

GOVERNMENT NOTICE No. 965 published on 6/12/2019

THE PETROLEUM ACT
(CAP. 392)

RULES

(Made under section 145(2) and 259(1)(b)(vi), (xi) and (xiii))

THE PETROLEUM (NATURAL GAS) (REGULATORY ACCOUNTING AND
REPORTING STANDARDS) RULES, 2019

ARRANGEMENT OF RULES

PART I
PRELIMINARY PROVISIONS

1. Citation and commencement
2. Application
3. Interpretation

PART II
ACCOUNTING AND REPORTING

4. Obligation to prepare accounts
5. Separation of accounts
6. Independent audit
7. Publication of accounts
8. Keeping accounting records
9. Transactions with associated companies
10. Accounting period

PART III
INSPECTION OF ACCOUNTS

11. Obligations of the Authority during inspection
12. Prohibited acts against inspectors
13. Authority's right to audit

PART IV
PENALTIES AND REMEDIAL MEASURES

- 14. Remedial measures
- 15. General penalty

PART V
GENERAL PROVISIONS

- 16. Investigation
- 17. Report of investigation
- 18. Confidentiality
- 19. Guidelines
- 20. Transition period
- 21. Revocation

THE PETROLEUM ACT
(CAP. 392)

RULES

(Made under section 145(2) and 259(1)(b)(vi), (xi) and (xiii))

THE PETROLEUM (NATURAL GAS) (REGULATORY ACCOUNTING AND REPORTING
STANDARDS) RULES, 2019

PART I
PRELIMINARY PROVISIONS

| | |
|---------------------------|--|
| Citation and commencement | 1. These Rules may be cited as the Petroleum (Natural Gas) (Regulatory Accounting and Reporting Standards) Rules, 2019 and shall come into operation upon publication. |
| Application | 2. These Rules shall govern matters related to the accounting and reporting standards required to be followed by licensees. |
| Interpretation | 3.-(1) In these Rules, unless the context otherwise requires: |
| Cap. 392 | “Act” means the Petroleum Act; |
| | “applicable law” means any principal law, treaty, convention, proclamation, regulation, rule, order or by-law that is customarily treated in Tanzania as having legally binding force and which is relevant to matters pertaining to the regulation of natural gas activities; |
| Cap 414 | “Authority” means the Energy and Water Utilities Regulatory Authority established under the provisions of the EWURA Act; |
| Cap. 414 | “EWURA Act” means the Energy and Water Utilities Regulatory Authority Act; |
| | “IFRS standards” means the international financial reporting standards published by the International Financial |

Reporting Standards Foundation from time to time;
“licence” means an authorization issued by the Authority to undertake a regulated activity;
“licensee” means the holder of a licence;
“licensed activity” means the activity licensed in a licence;
“natural gas” has the meaning ascribed to it under the Act;
“NPGIS” means the integrated and centralized information system referred to in section 124 of the Act; and
“regulated activity” has the meaning ascribed to it under the Act.

(2) In these Rules, references to any Act, regulation, rules or other law include such Act, regulation, rules or other law as amended from time to time and any successor Act, regulation, rules or other law.

PART II

ACCOUNTING AND REPORTING

Obligation to
prepare
accounts

4. Licensees, regardless of their system of ownership or legal form, shall prepare their accounts and financial statements for each regulated activity in accordance with:

- (a) the rules of Tanzanian law for the preparation and audit of accounts by limited liability companies (to the extent feasible); and
- (b) IFRS standards.

Separation of
accounts

5. Licensees shall at all times maintain separate accounts and accounting records and prepare separate financial statements in respect of each regulated activity and separate from any other business activities.

Independent
audit

6. Licensees shall, regardless of their system of ownership or legal form, submit accounts prepared under rule 4 to independent audit in accordance with the Tanzanian law applicable to the preparation and audit of accounts by limited liability companies.

Publication of
accounts

7.-(1) Where required to publish accounts publicly as a matter of Tanzanian law, licensees shall upload such accounts to the NPGIS in addition to publication by any other means

required by the applicable law.

(2) Licensees shall:

- (a) keep a copy of their accounts and accounting records at their main place of business in Tanzania; and
- (b) submit a copy of their end of financial year accounts to the Authority within three (3) months of the end of its financial year.

Keeping
accounting
records

8. Every licensee shall keep or cause its accounting records to be kept in accordance with any rules and regulations made by the Authority and with applicable law.

Transactions
with associated
companies

9.-(1) A licensee shall keep its accounts and accounting records so as to be able to provide accurate statements of all transactions with companies that are controlled indirectly or directly by the licensee, or control (indirectly or directly) the licensee, or are under the common control with the licensee.

(2) For the purposes of subrule (1), “control”, “controlled by,” and “under common control with” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, whether such power is exercised through one or more intermediary companies, or alone, or in conjunction with, or pursuant to an agreement, and whether such power is established through a majority or minority ownership or voting of securities, common directors, officers, or stockholders, voting trusts, holding trusts, associated companies, contract or any other direct or indirect means.

(3) The statements referred to in subrule (1) shall show the general nature of the transactions, the amounts involved therein and the amounts included in each account prescribed herein with respect to such transactions.

Accounting
period

10. Unless otherwise authorized by the Authority each licensee shall use calendar year as its accounting period for the preparation and completion of its accounts, accounting records and financial statements.

PART III
INSPECTION OF ACCOUNTS

Inspection

11.-(1) The Authority, or any other person authorized by the Authority, may at any time inspect the accounts and accounting records of licensees.

(2) The Authority, or any other person authorized by the Authority, shall have the right of access to inspect the accounts and accounting records of licensees.

(3) The licensee who is the subject of an inspection carried out under subrule (1) shall render such assistance to an inspector as may be required in the course of such inspection.

(4) During inspection, the Authority, or any other person authorized by the Authority carrying out the inspection, may take copies from any books, accounts or records kept by the licensee.

Obligations of
Authority
during
inspection

12.-(1) During inspection, an officer or representative of the Authority shall be required to do the following:

- (a) introduce himself to the licensee or customer with an identity card issued by the Authority;
- (b) explain to the licensee or customer the purpose of the inspection;
- (c) conduct himself with fairness, objectivity and integrity;
- (d) not to engage in any form of discrimination, bias or harassment;
- (e) refrain from taking part in the inspection where there is a conflict of interest;
- (f) carry out the inspection in a professional manner in accordance with the requirements of these Rules and any applicable codes, guidelines, standards, applicable laws and prudent practices; and
- (g) not to use force, threats, insults or abusive language to the licensee.

(2) A person aggrieved by an act of the officer or representative of the Authority during an inspection may report the matter in writing to the Authority and the Authority shall take such steps as it deems appropriate in the given circumstances.

Prohibited acts
against
inspectors

13.-(1) A licensee shall not:

- (a) hinder or obstruct the Authority in the exercise of any of the powers conferred upon it under these Rules;
- (b) use abusive, threatening or insulting language to an employee inspector or officer of the Authority;
- (c) refuse or fail to comply with a requirement, directive or notice of the Authority; or
- (d) when required by the Authority to answer a question, refuses or fails to answer such question to the best of his knowledge, information and belief.

(2) A person who contravenes the provision of subrule (1) of these Rules commits an offence and shall be liable, on conviction, to a fine of not less than twenty million shillings or to imprisonment for a term of not less five years or to both.

Authority's
right to audit

14.-(1) The Authority may audit the accounts, accounting records and financial statements of a licensee.

(2) In the process of undertaking any audit made under rule 14(1):

- (a) the licensee shall grant the auditor unlimited access to its accounting records, as well as any such information and explanations required for the purposes of the audit;
- (b) an auditor appointed by the Controller and Auditor General shall audit petroleum midstream and downstream activities in accordance with the Public Audit Act; and
- (c) nothing in this rule 14 shall be construed as limiting the right of any other regulatory authority pursuant to any statutory power to audit or cause to be audited the books of accounts of the licensee.

(3) On completion of the audit exercise, the Authority may order a licensee to take any corrective action to remedy any case of non-compliance noted in the audit.

Cap. 418

PART IV
PENALTIES AND REMEDIAL MEASURES

Remedial
measures

15. The Authority may, without prejudice to the penalties prescribed in these Rules and applicable law, where it determines that a licensee is violating these Rules or applicable law:

Cap. 414

- (a) issue a warning;
- (b) issue a compliance order under section 39 of the EWURA Act restraining the licensee from continuing violation of these Rules, licence conditions, the Act or applicable law;
- (c) restrict the conduct of the licensed activity;
- (d) order the licensee 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;
- (f) suspend a licence for such period as the Authority may determine; or
- (g) revoke the licence.

General penalty

16. Any person who contravenes the provisions of these Rules commits an offence and upon conviction shall be liable, to a fine of not less than ten million Tanzanian shillings or to imprisonment for a term of not less than two (2) years or to both.

PART V
GENERAL PROVISIONS

Investigation

17.-(1) The Authority may on its own motion or in response to a complaint lodged by a third party, initiate an investigation of a licensee's compliance with the Act, these Rules, conditions of a license, or any applicable law.

(2) Where upon investigation the Authority concludes that a licensee has not complied with requirements of the Act, these Rules, condition of a license, or any applicable law, the Authority may issue a compliance order or penalty pursuant to the Act and these Rules.

Investigation
report

18.-(1) Following the completion of an investigation under rule 17, the Authority shall prepare a report setting out the findings of the investigation and shall include all cases of non-compliance that have been noted.

(2) A copy of the report prepared under subrule (1) shall be provided to the licensee and a copy of the report shall be made available for public inspection during normal business hours at the Authority's office.

Confidentiality

19.-(1) Any information received by the Authority from a licensee as a result of these Rules shall be presumed not to be confidential.

(2) A licensee shall not be entitled to withhold information from the Authority on the grounds that it is confidential.

(3) A licensee may request the Authority not to circulate specific data or information that it has provided to the Authority, provided that, the Authority shall determine whether or not 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.

(5) Notwithstanding subrules (1), (2) and (3) above, any information as to health, safety and environment shall not be treated as confidential.

(6) The Authority may use any information that is not determined to be confidential under subrule (3) for such purposes as it considers necessary for carrying out its functions and it may publish such information on NPGIS or by such other means as it considers to be suitable.

Guidelines

20. The Authority may make guidelines for better implementation of these Rules.

Transition
period

21. Any person who conducts a regulated activity whether licensed or not shall, within twelve months after coming into force of these Rules, adjust its operations to comply with the provisions of these Rules.

Petroleum (Natural Gas) (Regulatory Accounting and Reporting Standards)

GN. No. 965 (contd.)

Revocation
GN. No.
183/2019

21.-(1) The Petroleum (Natural Gas) (Regulatory Accounting and Reporting Standards) Rules, 2019 are hereby revoked.

(2) Notwithstanding the revocation of the Petroleum (Natural Gas) (Regulatory Accounting and Reporting Standards) Rules, 2019, all orders, exemptions or directives made or issued or deemed to have been made or issued under

those Rules shall be deemed to have been made under these Rules, and shall remain in force until specifically revoked by direct reference or otherwise expire or cease to have effect.

Dodoma,
....., 2019

NZINYANGWA E. MCHANY,
Director General