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THE PETROLEUM ACT
(CAP.392)

REGULATIONS

(Made under sections 168 and 258)

THE PETROLEUM (BULK PROCUREMENT) REGULATIONS, 2017

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THE PETROLEUM ACT
(CAP.392)

REGULATIONS

(Made under sections 168 and 258)

THE PETROLEUM (BULK PROCUREMENT) REGULATIONS, 2017

PART I
PRELIMINARY PROVISIONS

- Citation 1. These Regulations may be cited as the Petroleum (Bulk Procurement) Regulations, 2017.
- Application 2. These Regulations shall govern the implementation of Bulk Procurement System of Petroleum Products.
- Interpretation 3. In these regulations, unless the context otherwise requires:
- Act No. 21 of 2015 "Act" means the Petroleum Act;
- GN. 423 of 2015 "Agency" means the Agency established under the Executive Agencies (The Petroleum Bulk Procurement Agency) Order, 2015;
- "applicable law" means any principal law, convention, treaty, proclamation, regulation, order or by-law that is customarily treated in Tanzania as having legally binding force relevant to matters pertaining to the procurement and supply of a bulk petroleum product in Tanzania;
- Cap. 130 "approved specification" means any specification or standard pursuant to the Standards Act, or any other standards that are widely used for good petroleum industry practices;
- Cap. 414 "Authority" means the Energy and Water Utilities Regulatory Authority established under the

- provisions of the EWURA Act;
- GN. 423 of 2015 “Board” means the Ministerial Advisory Board established under the Executive Agencies (The Petroleum Bulk Procurement Agency) Order, 2015 and the term “MAB” shall be construed accordingly;
- “Bulk Procurement System” means a system established pursuant to these Regulations to govern the importation of bulk petroleum product into Tanzania and “BPS” shall be construed accordingly;
- “bulk quantity” means a single lot of not less than five hundred metric tonnes of a petroleum product;
- “buyer” means an OMC that buys a petroleum product from a supplier under Bulk Procurement System;
- “Chairman” means the chairman of the Board;
- “Code of Conduct” means a set of principles, values, standards, or rules of behavior that guide the decisions and procedures for the employees of the Agency as approved by the Minister;
- “correspondence bank” means a locally registered bank engaged by a buyer which shall have a corresponding relationship with a supplier banker;
- Cap. 414 “EWURA Act” means the Energy and Water Utilities Regulatory Authority Act;
- “Executive Director” means the chief executive officer of the Agency;
- “Good Petroleum Industry Practices” means any action related to a petroleum product intended to preserve product quality and meeting generally accepted health, safety and environmental requirements;
- “Independent Inspector” means an inspector appointed to verify quality and quantity of petroleum product imported under BPS;
- “inspector” means an inspector of the Tanzania Bureau of Standards;
- “independent Surveyor” means an entity certified or

recognized by WMA and registered by the Authority to supervise Marine loading and offloading operations.

“KOJ” means Kurasini Oil Jetty;

“LIBOR” means the London Inter-bank Overnight Rate;

“licence” means an authorization granted by the Authority to an OMC to conduct wholesale business;

“Minister” means the minister responsible for petroleum affairs;

“offloading point” means KOJ, SPM, Tanga Port or any other authorized area where a petroleum product shall be offloaded;

“Oil Marketing Company” herein also referred to as “OMC” means a company licenced by the Authority to undertake a petroleum product wholesale business;

“petroleum products” means petroleum products prescribed under regulation 14 (3);

“SPM” means single point mooring which is an offshore facility owned and operated by TPA to offload a petroleum product from tankers;

“supplier” means a company selected by the Agency to supply a petroleum product in bulk quantity under BPS;

“Tender Committee” means a committee established under the provision of regulation 19;

Cap. 130

“Tanzania Bureau of Standards” herein also referred to as “TBS” means the Bureau of Standards established under the provisions of the Standards Act;

Cap. 166

“Tanzania Ports Authority” herein also referred to as “TPA” means an Authority established under the provisions of the Ports Act;

Cap. 399

“Tanzania Revenue Authority” herein also referred to as “TRA” means the Revenue Authority established under the provisions of the Tanzania Revenue Authority Act;

“wholesale business” means the sale or storage of a

petroleum product in bulk quantity within the country; and

“wholesaler” means the company engaged in the supply of a petroleum product in bulk quantity for the purpose of wholesale business in Tanzania after taken its share from the supplier;

Cap. 245
GN. No. 94 of
2002

“Weights and Measures Agency” herein also referred to as “WMA” means the Agency established under the Executive Agencies (Weights and Measures) Establishment Order.

PART II
PETROLEUM BULK PROCUREMENT AGENCY
(a) The Agency

Licensing of the
Agency

4. The Agency shall be licensed by the Authority in accordance with procedures stipulated in the Act, 2015

Functions of the
Agency

GN. No. 423 of
2015

5. In addition to functions stipulated under the Executive Agency (The Petroleum Bulk Procurement Agency) (Establishment) Order, the Agency shall perform the following functions:

- (a) collect the procurement requirements of petroleum products from OMCs;
- (b) ensure that before accepting the procurement requirement by OMCs, all levies and fees charged by the Government institutions are fully paid;
- (c) conclude and administer contracts with suppliers and between the Agency and OMCs;
- (d) conduct an International Competitive Bidding for the procurement of petroleum products in bulk;
- (e) report to the Ministry on Agency’s activities on a monthly basis or as may be required by the a Ministry;
- (f) prepare plans and a budget to cover its operations;

- (g) relay information, in a timely manner, related to the petroleum business to the Authority, OMCs, ministry responsible for petroleum affairs, TRA, TPA, TBS, WMA and other relevant parties when requested;
- (h) forecast supply and demand of petroleum products;
- (i) coordinate diligent receipts by OMCs of petroleum products from the delivery vessels;
- (j) maintain records of the shipments and performance;
- (k) coordinate invoicing and collection of payments for the respective shares of petroleum products imported by an OMC;
- (l) appoint, an independent inspector to ensure delivery of acceptable quantity and quality of a petroleum product;
- (m) issue directives and undertake any function that aims at improving efficiency procurement of petroleum products;
- (n) Liaise with the Authority on issues related to the importation of petroleum products; and
- (o) Report to the Minister and the Authority on Agency's activities on a monthly basis or as may be required.

Registration of an
OMC

6.-(1) An OMC shall, pursuant to the procedures prescribed by the Agency, be required to register with the Agency in order to import a petroleum product under BPS.

(2) Supplier intending to participate in a competitive bidding for the supply of petroleum products under the Bulk Procurement System shall be required to apply to the Agency for pre-qualification before being shortlisted.

(3) The procedure and conditions for registering and pre-qualification of supplier shall be as stipulated in the Bulk Procurement System Implementation Manual.

Financing of the Agency

- 7.-(1) The Agency shall be funded by:
- (a) contribution collected from Oil Marketing Companies on each liter of petroleum product imported under BPS;
 - (b) sale of pre-qualification and tender documents;
 - (c) income from Agency operations;
 - (d) grants and loans; and
 - (e) Government subventions.

(2) The amount of contribution to be made by each OMC under sub-regulation (1) (a) shall be as determined by the Authority and approved by the Minister.

(3) The Agency shall table, before the Board the annual plan and budget of the Agency and thereafter to the Permanent Secretary for approval.

(4) Notwithstanding the provision of sub regulation (1)(a) an OMC shall contribute the registration fees as shall be determined by the Board and approved by Permanent Secretary from time to time, however upon expiry or revocation of the licence by the Authority an OMC shall be required to contribute registration fee.

Agency to keep Books of Accounts

8. The Agency shall keep books of accounts and maintain proper records of its operations in accordance with the International Financial Reporting Standards (IFRS).

The Agency to report quarterly to Board.

9.-(1) The Agency shall prepare a quarterly report for the operations of the BPS including *inter alia* the available stock, demand forecast for the coming quarter, payment status for all importers and operational challenges for that quarter.

(2) The report shall be submitted to the Board within fifteen days after the end of each quarter.

(b) The Ministerial Advisory Board

Composition of the Board

10.-(1) Subject to section 6 of the Executive Agencies Act, the Ministerial Advisory Board shall comprise of:

- (a) Chairman appointed from outside the Ministry under which the Agency is established;
- (b) a representative from the Ministry responsible for petroleum affairs with at least level of assistant director who shall be an ex official member;
- (c) Four persons from among persons who are well versed with the functions of the Agency or matters of similar nature.

(2) The Executive Director shall be the Secretary of the Ministerial Advisory Board.

Functions of the Board

11. Functions of the Ministerial Advisory Board is to advise the Minister on the following:

- (a) the development and maintenance of a strategic framework;
- (b) the objectives of the Agency;
- (c) the acceptability of the Agency's plans and associated budgets;
- (d) the setting of priorities and annual performance targets for the Agency;
- (e) the Agency's annual reports and accounts;
- (f) the evaluation of the Agency's performance;
- (g) salaries, wages and allowances of employees of the Agency; and
- (h) any other matter in the promotion and furtherance of objectives and functions of the Agency.

Restriction on conflict of interest

12.-(1) Members of the Board shall have a fiduciary obligation to Agency and not to the entities they represent.

(2) Employees of the Agency shall, before assuming office, sign a Code of Conduct and shall during their tenure in office observe the provisions of such Code

of Conduct.

(3) A member of the Board shall not participate in his advisory role in the matter in which he has direct or indirect interest.

Minister may issue directions

13. The Minister may, in the public interest, issue in writing directions of specific or general nature to the Agency on any matter or decision and the Agency shall comply with that direction.

PART III IMPORTATION OF BULK PETROLEUM PRODUCTS

Efficient Procurement

14.-(1) A person shall not import a petroleum product unless the importation is conducted through efficient procurement.

Act No. 21 of 2015

(2) Powers and mandates of the Minister to implement an efficient petroleum procurement system in accordance with the Petroleum Act is hereby vested in the Agency.

(3) The BPS shall apply to the following petroleum products:

- (a) motor super premium;
- (b) automotive gasoil;
- (c) illuminating kerosene;
- (d) heavy fuel oil;
- (e) jet-A1;
- (f) liquefied petroleum gas; and
- (g) any other petroleum product as the Minister may declare.

(4) The Agency shall be responsible for implementing and enforcing the provision of these Regulations.

(5) Without prejudice to sub regulation (4), the Authority shall oversee all matters relating to supply of petroleum products in the country in accordance with provisions of the Act.

(6) For purpose of this regulation "efficient procurement" means a procurement undertaken by way

of Bulk Procurement System in accordance with these Regulations.

The Use of BPS
for Transit Trade

15.-(1) The use of Bulk Procurement System for transit petroleum products shall be optional.

(2) Subject to the provisions of sub-regulation (1), an OMC undertaking transit business shall ensure that the cargo imported is within the specifications of the country to which the product is destined.

(3) An OMC intending to import a petroleum transit product shall at the time of placing order, submit to the Agency the name and contacts of the consignee of the transit product.

(4) An OMC undertaking transit business shall, in the event of localization of transit product, notify in writing and provide proof of notice of tax liabilities from TRA to the Agency and the Authority.

(5) In the event that the specifications for transit cargo are-

(a) of higher specifications than the Tanzania specifications, OMC undertaking transit business shall be required to have a dedicated depot or storage facilities for such cargo; and

(b) of lower specifications than the Tanzania specifications, OMC undertaking transit business shall not import such transit cargo within the Tanzania territory.

(6) TRA shall provide information to the Agency in relation to localized petroleum products.

(7) Under emergency conditions provided for under section 253 of the Act the Minister may localize, transit petroleum products after notice has been given to both the licensee and the consignee.

(8) BPS vessels shall strictly carry product ordered through bulk procurement system. Any supplier who wants to use BPS vessel to carry non- BPS transit product shall seek written permission from PBPA.

(9) Any person who contravenes the provision of sub-regulations (3),(4) and (8), shall be liable to a fine

equal to twenty percent of the value of the cargo imported or localized as the case may be or fifty million Tanzanian shillings whatever is higher.

Priority berthing
for Non BPS
Vessels

16.-(1) Any non BPS vessel shall not be given priority berthing unless approved by the Minister after consultation with the Minister responsible for transport affairs.

(2) Subject to an approval under sub-regulation (1), prior to commencement of any discharge, the owner of the product in the approved non BPS vessel shall be required to make upfront payment for provisional demurrage for the affected vessels in line.

(3) Without prejudice to sub-regulation (2), the Agency shall determine the provisional and actual demurrage to be paid.

(4) Where the owner of the product has paid-

(a) an excess provisional demurrage, such owner shall be entitled to refund; and

(b) less provisional demurrage, such owner shall be required pay the remaining amount within the time prescribed by the Agency.

PART IV

BULK PROCUREMENT PROCEDURES

Obligation to
Procure Petroleum
Product Using BPS

17.-(1) A person shall not procure a petroleum product in bulk except pursuant to these regulations.

(2) An OMC seeking to import a petroleum product shall first conclude with the Agency, a supply and shipping contract that shall comprise - terms and conditions that govern the relationship between the Agency and OMCs, and shall stipulate relationship between the Agency, and any other related parties in the BPS.

Bidding Process

18. All matters relating to bidding process shall be as prescribed in the Bulk Procurement System Implementation Manual.

Tender and
demurrage
Committee

19.-(1) There shall be a tender committee which shall be responsible for opening, evaluation and award of tender to the winning bidder in accordance with the Bulk Procurement System Implementation Manual.

(2) The tender committee shall comprise of a Chairman and other five members as may be appointed by the Executive Director and approved by the Board. The tenure of the chairman and members shall be three years.

(3) Board members and pre-qualified suppliers or their affiliates shall not be eligible members of the Tender Committee.

(4) There shall be a demurrage committee which shall be responsible to make critical analysis of demurrage claims submitted by the supplier and advising the Agency on actual demurrage to be paid.

(5) The demurrage committee shall be appointed by the Executive Director and shall comprise of five members; three of them representing OMC and the other two from the Agency.

(6) Pre qualified suppliers or their affiliates shall not be eligible to be appointed as members of tender or demurrage committee.

Petroleum
products
specifications

20.-(1) All petroleum products imported into Tanzania shall conform to approved specifications pursuant to the Standard Act or as may be prescribed by the Minister under the Petroleum Act.

(2) Petroleum products that do not meet approved specifications shall not be offloaded into Tanzania.

(3) Any supplier who brings into Tanzania petroleum product that fails to meet approved specifications shall be required to bring replacement cargo under the terms and conditions as shall be agreed with the Agency and the respective buyers, and shall be penalized in accordance to the Petroleum Act or Standards Act and shipping and supply contract.

(4) In addition to subregulations (3), where the

supplier brings into Tanzania off spec products for the second time, the Agency after consultation with the Minister may blacklist the supplier for a period of not less than two years.

Procedure for
sampling, testing

21.-(1) The procedure for sampling and testing of a petroleum product shall be as prescribed by Tanzania Standard No. TZS 644 and shall be taken four samples which shall be sealed by TBS, Agency and Supplier, each entity shall retain a single sample and the remaining sample shall be used for testing by TBS.

(2) The procedure for testing of a petroleum products shall be prescribed by TBS and the test result for the samples taken by TBS shall be communicated to the Agency and an Independent Inspector.

(3) An OMC may appoint a surveyor to verify on the quality and quantity of any petroleum product received in a terminal.

(4) In the event that quality results by Independent Inspector of the Agency or of the supplier are not in conformity with TBS results, the latter results shall be final as much as quality of imported petroleum product in Tanzania is concerned.

(5) In the event that quantity results by Independent Inspectors are not equal, the Agency shall regard results by WMA as final as much as quantity of imported petroleum product in Tanzania is concerned.

(6) OMCs shall take all precautions needed, and comply with the acceptable standards and principles when receiving petroleum products in their receiving terminals in order to make sure they receive or store products within the approved specifications.

(7) OMCs shall take all precautions needed, and comply with the acceptable standards and principles when receiving petroleum products in their receiving terminals in order to ensure that they receive or store products within the approved specifications.

(8) Each OMC is obliged to immediately notify the Agency and the Authority in the event it becomes

aware of any non-conforming to specification of petroleum products that is due to or has been imported in to Tanzania.

(9) Without prejudice to the provisions of sub-regulation (7), no person other than the Agency and TBS is allowed to publish, circulate or cause to be published or circulated any information related to the quality of any petroleum product.

(10) In the event it is established that receivers have received contaminated petroleum product while upon arrival of the vessel the product was sampled, tested and found to be within the approved specification, a neutral and independent investigation must be done to determine the cause and point of contamination and a person who will be found liable for the contamination of the product shall be considered to have distorted bulk procurement system.

(11) An Independent and neutral investigator shall be appointed by the Agency in consultations with the OMCs and supplier.

(12) The costs incurred by the Agency during investigation shall be borne by the person responsible for the contamination.

(13) Any person who contravenes the provisions of this regulation 21 shall be deemed to have distorted the BPS and shall be liable to the penalties prescribed under regulation 27.

Re-testing

22.-(1) Where the Agency or supplier has reasons to believe that any results issued by TBS are erroneous, the Agency may request TBS to undertake re-testing of the retained sealed samples of the particular petroleum products as provided in regulation 21(1).

(2) TBS may undertake re-testing which shall be witnessed by the Agency, supplier, or any interested party or cause such re-testing to be undertaken by an independent institution upon such terms and conditions as the TBS may prescribe.

(3) Any costs for re-testing under this regulation shall be borne by an entity seeking such re-testing.

Cargo delivery

23.-(1) A supplier shall be responsible for the procurement, shipping arrangements and the offloading of a petroleum product to a discharge port.

(2) A BPS vessel delivering a petroleum product shall, if it arrives within its scheduled delivery date ranges, have priority access to the offloading point.

(3) A BPS vessel delivering a petroleum product that arrives prior to, or after its scheduled delivery date range shall be accommodated as soon as practicable.

Bulk Procurement System Manual

24. The Bulk Procurement System Implementation Manual shall-

(a) regulate all matters related to invitation to bid, bid evaluation, bids qualification and award of the bid to supply a bulk petroleum product; and

(b) guide all operational matters related to procurement of petroleum products under BPS, including pre-arrival checks, pre-discharge operations, discharge operations, post discharge overturn and customs and warehousing.

(2) Without prejudice to sub regulation (1), the Bulk Procurement System Implementation Manual shall be prepared by the Agency and thereafter submitted to the Authority for vetting before it is approved by the Minister.

Financing and payment procedures

25.-(1) Financing of petroleum products under the BPS shall be borne by OMCs.

(2) For purposes of procurement of petroleum products under the BPS, procedures stipulated under public procurement laws shall not apply.

(3) Each OMC's banker shall open a letter of credit to the supplier's banker or facilitate pre-payment

in respect of the cargo specified in the respective supply and shipping contract.

(4) Where an OMC fails to open a letter of credit or facilitate pre-payment within the time specified in the shipping and supply contract, such OMC shall be deemed to have distorted the BPS, and liable to penalties prescribed in regulation 27.

(5) Subject to establishment of a joint financing arrangement, a correspondence bank shall, on behalf of the buyer, settle invoices raised in respect of the cargo detailed in the respective supply and shipping contract.

PART V DISTORTION OF BPS

Distortions of BPS

26. For the purpose of these Regulations, a person, supplier or an OMC shall be deemed to have distorted the functioning of the BPS as appropriate if:

- (a) such person, supplier or OMC either individually or collectively with other person or OMC cause the Agency not to function as required including but not limited to delay in opening letter of credit, payment of wharfage and non-compliance with its guidance or directives;
- (b) any OMC fails or refuses to make contributions as required in these Regulations;
- (c) any OMC fails or refuses to take part in day to day business of the Agency;
- (d) any OMC willfully and with no justifiable reasons fails to import petroleum products;
- (e) an OMC fails or refuses without justifiable cause to receive the ordered cargo; and
- (f) a supplier acts in a manner which endangers the security of supply; and
- (g) any OMC fails to make arrangement to receive the ordered quantity;
- (h) any person who does not or delay to perform any obligation as directed by the Agency

- aiming at ensuring efficient procurement and managing bulk procurement system;
- (i) any person who conduct any malpractice or tempering with any facility during receipt and storing petroleum product which shall include but not limited to; tempering of the seals placed at petroleum infrastructures, receiving products in tanks which do not have valid calibration charts, issuing false reports and information to the Agency in relation to quantity and quality of petroleum product received and stored in the receiving terminals, tempering the receiving infrastructure;
 - (j) refusal to obey lawfully directives and instructions issued by PBPA;
 - (k) failure to pay fees and levies charged by the Government institutions in relation to imported petroleum product.

Penalty

27. Any person who distorts the functioning of the BPS or willfully endangers the functioning of the competitive supply system or causes the Agency not to function as required commit an offence and shall be liable to a fine prescribed in the Schedule.

PART VI
PENALTIES

Late delivery

28.-(1) Late delivery default arising from causes other than a *force majeure event* shall attract a late delivery penalty of US\$ 0.5 per metric ton per day to be paid by a supplier to compensate buyers for compromising their minimum stocks or for procuring petroleum products from the petroleum strategic reserve.

(2) The penalty prescribed in sub-regulation (1) shall be paid to an escrow account operated by Agency for onward payment to the buyer within seven days from the date of receiving demand note from the Agency.

(3) Notwithstanding the provisions of sub-regulation (1) the delay-time on late arriving vessels shall commence when the vessel berths.

(4) The demurrage costs resulting from cascading effect caused by late delivery of the BPS vessel shall be borne by the supplier of the late delivery vessel.

(5) The Agency shall evaluate demurrage claims by the supplier and isolate:

- (a) acceptable demurrage charges to be paid by the industry;
- (b) unacceptable demurrage charges to be paid by causative OMC.

(6) For purpose of this regulation, the cascading effect shall be limited to three subsequent vessels which have to discharge petroleum products after the late delivery vessel.

(7) For purposes of ensuring efficient and effective BPS, the Agency shall take necessary measures to minimize cascading effects.

(8) The demurrage costs and its related effects shall be borne by the person caused the demurrage.

(9) The Agency shall ensure that OMCs causing delay of vessel discharge due to either ullage constraints, unopened LCs or any other reasons, are held responsible

for the respective demurrage charges.

(10) Evaluate demurrage claims by the supplier and isolate:

- (a) acceptable demurrage charges to be paid by the industry;
- (b) unacceptable demurrage charges to be paid by causative OMC.

Delivery default

29. Without prejudice to the penalty prescribed in regulation 28(1) a supplier whose vessel is delayed for more than seven days from the last day of the delivery date window shall be deemed to have defaulted on the delivery and shall be liable to penalties as shall be provided in the shipping and supply contract.

Late payment

30.-(1) An importer who fails to pay for its share of a petroleum product at the due date, that is to say 60 days from the first day of delivery date range shall be charged a late payment penalty of LIBOR +5% per annum or be barred from participating in the following 4 BPS tender or both.

(2) The penalty prescribed in sub-regulation (1) shall be paid to an escrow account operated by Agency within seven days from the date of determination of such failure for onward payment to the supplier.

PART VII GENERAL PROVISIONS

Upgrading and replacement of existing lines

31.-(1) All entities having their storage facilities connected to KOJ shall:

- (a) ensure that their facilities have at least two lines from KOJ to their storage facilities; and
- (b) ensure that their lines have a larger diameter of not less than 10 inch.

(2) Without prejudice to the penalty prescribed under regulation 33 any person who is in continuous breaches of sub-regulation (1) shall be liable to a fine of not less than one million shillings for every day on which

the contravention occurs or continues.

General penalty

32.-(1) Any person who contravenes the provisions of these Regulations for which no specific penalty is prescribed shall be liable to a fine of three million shillings.

(2) Any OMC, Supplier or Independent Inspector who employs an agent, clerk, servant or other person, shall be answerable and liable for any acts or omissions of such persons in so far as the OMC, Supplier or Independent Inspector is concerned.

Penalty for continued defiance

33. Any person who is in continuous breach of these Regulations shall be liable to a fine of one million shillings for every day on which the contravention occurs or continues.

Revocation
GN No. 508
of 2015

34.-(1) The Petroleum (Bulk Procurement) Regulations, 2015 are hereby revoked.

(2) Notwithstanding the revocation of the Petroleum (Bulk Procurement) Regulations, 2015, all orders, exemptions, contracts or directives made or issued or deemed to have been made or issued under those regulations shall be deemed to have been made under these regulations, and shall remain in force until revoked or they respectively otherwise expire or cease to have effect.

(3) These Regulations shall not operate so as to affect in a prejudicial way the rights of any person granted or any contract entered prior to the commencement of these Regulations.

Agency to supplement procedures

35. Where procedures are not provided for in these Regulations, the Agency shall endeavor to do whatever is necessary and permitted by applicable law in order to effectively and completely adjudicate on the matter.

Compound of offences

36.-(1) The executive Director may, where he or she is satisfied that any person has committed any offence under this Regulation or the Petroleum Act in relation to importation of petroleum product through bulk procurement system, in respect of which fine is provided or in respect of which anything is liable for forfeiture, compound the offence and may order such person to pay a sum of money, not exceeding the amount of fine to which the person would have been liable if he had been prosecuted or convicted for the offence, as the executive director may deem fit.

(2) The Agency may where it is satisfied that a person has committed an offence under this regulations, compound the offences and order such person to pay a sum of money, not exceeding the amount of fine to which the person would have been liable if he had been prosecuted or convicted for the offence, as the Agency may deem fit.

SCHEDULE

(Made under regulation 27)

OFFENCE	PENALTY	ADDITIONAL PENALTY
Delay to open LC or to make pre payment	0.5 USD per MT per day	<ul style="list-style-type: none"> Not to be allowed to participate in tenders until when the product paid for and all penalties have been paid. Pay demurrage resulting from failure to open LC
OMCs failure to make arrangement to receive the ordered quantity including payment of wharfage and creating	0.5 USD per MT per day for each day of continuity breach	Pay all cost associated with failure to make arrangement to receive/ordered quantity eg. demurrage

The Petroleum (Bulk Procurement) Regulations, 2017

GN. No. 198 (contd.)

ullage.		
Failure to make contribution to the Agency.	10% of the amount to be paid as contribution and one million for each day of continuity breach.	Not to participate in tenders until when full amount has been paid.
OMC refusal to take part in day to day business of the Agency.	3 million shillings, and one million for each day of continuity breach.	
Supplier acts which endangers the security of supply such as late delivery.	0.5 USD per MT per day	<ul style="list-style-type: none"> • Pay demurrage resulting from cascading effect; • As a last resort, invoke the Performance Bond as per the terms and conditions of the contract.

The Petroleum (Bulk Procurement) Regulations, 2017

GN. No. 198 (contd.)

Supplier bring off specification product	As specified in the Standards Act or Petroleum Act.	<ul style="list-style-type: none"> • As a last resort, invoke the Performance Bond as per the terms and conditions of the contract. • Pay penalties as per the shipping and supply contract. • Blacklisted as per regulation 20(4)
Conducting malpractice(s) when receiving petroleum products from the delivery vessel	USD 50,000	<ul style="list-style-type: none"> • Suspension to participate in the following BPS tenders
Contaminating petroleum products after TBS has confirmed that the product arrived within the approved specifications.	USD 50,000	<ul style="list-style-type: none"> • As stipulated in the shipping and supply contract. • As a last resort, invoke the bank guarantee or performance bond • Pay all cost associated with evacuation of contaminated product and cleaning infrastructures, and bringing replacement cargo.

Dodoma,
6th April, 2017

SOSPETER M. MUHONGO
Minister for Energy and Minerals

