines that any person has contravened the provisions of rule 11 (1) or 11 (2), enter upon any licensed facility and close down such facility. Power to enter and close a facility

13.—(1) No person shall be issued with an LPG wholesale licence unless his application meets the technical and financial requirements which are:- Minimum Licensing Requirements

- (a) possession of a storage depot and a filling plant that complies with approved specification and Good Petroleum Industry Practices or hospitality agreement with another licensee;
- (b) possession of adequate skilled personnel; and
- (c) proof of financial capability which is either:-
 - (i) previous years audited financial statements showing an annual gross turnover of not less than one billion and five hundred million shillings and good business track records. These accounts shall have been audited by an auditor registered by the National Board of Accountants and Auditors to conduct public practice;
 - (ii) a bank statement showing a balance of not less than one billion and five hundred million shillings;

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G.N. No 420 (contd.)

- (iii) a bank guarantee of not less than one billion and five hundred million shillings; or
- (iv) an unequivocal letter of comfort from a financial institution or a bank that confirms that the bank or the financial institution shall extend a loan to the applicant for the amount not less than one billion and five hundred million shillings.

Provided a letter shall be signed by the chief executive officer of the institution or the bank.

(2) Notwithstanding the generality of sub-rule (1) of this rule, the authority may issue a licence with specific conditions to be fulfilled within a prescribed time to an applicant who fails to meet some of the requirements as provided for under sub-rule (1).

Licence
application

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

- (a) certified copies of its registration documents;
- (b) dealership agreement, if any;
- (c) proof of possession of a storage facility or hospitality arrangement, whichever is applicable;
- (d) proof of possession of adequate qualified personnel;
- (e) if an environmental assessment study has been conducted, a certified copy of the certificate;
- (f) a business plan describing the scope of a licensed activity;
- (g) proof of financial capability;
- (h) tax identification number certificate;
- (i) details in respect of land ownership and plant layout as applicable; and
- (j) a list of facilities and proof of availability of such facilities to support the proposed business.

Licence
application
to be
accom-
panied by
a fee

15. An application for a licence under rule 14 shall be accompanied by a non-refundable application fee as shall be prescribed by the Authority from time to time.

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

Publication
of licence
applica-
tions

(2) The costs of publication of the notice under sub-rule (1) shall be borne by authority.

(3) The public shall be invited to submit their comments and representations within twenty one days from the date of publication of the notice.

(4) The comments and representations referred to under sub-rule (3) shall be considered by the authority in arriving at the decision on the application.

17.—(1) The Authority shall, upon consideration of an application for a licence:-

Grant of
a licence

- (a) deny the application;
- (b) refer back the application; or
- (c) grant the application and issue a licence.

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

- (a) the minimum licensing requirements in rule 13;
- (b) objections or representations received from the public pursuant to rule 16;
- (c) compliance to land use laws;
- (d) the applicant's record of compliance with the Act, these Rules and other applicable laws;
- (e) the compliance of a licensed facility on matters related to:-
 - (i) safety;
 - (ii) health;
 - (iii) security;

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G.N. No 420 (contd.)

(iv) handling of hazardous substances; and

(v) environmental protection;

(f) any other matter relevant to the orderly conduct of LPG business in Tanzania.

(3) After issuance of a licence, the applicant shall be notified to collect the licence upon payment of a licence fee and an annual fee.

(4) The Authority shall, in the event that it denies or refers back an application for a licence informs the applicant of such decision in writing together with the reasons thereof.

Validity and duration of a licence

18.—(1) The licence issued under these Rules shall be valid for a period of seven years for an LPG wholesale business and five years for an LPG distribution business.

(2) Notwithstanding the provisions of sub-rule (1), the Authority may, on the written application of a licensee, extend the period for such further period as the Authority may determine.

(3) The validity of a licence shall cease where the respective licensee fails to conduct a licensed activity within six month after issuance of such licence.

Application for transfer of a licence

19.—(1) No licence shall be assigned or transferred to another person without a written approval of the Authority.

(2) Any transferee or assignee of a licence shall apply to the authority by filling in the appropriate form prescribed by the authority, and lodge it with the authority, together with other documents or records as may be required by the Authority or applicable law.

(3) Notwithstanding the provisions of sub-rule (1), no application for a transfer or assignment of a licence shall be entertained by the Authority unless it is endorsed by the transfer or assignor, as the case may be.

(4) A licence transfer application received by the Authority shall be evaluated to verify its completeness and legality of information contained therein.

(5) A notice of an application received under sub-rule (4) shall be published in all at least two newspapers of wide circulation in Tanzania, one in English and another in Kiswahili with a view to siliciting comments and representations on the application.

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G.N. No 420 (contd.)

(6) The costs for publication of the notice under sub-rule (4) shall be borne by the Authority.

(7) The public shall be invited to submit comments and representations within fourteen days from the date of publication of the notice.

(8) The comments and representations shall be considered by the Authority in arriving at the decision on the application.

(9) The Authority shall, after the expiration of the notice in sub-rule (6) of this rule, evaluate the application together with comments received (if any) and make a decision whether to grant or deny the application for transfer or assignment.

20.—(1) A licensee may change its name pursuant to the provisions of these Rules and applicable law.

Change of name

(2) A licensee who has changed its name shall within thirty days after such change notify the Authority in writing, which shall be accompanied by a certificate for change in name issued by relevant authorities.

21.—(1) Any change in shareholding structure of a licensee shall require a written approval of the Authority.

Change of shareholding structure

(2) A licensee intending to change its shareholding structure shall before applying for the change in shareholding structure to the Registrar of Companies apply for the approval to the Authority by submitting a letter to the Authority requesting for such approval.

(3) A licensee shall, after receiving approval for change of shareholding structure from the Registrar of companies as required by the Companies Act, notify the Authority of such change.

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(4) The authority may before approving the application for change in shareholding structure in such-rule (2) of this rule consult the Fair Competition Commission and the Tanzania Revenue Authority.

22.—(1) A licensee may, within three months before expiration of a licence term, apply to the authority for a renewal of a licence.

Application for renewal of a licence

(2) Application for a renewal of a licence in sub-rule (1) shall be by filling in an application form to be prescribed by the Authority.

(3) The Authority shall while making a decision whether to grant or deny an application for renewal of a licence consider the applicant's

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G.N. No 420 (contd.)

compliance to the conditions of the licence which is due to expire.

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

Suspension
or
revocation
of a
licence

23. A licence may be :—

- (a) suspended by the authority for a period of twelve months in case of any violation of the licence conditions, the provisions of the Act, these rules or applicable law; or
- (b) revoked by the authority if a licensee fails to remedy or desist from an Act or omission constituting any violation within the prescribed time.

Appeal
Cap. 285

24. Any person who is aggrieved by the decision of the Authority under this Part may lodge an appeal the the Tribunal pursuant to the provisions of the Fair Competition Act.

PART IV

GENERAL OBLIGATIONS OF A SUPPLIER AND A DEALER

General
Obligations
of a
Supplier

25. A supplier shall:-

- (a) Comply with:-
 - (i) applicable law;
 - (ii) Orders and directions of the Authority;
 - (iii) these rules;
 - (iv) Good Petroleum Industry Practises; and
 - (v) LPG (Distribution and Retail Business) Operational Guidelines;
- (b) not sell or offering for sale an empty cylinder and shall at all times be responsible for maintaining and servicing the said cylinder;
- (c) ensure that assessment are carried out at least once during the licence term;
- (d) ensure that the testing and measuring instruments used for its licensed activity are accurate and calibrated by the Certification Authority;

- (e) inform the authority as soon as practicable, but in any event not more than twenty-four hours after the occurrence of a dangerous situation or incident related to its licensed activity, LPG retail business or occurring within its licensed facility, the steps taken or proposed to be taken to remedy such situation or to eliminate or minimize the danger arising from such situation;
- (f) ensure that a cylinder is disposed of safely and in compliance with applicable law;
- (g) obtain and maintain a valid insurance cover in respect of all liabilities that may arise from the conduct of the licensed activity;
- (h) when the licensed facility is left unattended, ensure that:-
 - (i) all electrical power to the dispensing equipment is switched off; and
 - (ii) the dispensers, all cylinders and related equipment are adequately secured to prevent unauthorized access and use;
- (i) upon request, make available to the authority records of the licensed activity;
- (j) maintain and make available to the authority upon request documentary evidence that:-
 - (i) all electrical equipment and installations in the premises relevant for conduct of its licensed activity comply with existing relevant codes or legislation; and
 - (ii) areas of the premises where flammable gases or vapours may occur comply with existing relevant codes or legislation;
- (k) print the number of a licence on every accounting document used for its operations with a bulk customer or a customer, including invoices, delivery notes, and receipts;
- (l) conduct business in such a way that:-
 - (i) bulk customers and customers are treated fairly and equally; and
 - (ii) comparable services are provided to all bulk customers and customers;

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- (m) not engage in any activities that disrupt or interfere with competition;
- (n) as soon as practicable, but in any event not later than thirty days after it becomes aware of the fact, notify the authority:-
 - (i) if it is unable to conduct its licensed activity;
 - (ii) if the conduct of its licensed activity would or might lead to the breach of any of these rules or materially affect services to the customers; or
 - (iii) of any material change in circumstance that adversely affects its licensed activity;
- (o) cause the operator to be present on a licensed facility at all times;
- (p) notify the Authority of any change of its address, name or location not later than seven days after such change;
- (q) display in a conspicuous place at its licensed facility its licence or a true copy thereof, duly certified by the Authority; and
- (r) issue an official receipt bearing its registered name and address in all transactions relating to LPG which shall specifically set out:-
 - (i) its registered name and address;
 - (ii) the quantity and price of LPG sold, transported, filled or re-filled;
 - (iii) the date of the transaction;
 - (iv) in the case of the sale of LPG in cylinders:-
 - (aa) the brand of the product;
 - (bb) the gross weight of a cylinder, including the contents thereof;
 - (cc) the total price; and
 - (dd) the unit price per cylinder.

Protection
of lives
and
property

26.—(1) A supplier and a dealer shall, while storing, keeping, handling, conveying, using or disposing of LPG, take such precautions and exercise such care as may be reasonable under the circumstances in order to:-

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G.N. No 420 (contd.)

(a) avoid endangering the safety or health of any person, or the safety of any person's property; and

(b) prevent risk of significant environmental harm.

(2) A supplier or a dealer shall dispose of any waste related to LPG business in a manner and at a place intended for the safekeeping and dumping of such products pursuant to applicable law and Good Petroleum Industry Practices.

27.—(1) A supplier shall be obliged to compensate any person who has suffered any loss of life or property as a result of a licensed activity.

Compensation for loss suffered

(2) Any person who has suffered loss of life or property as a result of the licensed activity shall first lodge a complaint with a supplier whose licensed activity has caused such loss with a view of reaching an amicable settlement.

(3) In the event no settlement is reached under sub-rule (2), the person who has suffered loss may refer the matter to the authority for decision.

(4) The matter referred to the Authority under sub-rule (3) shall be dealt with as if is a complaint lodged pursuant to the provisions of the EWURA Act.

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(5) For the purpose of this rule, a person includes an administrator, executor or executrix of the estate of a deceased person.

28. A supplier and a dealer shall ensure that it procures adequate insurance cover for a petroleum product, environment, personnel, customers and visitors of a licensed facility of a retail outlet as the case may be.

Insurance

29.—(1) Every supplier shall at all times:-

(a) keep complete and accurate records and data related to its licensed activity;and

(b) in accordance with the Authority's requirements and pursuant to its directions, promptly provide to the Authority documents, records or information related to its licensed activity.

Maintenance of records, Provision and disclosure of information

(2) Any person who refuses to furnish information or statement as required under sub-rule (1) (b) or furnishes false information or statement to the Authority shall be liable to a fine of not less than five million shillings.

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G.N. No 420 (contd.)

(3) Any supplier who refuses to furnish information or statement as required under sub-rule (1) (b) or furnishes false information or statement to the Authority for the second time shall be liable to pay a fine of not less than ten million shillings and shall have its licence suspended for a period of twelve months.

Confidential
information

30.—(1) Any information received by the Authority from a supplier pursuant to the provisions of these Rules and applicable law shall be presumed to be not confidential.

(2) A supplier shall not be entitled to withhold information from the authority on the ground that it is confidential.

(3) A supplier may request the Authority not to circulate specific data or information that it has provided to the Authority.

Provided, that only the Authority shall determine that such information is confidential.

(4) The Authority shall limit or prohibit the publication of any information to the public in the event it makes a determination that such information is confidential.

Penalty

31.—(1) Any person who contravenes the provisions of rules 25 (b), (c), (e), (g), (1) and (m) shall be liable to a fine of not less than three million shillings.

(2) Any supplier who contravenes the provisions of rules 25(b), (c), (e), (g), (1) and (m) for the the second time shall be liable to pay a fine of not less than ten million shillings for a wholesaler and five million shillings for a super dealer.

(3) The authority shall suspend for a period of twelve months a licence of any supplier who shall be found in contravention of rules 25 (b), (c), (e), (g), (1) and (m) for the third time.

PART V

ENVIRONMENTAL PROTECTION

Compliance with
environmental
laws and
standards

32.—(1) Every supplier and every dealer shall comply with the requirements of all applicable environmental laws and standards related to a licensed facility and a retail outlet as appropriate.

(2) Subject to applicable law a supplier shall:-

(a) carry out an environmental impact assessment before establishing a licensed facility, or making a major

improvement to an existing facility;

- (b) take all necessary preventive measures to avoid pollution resulting from operating its pumping stations, treatment plants, or networks;
- (c) observe strict environmental, health, and industrial safety standards as required by applicable law; and
- (d) perform an environmental audit related to licensed activity in accordance with applicable law.

(3) For the purpose of sub-rule (2) (a) the term “major improvement” means an improvement that aims at expanding the size of the facility and increasing the number of storage tank.

33. In the event the Authority determines that a supplier or a dealer has violated the licence conditions, the Act, these rules or any applicable law on matters related to the protection of environment it shall take appropriate actions pursuant to the provisions of the Environmental Management Act.

Sanctions for Events of Violations of Environmental Laws Cap. 191

PART VI

TECHNICAL OBLIGATIONS OF A SUPPLIER AND A DEALER

34.—(1) A supplier shall comply with the approved specification pertaining to the handling, storage and composition of an LPG which is consistent with these Rules and applicable law.

Compliance with specifications and standards

(2) A supplier shall not deviate from any approved specification without prior approval of the authority and the Authority shall not grant such an approval unless it is satisfied that such deviation is for public interest and shall not negatively affect public safety and the environment.

Execution of a dealership agreement

35.—(1) No super dealer or dealer shall conduct an LPG distribution business or an LPG retail business, as appropriate, unless he has entered into a dealership agreement with a wholesaler or a super dealer as the case may be.

(2) A wholesaler or super dealer, shall within thirty days after receipt of a written request for a dealership agreement from a super dealer or dealer as the case may be, notify such dealer whether it has accepted or denied such request.

(3) A wholesaler and a super dealer and a super dealer and a dealer shall execute and make available to the Authority upon request a dealership

Petroleum (Liquefied Petroleum Gas)

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agreement.

(4) The dealership agreement shall include the following minimum mandatory requirements:-

- (a) the name and physical address of the parties;
- (b) the business licence numbers of the parties;
- (c) the brand name of the LPG;
- (d) the prohibition for a super dealer or dealer that require such super dealer or dealer as the case may be, to procure LPG from the wholesaler or super dealer who is the party to such agreement as the case may be;
- (e) limitation on liability of parties; and
- (f) obligations to be bound by the legal requirements on health, safety and environmental requirements.

(5) A wholesaler or super dealer may refuse a request for a dealership agreement made by a super dealer or dealer pursuant to sub-rule (2) , as the case may be, where the request made is not economically or technically feasible and may result in a super dealer being unduly prejudiced.

(6) In the event a wholesaler or a super dealer, as the case may be, denies a request for a dealership agreement pursuant to sub-rule (5) the wholesaler or super dealer shall give reasons in writing.

(7) Notwithstanding any agreement to the contrary, any party to a dealership agreement may terminate the dealership agreement it has entered into, where it determines that the operations of the other party is in violation of these rules and applicable laws.

(8) Any party to a dealership agreement may terminate the dealership agreement for any other reason than that stated in sub-rule(7), provided a prior notice of sixty days is given to the other party.

(9) In the event a super dealer or dealer is aggrieved by the refusal of the wholesaler or super dealer in sub-rule (5) of this rule or the termination of the dealership agreement in sub-rules (7) and (8), he may refer the matter to the authority for a decision.

Cap. 414

(10) The matter referred to the Authority under sub-rule (9) shall deal with such matter as if it is a complaint lodged pursuant to the

provisions of Part VI of the EWURA Act.

(11) Notwithstanding the generality of this rule, a wholesaler shall identify and prepare a list of all super dealers its has a dealership agreement with pursuant to sub-rule (2).

36.—(1) A super dealer shall within six months after coming into force of these rules prepare a plan and submit it to the Authority which shall include:-

Super dealer to prepare a plan

- (a) a list of all dealers it has entered into a dealership agreement with pursuant to rule 35 (1);
- (b) a detailed plan on how to provide technical support to dealers as required by rule 37; and
- (c) detailed plan on how it will monitor the performance of dealers it has entered in a dealership agreement with.

37.—(1) Notwithstanding any provision of these rules:-

Provision of technical support

- (a) a wholesaler shall provide technical support to a super dealer with whom it has a dealership agreement and shall ensure that its LPG wholesale business is conducted in accordance with these rules and its licensed facility complies with the requirements prescribed in these rules; and
- (b) a super dealer shall provide technical support to a dealer with whom it has a dealership agreement and shall ensure that its LPG retail business is conducted in accordance with these rules and its retail outlet complies with the requirements prescribed in these rules.

(2) Notwithstanding any provision of these rules:—

- (a) a super dealer shall be deemed to be an agent of a wholesaler with whom it has dealership agreement, and the said wholesaler shall be responsible for all the conducts of the super dealer; and
- (b) a dealer shall be deemed to be an agent of a super dealer with whom it has a dealership agreement, and the said super dealer shall be responsible for all the conducts of the dealer.

38.—(1) A super dealer or a dealer shall sell or offer for sale cylinders supplied from a wholesaler or super dealer who has entered

Restriction on sale of LPG Offence

Petroleum (Liquefied Petroleum Gas)

G.N. No 420 (contd.)

into a dealer-ship agreement as appropriate.

(2) Notwithstanding the provisions of sub-rule (1), a super dealer or a dealer may, with prior written approval of the wholesaler or super dealer they have entered into a dealership agreement, sell or offer for sale an LPG of a different brand from that supplied by the wholesaler or the super dealer.

Prohibition
on the
use of
cylinders
and seals

39.—(1) Any person who contravenes the provisions of rules 35 (1) commits an offence and shall upon conviction be liable to a fine of not less than three million shillings or imprisonment for a term of three years or to both.

(2) Any super dealer who contravenes the provisions of rule 35 (1) for the second time shall be liable to a fine of not less than five million shillings and shall have its licence suspended for a period of twelve months.

Cap. 340

40.—(1) A supplier shall not use any cylinder for storage, handling, filling or re-filling of LPG unless such cylinder is completely leak proof, undamaged and suitable and safe for such storage, handling, filling or re-filling.

(2) A supplier shall not use a cylinder that posses or may pose a significant risk of environmental harm or harm to the safety or health of any person or property.

(3) A supplier shall ensure that not later than six months of coming into force of these rules, all cylinders are marked according to the provisions of the Weights and Measures Act.

(4) A supplier shall not use a cyklider that is not clearly marked pursuant to these rules.

(5) A supplier shall ensure that not later than one hundred eighty days after coming into force of these rules, all cylinders are sealed after coming into force of these rules, all cylinders are sealed after filling or re-filling.

(6) The seal described in sub-rule (5) of this rule shall be of the type that must be broken or destroyed before LPG can flow out of the cylinder.

(7) A wholesaler, a super dealer and a dealer shall be jointly and severally liable for providing cylinders with no seal or a broken seal.

Petroleum (Liquefied Petroleum Gas)

G.N. No 420 (contd.)

41. Any supplier who sells, offers for sale or distributes a cylinder with a broken seal or with no shall be liable to a fine of not less than three million shillings. Penalty
- 42.—(1) No person shall decant a cylinder at any place other than a refilling center. Prohibition to decant
- (2) A super dealer shall not decant cylinders for purposes of sale or distribution to customers unless Authorized to do so by the authority.
- (3) A super dealer duly authorized under sub-rule (2) of this rule shall not decant a cylinder of another supplier in the absence of the written authorization of:-
- (a) the cylinder owner; or
 - (b) the entity that is entitled to possess such cylinders.
- (4) A super dealer duly authorized pursuant to sub-rules (2) of this rule shall, before decanting a cylinder, conduct a thorough inspection of such cylinder to ensure that it is not damaged.
- (5) Any person who contravenes the provisions of sub-rules (1) and (2) commits an offence and shall, upon conviction, be liable to a fine of five million shillings or imprisonment for a term of three years or to both.
- 43.—(1) A wholesaler, super dealer or a dealer shall ensure that cylinders that carry the net LPG quantity as required by the provisions of the Weights and Measures Act. Prohibition on under filling Cap. 340
- (2) the following circumstances shall raise a presumption that a cylinder is under filled:-
- (a) a broken seal;
 - (b) a seal that has been tampered with; or
 - (c) the absence of a seal.
- (3) Possession of an under filled cylinder that has not been so identified or that has not been removed from a licensed facility or a retail outlet, shall raise a presumption that such cylinder is for sale.
- 44.—(1) A wholesaler, a super dealer or a dealer shall:-
- (a) maintain at all times on its licensed facility or a retail outlet as the case may be, a weighing scale suitable for cylinders and such weighing scale shall be calibrated and sealed by the certification of the Authority; and
- The use of calibrated weighing scales

Petroleum (Liquefied Petroleum Gas)

G.N. No 420 (contd.)

	<p>(b) prior to selling or offering for sale, ensure by weighing, that the LPG in a cylinder meets the required quantity.</p> <p>(2) A wholesaler, super dealer and a dealer shall, not less than once in every ninety days, confirm to the Authority that:-</p> <p>(a) the LPG sold by its respective dealers and dealers comply with the LPG contents requirement; and</p> <p>(b) its respective dealers and dealer's weighing devices are calibrated and sealed in accordance with sub-rule (2)</p> <p>(3) The test results described in sub-rule (2), shall be preserved for at least one year and be made available to the Authority on request.</p>
Reference of violation to the certification authority	<p>45. A wholesaler, a super dealer or a dealer who:-</p> <p>(a) sells, offers for sale or distributes an under filled cylinder as provided for under rule 42; or</p> <p>(b) fails or ignores to maintain a calibrated weighing scale in its licensed facility as required under rule 43.</p> <p>shall be referred to the certification of the authority for action.</p>
Penalty	<p>46.—(1) A wholesaler, a super dealer or a dealer who fails or refuses to maintain a weighing scale or to weigh the LPG contents in a cylinder shall be liable to a fine of not less than three million shillings.</p> <p>(2) Any wholesaler, super dealer or dealer who for the second time is found failing or refusing to maintain a calibrated weighing scale in its licensed facility or retail outlet or who fails to weigh the LPG contents in a cylinder, shall be liable to a fine of not less than five million shillings.</p> <p>(3) The Authority shall revoke a licence of any habitual offender.</p> <p>(4) A licensee whose licence has been revoked pursuant to sub-rule (3), shall not be eligible for issuance of a licence for a period of twelve months from the date of the revocation.</p>
Marking of cylinders	<p>47. A cylinder shall have the owner's distinguishing colour and clearly marked with:-</p> <p>(a) the owner's trade name;</p> <p>(b) the cylinder's serial number;</p> <p>(c) the date of the last major service; and</p> <p>(d) Other additional markings as required by the Certification Authority.</p>

Petroleum (Liquefied Petroleum Gas)

G.N. No 420 (contd.)

48.—(1) A wholesaler and a super dealer shall ensure that a sales invoice for each shipment of LPG includes:- Unloading of LPG

- (a) the name of the super dealer, a dealer, a bulk customer or a customer, as the case may be;
- (b) the quantity thereof; and
- (c) the delivery point.

(2) LPG shall be unloaded only by, or in the presence of a customer, a bulk customer or their representative, as named on the sales invoice or transfer document.

(3) LPG shall only be unloaded at the delivery point designated by a customer or a bulk customer as indicated on the sales invoice or transfer document.

49.—(1) A supplier shall, upon refillings, ensure that a cylinder valve and a safety valve is properly closed and sealed to protect it against a leak and tampering. Cylinder sealing

(2) No supplier or dealer shall import, sell, fill, re-fill or distribute an LPG in a cylinder that has:-

- (a) a broken or defective seal; or
- (b) not been properly closed and sealed in accordance with sub-rule (1)

(3) All suppliers and dealers shall ensure that a cylinder seal complies with approved specification.

50.—(1) A supplier or dealer shall not engage in any activity that may deceive, tend to deceive or have the effect of deceiving a customer, with respect to:- Deceptive trade practices

- (a) the brand name of the LPG; and
- (b) LPG's composition, grade or quantity.

(2) any supplier or dealer who contravenes the provisions of sub-rule (1), shall be liable to a fine of not less than three million shillings.

51.—(1) A wholesaler, super dealer and dealer shall:- Storage of LPG

- (a) locate, construct, maintain and operate its works connected with storage of LPG in accordance with these rules,

Petroleum (Liquefied Petroleum Gas)

G.N. No 420 (contd.)

respective licence, applicable laws and Good Petroleum Industry Practices; and

- (b) conduct its licensed activity or LPG retail business as the case may be, in such a way so as not to endanger public health or safety.

(2) A wholesaler, super dealer and dealer shall mark with conspicuous signs on the place at which the storage tanks and cylinders are located.

(3) A wholesaler, super dealer and dealer shall, when storing LPG, employ appropriate safeguards to ensure that a leak is easily detected, including elevating a storage tank above the ground and placing a storage tank on a concrete pad.

(4) A wholesaler, or a super dealer shall, where it intends to replace or install equipment at a licensed facility or a part thereof, notify the Authority not less than thirty days prior to commencing such replacement or installation in order to allow the Authority to make necessary inspections and issue necessary approvals.

(5) A wholesaler and super dealer shall ensure that its storage tanks are calibrated by the Certification Authority.

Provision
for fire
extinguish-
ing
equipment

52.—(1) Pursuant to the applicable law, a wholesaler, super dealer and a dealer shall provide and maintain adequate fire extinguishing equipment at a licensed facility and a retail outlet as appropriate.

(2) Notwithstanding the provisions of sub-rule (1) of this rule, a supplier shall ensure that a licensed facility or a retail outlet as appropriate is equipped with:-

- (a) any emergency equipment required by applicable law for the use of a driver in an emergency situation;
- (b) an hydrant system for a wholesaler to fight fires in the licensed facility, and
- (c) at least six fire extinguishers of 9 kg, dry powder type for a super dealer and two fire extinguishers 9kg, dry powder type to fight fires in the licensed facility or retail outlet as appropriate.

(3) A supplier shall position the equipment described in sub-rule (2) in accessible places at a licensed facility where a LPG is loaded, handled, offloaded or delivered.

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G.N. No 420 (contd.)

(4) A supplier shall, not less than once a year, test the equipment described in sub-rule (2) pursuant to its specification and applicable law.

53. A supplier shall establish a fire emergency plan to be employed in the event of a fire at a licensed facility that shall:-

Preparation
of fire
emergency
plan

(a) include a suitable and adequate fire-fighting plan that comprises:-

(i) the locations and types of all fire-fighting equipment;
and

(ii) an action plan that identifies, *inter alia*, assembly points
and the tasks of all employees;

(b) include provision for the training of employees to deal with
a fire emergency situation, the records of which shall be
preserved;

(c) be provided to employees employed in or on the relevant
premises; and

(b) be made available to the Authority on request.

54.—(1) The Authority may inspect a licensed facility or a retail outlet pursuant to these rules and applicable law.

Inspection
of a
licensed
facility

(2) The Authority may access and inspect a licensed facility, retail outlet, equipment and documents from wholesaler or super dealer.

(3) The wholesaler or super dealer or supplier or a dealer as the case may be, shall render such assistance to inspectors as may be required in the course of such inspection.

(4) Notwithstanding the generality of sub-rule (2), an inspector shall have the right and obligation to enter upon any licensed facility for the purpose of conducting an inspection.

(5) during inspection, an inspector may:-

(a) take samples of any substance or articles stored in a licensed facility;

(b) make copies or take extracts from any book, accounts or records kept on a licensed facility;

(c) inspect machinery, equipment, appliances, meters, fittings and apparatus; and

Petroleum (Liquefied Petroleum Gas)

G.N. No 420 (contd.)

(d) inspect any vehicle that is found at a licensed facility.

Prohibited
Acts
against
inspectors

55.—(1) A supplier or a dealer shall not:-

(a) hinder or obstruct an inspector in the exercise of any of the powers conferred upon it under these rules;

(b) use abusive, threatening or insulting language to an inspector;

(c) deny or fail to comply with a requirement, direction or notice of an inspector; and

(d) when required by the authority to answer a question, deny or fail to answer such question to the best of his knowledge, information and belief.

(2) Any person who contravenes the provision of sub-rule (1), commits an offence and shall be liable, on conviction, to a fine of not less than five million shillings or to imprisonment for a term not exceeding two years or both.

Decommissioning
procedure

56.—(1) A licensed facility may, subject to the provisions of this rule, be decommissioned:-

(a) after receipt of a written application for a decommissioning from a wholesaler or a super dealer, as the case may be;

(b) by an order of the Authority where it is satisfied that such facility has been abandoned by its licensee for a period not less than three months; or

(c) by an order of the Authority that the same be decommissioned after the Authority is satisfied that the continued operation of such facility poses a danger to lives and property.

(2) A wholesaler or a super dealer shall in the event that it seeks to decommission a licensed facility, notify the Authority not less than thirty days prior to such decommissioning in order to enable the Authority to make necessary inspections and issue necessary approvals.

(3) Notwithstanding any provision of these rules, a wholesaler or super dealer shall pay all costs associated with the decommissioning of a licensed facility, whether such decommissioning has been done following the request by the wholesaler, super dealer or by order of the Authority, as the case may be.

Petroleum (Liquefied Petroleum Gas)

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57.—(1) A wholesaler or a super dealer, as the case may, shall, prior to decommissioning a licensed facility, restore the licensed facility so that it does not pose a threat to the environment or the safety and health of the public.

Site
restoration

(2) The Authority shall, after completion of the restoration of a licensed facility to its original state by a supplier, issue a certificate of compliance to a wholesaler or a super dealer, as the case may be, confirming such restoration.

(3) For the purposes of sub-rule (1) “restore” means:-

- (a) to return the area in which a licensed facility is located to its original and natural state as it was before the construction and installation of the license facility; or
- (b) to render the area in which the licensed facility is located, or part thereof, compatible with its intended after-use, including:-
 - (i) removing buildings, structures, plant and debris;
 - (ii) establishing of compatible contours and drainage;
 - (iii) replacing top soil, re-vegetation, slope stabilization; and
 - (iv) infilling of excavations.

PART VII

PENALTIES AND REMEDIAL MEASURES

58.—(1) The Authority may, without prejudice to the penalties prescribed in these rules and applicable law where it determines that a wholesaler, super dealer or a dealer is in violation of these rule or applicable law:-

Penalties
and
remedial
measures

- (a) issue a warning;
- (b) issue a compliance order restraining the wholesaler, super dealer or dealer from continuing violation of applicable law;
- (c) restrict the conduct of a licensed activity or retail business;
- (d) order the wholesaler, super dealer or the dealer to remedy any situation as a result of such violation;
- (e) issue a partial suspension of a licence for such period as the authority may determine;

Petroleum (Liquefied Petroleum Gas)

G.N. No 420 (contd.)

(f) suspend a licence for such period as the Authority may determine; or

(g) revoke a licence.

Appeal

Cap. 285

59.—(1) Any person who is aggrieved by the decision made by the Authority under rule 57 may lodge an appeal to the Tribunal pursuant to the provisions of the Fair Competition Act.

PART VIII

GENERAL PROVISIONS

Power to enter and close the facility

60.—(1) Notwithstanding any provisions of these rules an inspector shall have the right and obligation to enter upon any licensed facility or retail outlet and close it down where he determines that a licensed activity or retail business is being conducted in contravention of these Rules.

(2) An inspector may while discharging his obligation provided in sub-rule (1), seek the assistance of law enforcement institutions including the police and such institution shall provide the requested assistance to the inspector.

(3) Every lawful acts done or omitted by an inspector in bona fide performance of his functions under these Rules shall be deemed to have been duly done or committed in pursuance of provisions of these Rules.

(4) The acts done or omitted bona fide while executing duties under these Rules shall not subject him personally to any liability, action, claim or demand whatsoever.

Receiving terminals

61.—(1) A wholesaler having a receiving terminal shall, within twenty-four months after coming into force of these rules, upgrade its receiving terminal to allow it receive at least seven hundred and fifty metric tons of LPG at a time.

(2) Any wholesaler who after coming into force of these rules, intends to construct a receiving terminal shall ensure that the constructed terminal has the capacity of receiving at least seven hundred and fifty metric tons of LPG at a time.

Transitional provisions

62. All suppliers and dealers in LPG business whether licensed or not, shall within six months after coming into force of there rules adjust their operations and upgrade their facilities in order to comply with the provisions of the Act and these Rules.

Petroleum (Liquefied Petroleum Gas)

G.N. No 420 (contd.)

63.—(1) Notwithstanding the provision of any rule to the contrary and for avoidance of doubt, where there is any conflict between the provisions of these rules and the provisions of the LPG (Distribution and Retail Business) Operational Guidelines, the provisions of these rules shall prevail.

The
Rules to
prevail
over the
LPG
operational
guidelines

64. Any person who commits an offence for which no specific penalty is prescribed in these rules shall be liable to a fine of the million shillings.

General
penalty
The

65. Where procedures are not provided for in these Rules, the Authority may do whatever is necessary and permitted by the Act, the EWURA Act and applicable law to enable it to effectively and completely adjudicate on any matter before it.

Authority
to
supplement
procedures
Cap. 414

Dar es Salaam
12th November, 2012

HARUNA MASEBU,
Director General