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

RULES

(Made under section 29(1) (m))

THE WATER SUPPLY AND SANITATION (COMMERCIAL AND COMMUNITY
BOREHOLES OPERATIONS) RULES, 2023

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THE WATER SUPPLY AND SANITATION ACT,
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(Made under section 29(1) (m))

THE WATER SUPPLY AND SANITATION (COMMERCIAL AND COMMUNITY
BOREHOLES OPERATIONS) RULES, 2023

PART I
PRELIMINARY PROVISIONS

Citation	1. These rules may be cited as the Water Supply and Sanitation (Commercial and Community Boreholes Operations) Rules, 2023.
Application	2.-(1) These rules shall regulate the operations of commercial and community boreholes in a service area of a licensee. (2) These rules shall not apply to a person having a borehole for own use.
Interpretation	3. In these rules, unless the context otherwise requires:
Cap.272	“Act” means the Water Supply and Sanitation Act;
Cap.414	“Authority” means the Energy and Water Utilities Regulatory Authority established under the provisions of the EWURA Act;
	“borehole” means a deep hole or well drilled into the ground to obtain water from an underground aquifer;
	“cap price” means the maximum price per cubic meter of water to be charged for the supply of water by an operator to a customer as approved by the Authority;
	"certificate of registration" means a certificate issued by a

licensee to an operator upon registration;

“commercial borehole” means a borehole owned or operated on commercial basis;

“community borehole” means a borehole owned or operated by group of households, individual, an organization or institutions including religious, charities or any other person intended to provide water services on non- commercial basis;

“customer” means any person who is supplied with water by an operator from a borehole;

Cap. 414 “EWURA Act” means the Energy and Water Utilities Regulatory Authority Act;

Cap 331 “groundwater permit” means any permit to construct, sink, enlarge, or deepen a well or borehole issued by Basin Water Board in accordance with Water Resources Management Act;

“inspector” means an officer of a licensee or any other person authorized to act as such;

“licensee” means a Water Supply and Sanitation Authority licensed by the Authority to provide water supply and sanitation services;

“licensed area” means an area in which a licensee is authorized to provide water supply and sanitation services;

“Ministry” means the ministry responsible for water supply and sanitation affairs;

“operator” means any person who operates a community borehole or a commercial borehole;

“storage facility” means a container constructed or manufactured from materials which do not affect water quality stored in it before distribution;

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

Cap. 285 “Tribunal” means the Fair Competition Tribunal established under the provisions of the Fair Competition Act; and

"water use permit" means any permit to use or divert, dam, store, abstract or use water from surface or

Cap 331 underground water source registered under the provisions of the Water Resources Management Act.

PART II
REGISTRATION AND DEREGISTRATION PROCEDURES

Requirement
for
Registration

4.-(1) No person shall sell or supply water in a licensed area using a borehole unless such borehole is registered by a licensee pursuant to the provisions of these Rules.

(2) Without prejudice to the provisions of sub-rule (1), any existing operator shall, within twelve months after coming into force of these Rules, apply to a licensee for registration of each borehole under the provisions of these Rules.

(3) An application for registration under subrules (1) and (2) shall be in the form prescribed in the First Schedule and shall contain the following:

- (a) the applicant's full name, business address, telephone and email address, and web page address (if available);
- (b) technical details of a borehole;
- (c) a certified copy of Groundwater Permit;
- (d) certified copies of the latest water quality tests undertaken by the relevant authority or any accredited laboratory; and
- (e) a non-refundable registration fee prescribed by a licensee which shall not exceed two hundred thousand Tanzanian Shillings.

(4) A licensee shall, upon receipt of an application under subrule (3) and satisfying itself with the completeness of the application, evaluate such application by considering:

- (a) its compliance with applicable law;
- (b) the applicant's past records;
- (c) borehole's compliance with technical requirements as prescribed in the Third Schedule;

(5) The licensee shall, after the conclusion of

evaluation of the application under subrule (4), approve, refer back or deny the application.

(6) A licensee shall-

(a) where it has approved the application, issue a certificate of registration as prescribed in the Second Schedule; and

(b) where it has referred back or denied the application, notify the applicant in writing, including reasons for such referral or denial.

(7) Where the applicant is not satisfied with the licensee's decision under subrule (6), it may lodge a complaint with the Authority for determination.

(8) An operator shall, upon approval of the application and issuance of the certificate of registration by a licensee under subrule (6), be deemed to be an agent of the licensee.

(9) An operator shall, at all times, comply with the terms and conditions contained in the certificate of registration.

(10) The period of registration under subrule (6) shall be valid for three years and may be extended for a similar term upon application by an operator.

(11) Any person who contravenes the provisions of subrules (1) and (2) of rule 4 commits an offence and shall, upon conviction, be liable to a fine not less than one hundred and fifty thousand shillings or imprisonment for a term of not less than one month or to both.

Avoidance of
conflicts of
interest

5.-(1) No employee of the licensee shall be registered for provision of boreholes services.

(2) Any instrument which purports to give, or vest an employee of a licensee registration shall be, to the extent it purports to do so, of no effect .

(3) Any person who contravenes the provisions of subrules (1) commits an offence and shall, upon conviction, be liable to a fine of not less than one hundred and fifty thousand shillings or imprisonment for a term of not less than twelve months or to both.

(4) For the purpose of this rule "employee" means

any person who works as a member of staff or board member serving his tenure with a licensee.

Deregistration
Procedures

6.-(1) A licensee may deregister a borehole where it is found that:

- (a) the quality of water from the said borehole no longer complies with Tanzania's Water Quality Standards for drinking water;
- (b) the continued operation of the borehole is hazardous to environment and it possess danger to lives and properties;
- (c) the applicant has provided false or inaccurate information related to the operation and technical details of the borehole;
- (d) the operator sells water at a price which is above the cap price; or
- (e) the operator has failed to carry out its obligations under these Rules.

(2) Any operator whose borehole has been deregistered under this rule shall immediately cease to operate and thereafter shall surrender to a licensee the certificate of registration and shall thereafter cease to provide water supply services using the said borehole.

(3) A licensee shall within seven days after deregistration of borehole notify the operator in writing.

(4) Any borehole that has been deregistered shall not be eligible for registration for a period of six months from the date of deregistration.

(5) Any operator who shall continue providing water supply services using a borehole that has been deregistered by a licensee under rule 6 commits an offence and shall, upon conviction, be liable to a fine of not less than one hundred and fifty thousand shillings or imprisonment for a term not less than six months or to both.

(6) Any operator who is aggrieved by any decision of the licensee, may refer such dispute to the Authority for determination within 90 days from when the decision is communicated to him.

PART III
OBLIGATIONS OF THE PARTIES

Obligations of
an operator

7. An operator shall, at all times during the validity
of the registration:

- (a) supply to a customer clean and safe water which comply with a required standard;
- (b) ensure that all pipes, fittings and removable equipment connected to the borehole are maintained in such a way as to prevent contamination during the supply of water;
- (c) provide all necessary assistance to an inspector to facilitate inspection of a borehole;
- (d) display a certified copy of the registration certificate and a poster indicating the cap price in a conspicuous place adjacent to a borehole;
- (e) keep detailed records of water produced, water billed, investment and operational cost;
- (f) keep evidence of the price charged to customers
- (g) carry out and report water quality tests regarding pH, turbidity, faecal coliforms, fluoride, iron, manganese and salinity to a licensee as may be directed by the licensee from time to time;
- (h) at all times ensure that a borehole meets the technical requirements set out in the Third Schedule;
- (i) ensure that a borehole has a mechanism to measure water level;
- (j) comply with applicable laws including applicable codes and standards; and
- (k) seek approval from a licensee and ensure compliance with technical requirements for extension of water supply network, rehabilitation and connection to customers in accordance with the technical standards of the licensee.

Obligations of
a licensee

8.-(1) A licensee shall ensure that during the validity

of registration the operator performs its obligations under these Rules.

(2) Notwithstanding the generality of subrule (1), a licensee shall, during the validity of registration:

- (a) monitor the quality of water supplied by an operator by ensuring the operator carries out and reports water quality tests regarding pH, turbidity, faecal coliforms, fluoride, iron, manganese and salinity to a licensee and as shall be directed by the licensee from time to time.
- (b) submit to the Authority quarterly reports on performance of operators;
- (c) respond to customer complaints with regards to water supply services by operators;
- (d) monitor the price of water supplied by an operator;
- (e) on annual basis publish, in newspapers of wide circulation both in Kiswahili and English, a list of all operators, including their telephone numbers, business addresses and location;
- (f) assist the operator to comply with technical requirements for extension of water supply network, rehabilitation and connection to customers in accordance with the technical standards of the licensee; and
- (g) inspect infrastructure, facilities and operations of the operator at least twice a year.

PART IV TARIFFS

Tariff
application
procedures

9.-(1) A licensee shall, on its own motion or upon receipt of a request from the operator submit a tariff application to the Authority pursuant to EWURA (Water Tariff Application and Rate Setting) Rules, as amended from time to time.

(2) Notwithstanding the provisions of subrule (1), a licensee shall, at least once after every three years submit to

the Authority an application for tariff review for borehole services, provided, that no application for tariff review shall be made within twelve months from the date of the last approval.

(3) Notwithstanding the provisions of subrule (2), a licensee may submit a tariff application to the Authority at any time in case there are significant changes in the operating environment.

(4) Subject to subrule (1), a licensee shall conduct a consultative meeting with operators before submitting a proposed tariff to the Authority.

(5) Without prejudice to the generality of subrule (1), an application shall be supported by the following:

- (a) a letter of no objection from the Minister responsible for water regarding the application for water tariff under subrule (1)
- (b) written justification of the proposed tariff and the proposed effective date;
- (c) minutes and signatures of the attendees of the consultation meeting(s);
- (d) detailed computation in Microsoft Excel format which demonstrates how the proposed tariff was reached; and
- (e) detailed benefits that the customers shall get out of the proposed tariff.

(6) The Authority shall, upon receipt of the application under subrule (1), evaluate such application in order to satisfy itself as to the correctness and completeness of the application and thereafter shall conduct an Inquiry pursuant to Section 19 of the EWURA Act.

(7) After the conclusion of the inquiry the Authority shall set the tariff which shall be in a form of a cap price which shall thereafter be published in the *Gazette*.

(8) The Authority shall, on a quarterly basis, publish in newspapers of wide circulation, both in English and Kiswahili, the prevailing cap price.

(9) Any operator who sells or offers for sale water at a price above the cap price, commits an offence and shall, on conviction, be liable to a fine of not less than one hundred and fifty thousand shillings or imprisonment for a

term of not less than one month or to both.

Appeal Cap.285	10. Any person who is aggrieved by the decision of the Authority under rule 9(7) may appeal to the Tribunal under the provision of the Fair Competition Act.
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PART V
GENERAL PROVISIONS

Compensation for Existing Infrastructure	11.-(1) In the event a licensee has the full technical and financial capacity and start the provision of water supply service to an area with limited or no supply, all operators in the said area, shall cease to provide borehole services to customers in the said area; and the licensee shall, subject to the provisions of subrule (2), be at liberty to use the existing infrastructure owned by the said operators.
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(2) A licensee shall, in the event it decides to use the existing borehole and infrastructure owned by an operator, compensate the said water operator at the amount that shall be agreed upon by the parties.

Inspection	12.-(1) An inspector may inspect a borehole and any document necessary for the supply of water services; and an operator shall render all required assistance in the course of such inspection.
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(2) During inspection, an inspector may:

- (a) make copies or take extracts from any records relevant to the provision of boreholes services kept by an operator; and
- (b) inspect borehole and any other machinery, equipment, appliances, meters, fittings and apparatus associated with provision of borehole services.

(3) Notwithstanding the provisions of subrule (1), the Authority may, at any time, inspect a borehole and request for any document necessary for the supply of water services by a borehole and take any appropriate action as required by these Rules and any other relevant laws.

(4) Where upon investigation a licensee concludes

that an operator has not complied with any condition of these rules and other applicable laws, a licensee may:

- (a) take appropriate actions as provided under these Rules including deregistering a borehole; or
- (b) take such other actions as it deems appropriate to protect the interests of customers.

Offence

13. Any operator who:

- (a) hinders or obstructs the Authority or an inspector in the exercise of any of the powers conferred upon him by these rules and applicable laws;
- (b) uses abusive, threatening or insulting language to an inspector;
- (c) refuses or fails to comply with any lawful order or direction of an inspector,

commits an offence and shall, upon conviction be liable to a fine of one hundred and fifty thousand shillings or imprisonment for a term not exceeding six months or both.

Transitional
Provisions

14. Any person who is providing borehole services in a licensed area shall within six months after coming into force of these Rules, adjust his operations and upgrade his borehole and the associated infrastructure in order to comply with the provisions of these Rules.

General
Penalty

15.-(1) Any person who is in breach of any provision of these rules for which no specific penalty is prescribed shall, on conviction, be liable to a fine of not less than one hundred and fifty thousand shillings or imprisonment for a term of not less than three months or to both.

(2) Any person found liable under the subrule (1) and continues with the same contravention of the law shall be liable to a fine of not less than one hundred and fifty thousand shilling for every day during which the contravention occurs or continues.

(3) An operator who employs an agent, clerk, servant or other people, shall be answerable and liable for any acts or omissions of such person in so far as the actions

or omissions concern borehole services.

Authority to
supplement
procedures
Cap,285

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

*Water Supply and Sanitation (Commercial and Community Boreholes
Operations)*

GN. NO.426 (Contd.)

FIRST SCHEDULE

(Made under Rule 4(3))

Passport Size
Photography

APPLICATION FORM FOR REGISTRATION OF A COMMERCIAL OR COMMUNITY
BOREHOLES

The purpose of application is (mark with an "X" in the applicable box):

- (a) Applying for registration ☐
- (b) Applying for extension of the registration ☐
- (c) Giving notice of transfer of borehole ownership ☐
- (d) Giving notice of intention to stop borehole water service ☐
- (e) Giving notice of change of registration details ☐

PART I
GENERAL INFORMATION

A: Applicant's Details

Full Name(s) of Applicant(s):

1. Title:

2. Contact Address of Applicant (s):

P. O. Box.....

House No:Plot No..... Block No:
.....Street:.....

City/Municipality/Township:
Telephone No:Mobile No:
.....

Email address:Web page:

B: Legal status (mark with "X" in the applicable column)

Individual ☐ Company ☐ Partnership ☐
NGO ☐ Community ☐

C: Technical Details

Groundwater Permit No:Yield Capacity (m³):
.....

Location of the Borehole:

Region.....City/Municipality/Township:.....

Ward.....Street/Village:.....

*Water Supply and Sanitation (Commercial and Community Boreholes
Operations)*

GN. NO.426 (Contd.)

PART II

THIS PART SHALL APPLY TO NOTICE OF TRANSFER OF BOREHOLE
OWNERSHIP

I, ----- of P.O Box ----- hereby give
notice that I have transferred my Borehole to -----

of P. O Box -----, effective ----- day of ----- 20-----.

PART III

THIS PART SHALL APPLY ONLY TO NOTICE OF INTENTION TO TERMINATE
BOREHOLE OPERATIONS

I, ----- P.O Box -----, hereby
give notice that I have stopped supplying borehole water services in the area of -----
-----, effective ----- day of ----- 20-----.

PART IV

THIS PART SHALL APPLY ONLY TO NOTICE OF CHANGE OF REGISTRATION
DETAILS

I, (Mimi) ----- of P.O Box -----, hereby give
notice that I have changed my registration details as follows from
(insert current registration details) -----

To (insert new registration details) -----

effective ----- day of ----- 20-----.

PART V

DOCUMENTS TO BE SUBMITTED TOGETHER WITH THE APPLICATION
FORM

Checklist (Tick as applicable)

- | | |
|--|--------------------------|
| 1. Certified copies of borehole water quality test | <input type="checkbox"/> |
| 2. Borehole technical report including dimensions and construction materials | <input type="checkbox"/> |
| 3. Evidence of payment of application fee | <input type="checkbox"/> |
| 4. Inspection, maintenance and rehabilitation reports | <input type="checkbox"/> |
| 5. Groundwater Permit | <input type="checkbox"/> |

*Water Supply and Sanitation (Commercial and Community Boreholes
Operations)*

GN. NO.426 (Contd.)

PART VI
DECLARATION BY THE APPLICANT(S)

I / We (*delete where not applicable*), the undersigned, hereby declare that this entire application, all statements made, attachments and other information submitted in connection with this application are, to the best of my/our knowledge true, correct and complete in all respects and in all their material particulars.

I / We (*delete where not applicable*), understand that (Insert WSSA name) may conduct complete and comprehensive investigations to determine the accuracy of all information provided herein and I / We (*delete where not applicable*), authorize (Insert WSSA name) to make such investigations.

I / We (*delete where not applicable*), hereby authorize my personnel/staff, to provide any information as may be reasonably required by (Insert WSSA name) in connection with this application.

Applicant

Witness (Commissioner for oath)

Full name:

Full name:

Title:

Title:

Signature:

Signature and Stamp:

Date:

Date:

PART VII
FOR OFFICE USE ONLY

1. Has the applicant(s) been registered by (Insert WSSA name) as Water Service Provider?

Yes ☐

No ☐

2. Have the forms been duly filled in and manually signed by the authorized officer of the applicant?

3. Has the applicant complied with the registration requirements regarding the provision of water services to the public?

Yes ☐

No ☐

Date Received:

by:

Received

Application Reference No:

.....

Signature:

*Water Supply and Sanitation (Commercial and Community Boreholes
Operations)*

GN. NO.426 (Contd.)

Official Stamp:

SECOND SCHEDULE

(Made under Rule 4(6)(a))

Certificate of Registration

(Insert a Licensee's Logo)

(Insert name of Licencee) WATER SUPPLY AND SANITATION AUTHORITY

CERTIFICATE OF REGISTRATION OF COMMERCIAL/COMMUNITYBOREHOLE

(Issued under Rule 4(6)(a) of the Water Supply and Sanitation (Commercial and Community
Boreholes Operations) Rules 2022

CERTIFICATE. NO.

A Certificate of Registration of a Commercial/Community Borehole is hereby granted to..... of P.O. Box..... to operate Borehole number..... located at Plot No.....Block No..... Street.....District for provision of water services subject to the terms and conditions in the Appendix.

This Certificate shall be valid from thisday of, 20.. and shall remain in force for twelve (12) months unless revoked or extended under the Terms and Conditions as provided in the appended Water Supply and Sanitation (Private Borehole Water Services) Rules 2021.

... .., 20..

Date of Issue

Managing Director

SEAL

THIRD SCHEDULE

Technical Requirements of a Borehole
(Made under Rule 7(h))

A borehole shall:

- (a) be located in a manner that it can allow adequate access for inspection, maintenance, repair, renovation, water treatment and testing;
- (b) not be within a radial distance of 50 meters from cattle watering pools, latrines, soak pits and other health hazards. Any pit-waste (solid waste) should be placed downstream of the well to avoid contamination of the water by leachate;
- (c) have a minimum depth of fifteen meters;
- (d) be located in a place which is not subject to seasonal flooding or surface water contamination and it shall be constructed in such a manner that seasonal flood will not get into it;
- (e) unless otherwise required, be located upgradient of any potential or known source of contamination;
- (f) have a concrete slab with a minimum thickness of 15 cm constructed around the well casing and shall extend at least sixty (60) centimeters in all directions, sloping away from the well casing;
- (g) have a well casing extending at least thirty centimeters above the concrete slab of the floor;
- (h) in case a submersible pump is used, have the top of a casing effectively sealed against the entrance of water under all conditions of vibration or movement of conductors or cables;
- (i) have a discharge piping:
 - (i) equipped with a check valve, a shutoff valve, a pressure gauge and a means of measuring flow (water meter); and
 - (ii) provided with a raw water sampling tap prior to the well discharge pipe check; and
- (j) be connected to a storage facility.

Dodoma,
....., 2023

JAMES A. MWAINYEKULE,
Director General