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THE ENVIRONMENTAL (IMPACT ASSESSMENT AND AUDIT) REGULATIONS

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Environmental Management and Co-ordination Act

The Environmental (Impact Assessment and Audit) Regulations

Legal Notice 101 of 2003

Legislation as at 31 December 2022

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ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION ACT

THE ENVIRONMENTAL (IMPACT ASSESSMENT AND AUDIT) REGULATIONS

LEGAL NOTICE 101 OF 2003

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Part I – PRELIMINARY

1. Citation

These Regulations may be cited as the Environmental (Impact Assessment and Audit) Regulations.

2. Interpretation

In these Regulations unless the context otherwise requires—

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

“Authority” means the National Environment Management Authority established under section 7 of the Act;

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

“chemical” means a chemical substance in any form whether by itself or in a mixture or preparation, whether manufactured or derived from nature and includes industrial chemicals, pesticides, fertilizers and drugs;

“Director-General” means the Director-General of the Authority appointed under section 10 of the Act;

“District Environment Committee” means the District Environment Committee appointed under section 29 of the Act;

“economic analysis” means the use of analytical methods which take into account economic, socio-cultural, and environmental issues in an integrated manner in the assessment of projects;

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

“environmental audit study” means a systematic evaluation of activities and processes of an ongoing project to determine how far these activities and programmes conform with the approved environmental management plan of that specific project and sound environmental management practices;

“environmental auditor” means an expert or firm of experts registered in accordance with regulation 14;

“environmental control audit system” means a mechanism or procedure put in place by a proponent or proprietor in consultation with the Authority to determine compliance with environmental standards;

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

“environmental impact assessment expert” means an individual expert or firm of experts registered under regulation 14 and includes a lead expert and an associate expert;

“environmental impact assessment study report” means the report produced at the end of the environmental impact assessment study process under section 58 and regulation 11;

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

“environmental management plan” means all details of project activities, impacts, mitigation measures, time schedule, costs, responsibilities and commitments proposed to minimize environmental impacts of activities, including monitoring and environmental audits during implementation and decommissioning phases of a project;

“environmental monitoring” means the continuous or periodic determination of actual and potential effects of any activity or phenomenon of the environment whether short-term or long-term;

“guidelines” means the guidelines describing the methodology for implementation of environmental impact assessment requirements adopted by the Authority under section 58;

“inspector” means an environmental inspector appointed under section 117 of the Act;

“lead agency” means any Government Ministry, department, parastatal, State corporation or local authority, in which any law vests functions of control or management of any element of the environment or natural resources;

“mass media” includes publicly exhibited posters, newspapers, radio, television or other media used for public communication;

“mitigation measures” include engineering works, technological improvements, management and ways and means of minimising negative aspects, which may include socio-economic and cultural losses suffered by communities and individuals, whilst enhancing positive aspects of the project;

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

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

“project” includes any project, programme or policy that leads to activities which may have an impact on the environment;

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

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

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

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

"review" means a process of checking the adequacy of an environmental impact study to ensure that it meets the legal requirement and ensure wide acceptance of the environmental impact study findings;

"social analysis" means assessing or estimating in advance the social consequences from specific policy actions or project development including social justice and equity, social uncertainty, social cohesion, social networks and interactions, social status and gender desegregation;

"standard" means the limits of discharge or emissions established under the Act or under these Regulations;

"strategic environment assessment" means the process of subjecting public policy, programmes and plans to tests for compliance with sound environmental management;

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

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

"Standards and Enforcement Review Committee" means the Standards and Enforcement Review Committee established under section 70 of the Act;

"Technical Advisory Committee" means the Technical Advisory Committee on environmental impact assessment established under section 61 of the Act and regulation 5 of these Regulations;

"trans-boundary impacts" means impacts beyond the Kenyan borders;

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

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

"water" includes drinking water, river, stream, watercourse, reservoir, well, dam, canal, channel, lake, swamp, open drain, or underground water.

3. Application

These Regulations shall apply to all policies, plans, programmes, projects and activities specified in Part IV, Part V and the Second Schedule of the Act.

4. Approval of environmental impact assessment

(1) No proponent shall implement a project—

(a) likely to have a negative environmental impact; or

(b) for which an environmental impact assessment is required under the Act or these Regulations,

unless an environmental impact assessment has been concluded and approved in accordance with these Regulations.

(2) No licensing authority under any law in force in Kenya shall issue a licence for any project for which an environmental impact assessment is required under the Act unless the applicant produces to the licensing authority a licence of environmental impact assessment issued by the Authority under these Regulations.

(3) No licensing authority under any law in force in Kenya shall issue a trading, commercial or development permit or license for any micro project activity likely to have cumulative significant negative environmental impact before it ensures that a strategic environmental plan encompassing mitigation measures and approved by the Authority is in place.

(4) If the Authority determines that an application for an environmental impact assessment raises issues that concern more than one district, it shall submit the application to the relevant Provincial Environment Committee.

5. Technical advisory committees

(1) The Authority may set up technical advisory committees at national, provincial and district levels to advise it on environmental impact assessment related reports.

(2) A technical advisory committee set up under this Regulation shall consist of not less than five multi-disciplinary specialists and such other persons as shall be indicated in the guidelines.

(3) The terms of reference and rules of procedure of a technical advisory committee shall be drawn by the Authority in accordance with section 61 of the Act.

(4) The Committees may, with the approval of the Director-General, co-opt any persons it deems necessary for its proper functioning.

6. Application for environmental impact assessment licence

An application for an environmental impact assessment licence shall be in the form of a project report in Form 1 set out in the First Schedule to these Regulations, and the applicant shall submit the application together with the prescribed fee to the Authority or the Authority's appointed agent in the District where the project is to be undertaken.

Part II – THE PROJECT REPORT

7. Preparation of project report

(1) Every proponent undertaking a project specified in the Second Schedule of the Act as being a low risk project or a medium risk project, shall submit to the Authority a summary project report of the likely environmental effect of the project.

(2) The project report submitted under subregulation (1) shall specify—

(a) the nature of the project;

(b) the location of the project including—

(i) proof of land ownership, where applicable;

(ii) any environmentally sensitive area to be affected;

(iii) availability of supportive environmental management infrastructure; and

(iv) conformity to land use plan or zonation plan; and

(c) potential environmental impacts of the project and the mitigation measures to be taken during and after implementation of the project.

(3) Upon receipt of the project report under subregulation (1), the Authority shall, within five days, undertake screening and assessment thereof for completeness and—

(a) where the Authority considers that the proposed project may have a significant adverse environmental impact, it shall recommend that the proponent should prepare and submit a comprehensive project report; or

(b) where the Authority considers that the proposed project is not likely to have any significant adverse environmental impact, it shall exempt the proponent from submitting a comprehensive project report and issue the proponent with an approval to proceed with the project.

(4) The comprehensive project report prepared pursuant to a recommendation under sub regulation (3) (a), shall specify—

(a) the nature of the project;

(b) the location of the project including—

(i) proof of land ownership;

(ii) the Global Positioning System coordinates; and

(iii) the physical area that may be affected by the project's activities;

(c) the activities that shall be undertaken during the project construction, operation and decommissioning phases;

(d) a description of the international, national and county environmental legislative and regulatory frameworks on the environment and socioeconomic matters;

(e) the preliminary design of the project;

(f) the materials to be used, products and by-products, including waste to be generated by the project and the methods of their disposal;

(g) the potential environmental impacts of the project and the mitigation measures to be taken during and after implementation of the project;

(h) an analysis of available alternatives including an alternative—

(i) project site;

(ii) design;

(iii) technologies; and

(iv) processes,

and the reasons for preferring the proposed site, design, technologies and processes;

(i) an action plan for the prevention and management of possible accidents during the project cycle;

(j) a plan to ensure the health and safety of the workers and neighbouring communities;

(k) the economic and socio-cultural impacts to the local community and the nation in general;

(l) a plan to ensure the relocation or resettlement of persons affected by the project;

(m) a strategic communication plan to ensure inclusive participation during the study and provide a summary of issues discussed at the public participation forum;

(n) an environmental management plan;

(o) integration of climate change vulnerability assessment, relevant adaptation and mitigation actions;

(p) the project cost; and

(q) any other information the Authority may require.

(5) In preparing a project report under this regulation, the proponent shall consider the issues specified in the Second Schedule.

(6) A project report prepared under this regulation shall be prepared by an environmental impact assessment expert who is registered under these Regulations.

[L.N. 32/2019, r. 2.]

8. Submission of project report

A proponent shall submit at least two copies of the project report to the Authority or the Authority's appointed agent in the prescribed form accompanied by the prescribed fees.

[L.N. 133/2007, r. 2.]

9. Comments on project report

(1) Where the project report conforms to the requirements of regulation 7(1), the Authority shall within seven days upon receipt of the project report, submit a copy of the project report to—

(a) each of the relevant lead agencies;

(b) the relevant District Environment Committee; and

(c) where more than one district is involved, to the relevant Provincial Environment Committee,

for their written comments which comments shall be submitted to the Authority within twenty one days from the date of receipt of the project report from the Authority, or such other period as the Authority may prescribe.

(2) On receipt of the comments referred to in subparagraph (1) or where no comments have been received by the end of the period of thirty days from the date of receipt of the project report, the Authority shall proceed to determine the project report.

10. Approval of project report

(1) On determination of the project report, the decision of the Authority, together with the reasons thereof, shall be communicated to the proponent within forty-five days of the submission of the project report.

(2) Where the Authority is satisfied that the project will have no significant impact on the environment, or that the project report discloses sufficient mitigation measures, the Authority may issue a licence in Form 3 set out in the First Schedule to these Regulations.

(3) If the Authority finds that the project will have a significant impact on the environment, and the project report discloses no sufficient mitigation measures, the Authority shall require that the proponent undertake an environmental impact assessment study in accordance with these Regulations.

(4) A proponent who is dissatisfied with the Authority's decision that an environmental impact assessment study is required may within fourteen days of the Authority's decision appeal against the decision to the Tribunal in accordance with regulation 46.

Part III – THE ENVIRONMENTAL IMPACT ASSESSMENT STUDY

11. Terms of reference

(1) An environmental impact assessment study shall be conducted in accordance with terms of reference developed during the scoping exercise by the proponent and approved by the Authority.

(2) The terms of reference shall include matters required to be considered in the making of an environmental impact assessment as may be contained in the Second Schedule to these Regulations and such other matters as the Director-General may in writing require.

12. Environmental impact assessment guidelines

(1) An environmental impact assessment study shall be conducted in accordance with the general environmental impact assessment guidelines and sector environmental impact assessment guidelines set out in the Third Schedule to these Regulations.

(2) Sector environmental impact assessment guidelines shall be developed by the lead agency in consultation with the Authority.

13. Approval of experts

(1) A proponent shall, on the approval of the terms of reference under regulation 11, submit to the Authority the names and qualifications of the impact assessment experts appointed to undertake the environmental impact assessment study and authorized so to do in accordance with section 58(5) of the Act.

(2) Every environmental impact assessment study shall be carried out by a lead expert qualified in accordance with the criteria of listing of experts specified in the Fourth Schedule to these Regulations.

(3) A person undertaking an environmental impact assessment study shall conduct themselves in accordance with an established code of practice issued by the Authority.

14. Registration of environmental impact assessment experts

(1) A person or firm wishing to apply for registration as an environmental impact assessment expert or firm of experts for carrying out environmental impact assessment studies or audits shall be required to meet the qualification criteria set out in the Fourth Schedule to these Regulations.

(2) An applicant for registration under subparagraph (1) shall submit an application in Form 4 set out in the First Schedule to these Regulations, accompanied by the prescribed fees.

(3) An environmental impact assessment expert practising under a firm of experts shall be registered as an individual expert.

(4) The Authority shall issue a certificate of registration to a qualified environmental impact assessment expert in Form 5 set out in the First Schedule to these Regulations.

(5) An environmental impact assessment expert registered as such under these Regulations may be de-registered if the expert contravenes any of provisions of the code of practice issued by the Authority.

15. [Deleted by L.N. 133/2007, r. 3.]

16. Environmental impact assessment study

An environmental impact assessment study prepared under these Regulations shall take into account environmental, social, cultural, economic, and legal considerations, and shall—

(a) identify the anticipated environmental impacts of the project and the scale of the impacts;

(b) identify and analyze alternatives to the proposed project;

(c) propose mitigation measures to be taken during and after the implementation of the project; and

(d) develop an environmental management plan with mechanisms for monitoring and evaluating the compliance and environmental performance which shall include the cost of mitigation measures and the time frame of implementing the measures.

17. Public participation

(1) During the process of conducting an environmental impact assessment study under these Regulations, the proponent shall in consultation with the Authority, seek the views of persons who may be affected by the project.

(2) In seeking the views of the public, after the approval of the project report by the Authority, the proponent shall—

(a) publicize the project and its anticipated effects and benefits by—

(i) posting posters in strategic public places in the vicinity of the site of the proposed project informing the affected parties and communities of the proposed project;

(ii) publishing a notice on the proposed project for two successive weeks in a newspaper that has a nationwide circulation; and

(iii) making an announcement of the notice in both official and local languages in a radio with a nationwide coverage for at least once a week for two consecutive weeks;

(b) hold at least three public meetings with the affected parties and communities to explain the project and its effects, and to receive their oral or written comments;

(c) ensure that appropriate notices are sent out at least one week prior to the meetings and that the venue and times of the meetings are convenient for the affected communities and the other concerned parties; and

(d) ensure, in consultation with the Authority that a suitably qualified co-ordinator is appointed to receive and record both oral and written comments and any translations thereof received during all public meetings for onward transmission to the Authority.

Part IV – THE ENVIRONMENTAL IMPACT ASSESSMENT STUDY REPORT

18. Contents of environmental impact assessment study report

(1) A proponent shall submit to the Authority, an environmental impact assessment study report incorporating but not limited to the following information—

(a) the proposed location of the project;

(b) a concise description of the national environmental legislative and regulatory framework, baseline information and any other relevant information related to the project;

(c) the objectives of the project;

(d) the technology, procedures and processes to be used, in the implementation of the project;

(e) the materials to be used in the construction and implementation of the project;

(f) the products, by-products and waste generated by the project;

(g) a description of the potentially affected environment;

(h) the environmental effects of the project including the social and cultural effects and the direct, indirect, cumulative, irreversible, short-term and long-term effects anticipated;

(i) alternative technologies and processes available and reasons for preferring the chosen technology and processes;

(j) analysis of alternatives including project site, design and technologies and reasons for preferring the proposed site, design and technologies;

(k) an environmental management plan proposing the measures for eliminating, minimizing or mitigating adverse impacts on the environment; including the cost, time frame and responsibility to implement the measures;

(l) provision of an action plan for the prevention and management of foreseeable accidents and hazardous activities in the cause of carrying out activities or major industrial and other development projects;

(m) the measures to prevent health hazards and to ensure security in the working environment for the employees and for the management of emergencies;

(n) an identification of gaps in knowledge and uncertainties which were encountered in compiling the information;

(o) an economic and social analysis of the project;

(p) an indication of whether the environment of any other state is likely to be affected and the available alternatives and mitigating measures; and

(q) such other matters as the Authority may require.

(2) The environmental impact assessment study report shall be accompanied by a non-technical summary outlining the key findings, conclusions and recommendations of the study and shall be signed by the proponent and environmental impact assessment experts involved in its preparation.

19. Submission of environmental impact assessment study report

A proponent shall submit ten copies and an electronic copy of an environmental impact assessment study report to the Authority in Form 1B set out in the First Schedule to these Regulations accompanied by the prescribed fees.

20. Invitation of comments from lead agencies

(1) The Authority shall within fourteen days of the receipt of the environmental impact assessment study report, submit a copy of the report to any relevant lead agencies for their comments.

(2) Upon receiving the environmental impact assessment study report, the lead agencies shall review the report to ensure that it complies with the terms of reference developed under regulation 11 and that it is comprehensive and shall thereafter send their comments on the study report to the Authority within thirty days or such extended period as the Authority may specify.

(3) If the lead agencies to which a copy of the environmental impact assessment study report is submitted fail to submit their comments within thirty days or such extended period as the Authority may specify, the Authority may proceed with the determination of the application for the implementation of the project.

21. Submission of comments

(1) The Authority shall, within fourteen days of receiving the environmental impact assessment study report, invite the public to make oral or written comments on the report.

(2) The Authority shall, at the expense of the proponent—

(a) publish for two successive weeks in the *Gazette* and in a newspaper with a nation-wide circulation and in particular with a wide circulation in the area of the proposed project, a public notice once a week inviting the public to submit oral or written comments on the environmental impact assessment study report; and

(b) make an announcement of the notice in both official and local languages at least once a week for two consecutive weeks in a radio with a nationwide coverage.

(3) The invitation for public comments under this Regulation shall state—

(a) the nature of the project;

(b) the location of the project;

(c) the anticipated impacts of the project and the proposed mitigation measures to respond to the impacts;

(d) the times and place where the full report can be inspected; and

(e) the period within which the Authority shall receive comments.

(4) The notice to be published in the newspaper as specified under subregulation (3) shall be in Form 8 set out in the First Schedule to these Regulations.

22. Public hearing

(1) Upon receipt of both oral and written comments as specified by section 59 and section 60 of the Act, the Authority may hold a public hearing.

(2) A public hearing under these Regulations shall be presided over by a suitably qualified person appointed by the Authority.

(3) The date and venue of the public hearing shall be publicized at least one week prior to the meeting —

(a) by notice in at least one daily newspaper of national circulation and one newspaper of local circulation;

(b) by at least two announcements in the local language of the community and the national language through radio with a nation-wide coverage.

(4) The public hearing shall be conducted at a venue convenient and accessible to people who are likely to be affected by the project.

(5) A proponent shall be given an opportunity to make a presentation and to respond to presentations made at the public hearing.

(6) The presiding officer shall in consultation with the Authority determine the rules of procedure at the public hearing.

(7) On the conclusion of the hearing, the presiding officer shall compile a report of the views presented at the public hearing and submit the report to the Director-General within fourteen days from the date of the public hearing.

23. Decision of the Authority

(1) The Authority shall give its decision on an environmental impact assessment study report within three months of receiving an environmental impact assessment study report.

(2) The decision of the Authority shall be in writing and shall contain the reasons thereof.

(3) In making a decision regarding an environmental impact assessment licence under these Regulations, the Authority shall take into account—

(a) the validity of the environmental impact assessment study report submitted under regulation 18 with emphasis on the economic, social and cultural impacts of the project;

(b) the comments made by a lead agency and other interested parties under these Regulations;

(c) the report of the presiding officer compiled after a public hearing specified under regulation 22 where applicable; and

(d) other factors which the Authority may consider crucial in the implementation of the project.

(4) The decision of the Authority under this Regulation shall be communicated to the proponent within fourteen days from the date of the decision and a copy thereof shall be made available for inspection at the Authority's offices.

24. Environmental impact assessment licence

Where the Authority approves an environmental impact assessment study report under regulation 23, it shall issue an environmental impact assessment licence in Form 3 set out in the First Schedule to these Regulations on such terms and conditions as it may deem necessary.

25. Variation of licence

(1) Where a proponent wishes to vary the terms and conditions on which an environmental impact assessment licence has been issued, the holder of the licence may apply for a variation of the environmental impact assessment licence in Form 9 set out in the First Schedule to these Regulations accompanied by the prescribed fees.

(2) The Authority may issue a certificate of variation of an environmental impact assessment licence in Form 10 set out in the First Schedule to these Regulations.

(3) A variation of an environmental impact assessment licence issued under regulation 24 may be issued without the holder of the licence submitting a fresh environmental impact assessment study report if the Authority is satisfied that the project if varied would comply with the requirements of the original licence.

(4) Where an environmental impact assessment is required under this Regulation, the provisions of Part II of these Regulations shall apply.

26. Transfer of licence

(1) The holder of an environmental impact assessment licence may, on payment of the prescribed fee, transfer the licence to another person only in respect of the project to which such licence was issued.

(2) The transferee as well as the transferor of a licence under this Regulation shall be liable for all liabilities, and the observance of all obligations imposed by the transfer in respect of the licence transferred, but the transferor shall not be responsible for any future liabilities or any obligations so imposed with regard to the licence from the date the transfer is approved.

(3) Where an environmental impact assessment licence is to be transferred, the person to whom it is to be transferred and the person transferring it shall jointly notify the Director-General of the transfer in Form 11 set out in the First Schedule to these Regulations.

(4) The Authority shall issue a certificate of transfer of an environmental impact assessment licence in Form 12 set out in the First Schedule to these Regulations.

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

27. Surrender of licence

(1) The holder of an environmental impact assessment licence may surrender the licence issued under these Regulations to the Authority after ceasing to be responsible for the implementation of the project.

(2) The holder of the licence shall notify the Authority of the intention to surrender the licence under subregulation (1) at least six months before the surrender by submitting a notification in Form 13 set out in the First Schedule to these Regulations together with the prescribed fees.

(3) The holder of a licence shall not surrender their licence without the consent of the Authority.

(4) The surrender of an environmental impact assessment licence shall not be effective until the Authority issues a certificate of surrender in respect of that licence in Form 14 set out in the First Schedule to these Regulations.

(5) A surrender shall be without prejudice to any liabilities or obligations which have accrued on the holder of the licence prior to the date of surrender.

28. Cancellation of an environmental impact assessment licence

(1) The Authority may, at any time after it issues a licence under these Regulations, on the advice of the Standards Enforcement and Review Committee—

(a) suspend the licence on such terms and conditions as the Authority may deem fit for a period not exceeding twenty-four months; or

(b) revoke or cancel the licence.

(2) The Authority may suspend, revoke or cancel a licence as specified under subregulation (1) where—

(a) the licensee contravenes the conditions set out in the licence;

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

(c) the project poses an environmental threat which could not be reasonably foreseen before the licence was issued; or

(d) it is established that the information or data given by the proponent in support of his application for an environmental impact assessment licence was false, incorrect or intended to mislead.

29. Access to information

Information or documents submitted to the Authority by any person in connection with an environmental impact assessment together with the Authority's decision and the reasons thereof shall be made available to the public on such terms and conditions as the Authority may prescribe.

30. Protection of proprietary information

(1) A person submitting information to the Authority may at any time apply to the Authority in Form 15 set out in the First Schedule to these Regulations to exclude the information or parts thereof from being made available to the public on the basis of commercial confidentiality or national security.

(2) If the Authority grants the request made under subregulation (1), the information or specified parts of the information shall be excluded from public access, and an entry shall be made in a register to be maintained by the Authority indicating in general the nature of the information and the reason for which it is excluded from public access:

Provided that this information shall remain available to the Authority, and the Authority shall take all measures to maintain confidentiality of the information and shall not copy, circulate, publish or disclose such information.

(3) If the Authority rejects the claim that the information is proprietary, it shall communicate the decision to the proponent within fourteen days of its decision.

(4) The Authority shall review its decision on an application made under this regulation from time to time to determine whether the reasons for exclusion are still valid and whether the exclusion should continue.

(5) A person who is aggrieved by the decision of the Authority under this Regulation may appeal to the Tribunal against that decision.

Part V – ENVIRONMENTAL AUDIT AND MONITORING

31. Environmental audit study

(1) An environmental audit study shall be undertaken on the following development activities which are likely to have adverse environmental impacts—

(a) ongoing projects commenced prior to the coming into force of these Regulations; or

(b) new projects undertaken after completion of an environmental impact assessment study report.

(2) An environmental audit shall, unless it is a self-auditing study under regulation 34, be conducted by a qualified and authorized environmental auditor or environmental inspector who shall be an expert or a firm of experts registered in accordance with regulation 14.

(3) The Authority shall require the proponent to undertake—

(a) in the case of an ongoing project—

(i) an initial environmental audit study followed by subsequent environmental control audit studies as may be necessary at such times as shall be agreed upon by the Authority and the proponent; and

(ii) an initial environmental audit study to provide baseline information upon which subsequent environmental control audit studies shall be based; and

(b) an environmental audit study based on baseline information provided in the environmental impact assessment report study.

(4) (a) The proponent of an ongoing project shall undertake an environmental audit of the project within a period of twelve months from the date of publication of these Regulations.

(b) A proponent of a project that has undergone an environmental impact assessment study shall within a period of twelve months of the commencement of the operations, and not

more than twenty-four months after the completion of a project whichever is earlier, undertake an environmental audit of the project:

Provided that an audit may be required sooner if the life of the project is shorter than the period prescribed under this Regulation.

(5) An environmental audit study specified under this Regulation shall be conducted in accordance with the terms of reference developed by the proponent in consultation with the Authority.

(6) In carrying out the environmental audit study under this Regulation, the auditor shall ensure that an appraisal of all the project activities, including the production of goods and services is carried out, gives adequate consideration to environmental regulatory frameworks, environmental health and safety measures and sustainable use of natural resources.

(7) An audit report compiled under this Regulation shall include but shall not be limited to the following information—

(a) the past and present impacts of the project;

(b) the responsibility and proficiency of the operators of the project;

(c) existing internal control mechanisms to identify and mitigate activities with a negative environmental impact;

(d) existing internal control mechanisms to ensure the workers' health and safety; and

(e) the existence of environmental awareness and sensitization measures, including environmental standards, and regulations, law and policy, for the managerial and operational personnel.

32. Compliance with standards

In carrying out an environmental audit study, the environmental auditor shall comply with any existing national environmental regulations and standards prescribed by the Authority, and in the absence of such national environmental regulations and standards shall use such other international standards as shall be prescribed by the Authority.

33. Control auditing

(1) A control audit shall be carried out by the Authority, whenever the Authority deems it necessary to check compliance with the environmental parameters set for the project or to verify self-auditing reports.

(2) A control audit shall—

(a) confirm that the environmental management plan of the project is being adhered to; and

(b) verify the adequacy of the environmental management plan in mitigating the negative impacts of a project.

34. Self auditing

(1) In executing a project, after the environmental impact assessment study report has been approved by the Authority, or after the initial audit of an ongoing project, the proponent shall take all practical measures to ensure the implementation of the environmental management plan by—

(a) carrying out a self-auditing study on a regular basis;

(b) preparing an environmental audit report after each audit and submitting the report to the Authority annually or as may be prescribed by the Authority; and

(c) ensuring that the criteria used for the audit is based on the environmental management plan developed during the environmental impact assessment process or after the initial audit.

35. Contents of an environmental audit

(1) An environmental audit shall be carried out through questionnaires, an environmental site visits and test analysis and in the manner specified in this Regulation.

(2) In conducting an initial environmental audit an environmental auditor shall—

(a) consider the description of the project;

(b) indicate the objective, scope and criteria of the audit;

(c) study all relevant environmental law and regulatory frameworks on health and safety, sustainable use of natural resources and on acceptable national and international standards;

(d) verify the level of compliance by the proponent with the conditions of the environmental management plan;

(e) evaluate the proponent's knowledge and awareness of and responsibility for the application of relevant legislation;

(f) review existing project documentation related to all infrastructural facilities and designs;

(g) examine monitoring programs, parameters, and procedures in place for control and corrective actions in case of emergencies;

(h) examine records of incidents and accidents and the likelihood of future occurrence of the incidents and accidents;

(i) inspect all buildings, premises and yards in which manufacturing, testing and transportation takes place within and without the project area, as well as areas where goods are stored and disposed of and give a record of all significant environmental risks associated with such activities;

(j) examine and seek views on health and safety issues from the project employees, the local and other potentially affected communities; and

(k) prepare a list of health and environmental concerns of past and ongoing activities.

(3) Where an environmental auditor is conducting a control audit, the environmental auditor shall—

(a) consider the description of the project;

(b) indicate the objective, scope and criteria of the audit;

(c) inspect all buildings, premises and yards in which manufacturing, testing and transportation takes place within and without the project area as well as areas where goods are stored and disposed of and give a record of all significant environmental risks associated with such activities;

(d) indicate the extent to which the environmental management plan corresponds to the planned arrangements and, if implemented, achieves the stated objectives;

(e) identify any significant source of air pollution, water pollution, land contamination and degradation, local community disturbance, wildlife disturbance and the health of the workers of the project; and

(f) prepare a list of concerns of on-going activities with recommendations.

36. The environmental audit report

(1) An environmental auditor shall indicate in an audit report the measures that exist under the environmental management plan of the proposed project to bring the project up to an acceptable environmental standard and how environmental impacts will be addressed and controlled.

(2) An environmental audit report compiled under these Regulations shall contain—

(a) a presentation of the type of activity being audited;

(b) an indication of the various materials, including non-manufactured materials, the final products, and by-products, and waste generated;

(c) a description of the different technical activities, processes and operations of the project;

(d) a description of the national environmental legislative and regulatory frameworks on ecological and socio-economic matters;

(e) a description of the potentially affected environment on ecological and socioeconomic matters;

(f) a prioritization of all past and on-going concerns of the project;

(g) an identification of all environmental and occupational health and safety concerns of the project;

(h) an opinion on the efficacy and adequacy of the environmental management plan of the project;

(i) detailed recommendations for corrective activities, their cost, timetable and mechanism for implementation;

(j) an indication of the measures taken under the environmental management plan to ensure implementation is of acceptable environmental standards; and

(k) a non-technical summary outlining the key findings, conclusions and recommendations of the auditor.

37. Post audit orders

The Authority may issue an improvement order for the carrying out of corrective measures for mitigating the environmental degradations revealed during any audit study.

38. Inspections

(1) An inspector may, at reasonable times, enter on any land, premises or facility of a project for the purposes of inspection, to examine records and to make enquiries on the project.

(2) A person who refuses to answer questions, refuses to avail documents or refuses to give other information legitimately sought by the inspector commits an offence.

39. Audit petition by public

A member of the public may, after showing reasonable cause in writing, petition the Authority to cause an audit to be carried out on any project.

40. Monitoring by the Authority and lead agencies

(1) The Authority shall in consultation with lead agencies—

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

(b) monitor the operations of any industry, project or activity with a view to determining its immediate and long-term effect on the environment;

(c) except where a baseline survey has been carried out under regulation 31 cause the proponent to carry out a baseline survey to identify basic environmental parameters in the project area before implementation;

(d) determine the parameters and measurable indicators to be used in monitoring of projects; and

(e) conduct measurement of environmental changes that have occurred during implementation.

(2) The Authority shall, in consultation with the lead agencies monitor ongoing projects on a continuous basis using parameters and indicators developed under this Regulation.

(3) The Authority shall, in consultation with the lead agency upon detection of noncompliance with the conditions of approval of an environmental impact assessment licence immediately, institute remedial action.

41. The monitoring report

(1) Where a lead agency has undertaken monitoring under regulation 40, it shall submit a report to the Authority which report shall include the following—

(a) the name and address of proponent;

(b) the name of the proposed project;

(c) date of implementation of the proposed project;

(d) the date of the last monitoring report, including the report findings, action taken and its result;

(e) details of the environmental parameters to be monitored;

(f) results of the actual monitoring exercise;

(g) new actions to be implemented including the criteria for the next evaluation; and

(h) a non-technical summary of findings, conclusions and recommendations.

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

Part VI – MISCELLANEOUS PROVISIONS

42. Strategic environmental assessment

(1) Lead agencies shall in consultation with the Authority subject all proposals for public policy, plans and programmes for environmental implementation to a strategic environmental assessment to determine which ones are the most environmentally friendly and cost effective when implemented individually or in combination with others.

(2) The assessment carried out under this Regulation shall consider the effect of implementation of alternative policy actions taking into consideration—

(a) the use of natural resources;

(b) the protection and conservation of biodiversity;

(c) human settlement and cultural issues;

(d) socio-economic factors; and

(e) the protection, conservation of natural physical surroundings of scenic beauty as well as protection and conservation of built environment of historic or cultural significance.

(3) The Government, and all the lead agencies shall in the development of sector or national policy, incorporate principles of strategic environmental assessment.

43. Contents of strategic environmental impact report

(1) A strategic environmental impact report prepared under this Regulation shall include the following information—

(a) the title of the report;

(b) a summary of the potential significant impacts of a proposed policy, programme or plan;

(c) potential opportunities to promote or enhance environmental conditions;

(d) recommendations for mitigating measures; and

(e) alternative policy, programme or plan options to ensure compliance with the Act.

(2) The proposed policy, programme or plan specified in this Regulation shall state—

(a) the purpose and rational of the policy, programme or plan taking into consideration socio-economic, environmental and cultural issues;

(b) alternatives and strategies of the policy, programme or plans;

(c) areas and sectors affected by the policy, programme, plan, or proposed activities;

(d) an environmental analysis covering—

(i) baseline information focusing on areas potentially affected;

(ii) relevant legislative framework and related policy documents;

(iii) summary of views of key stakeholders consulted;

(iv) predicted impacts of the policy, programme or plan;

(v) alternative policy options and comparison against environmental indicators;

(vi) ongoing projects and how they fit in the proposed policy, programme or plan;

(e) recommendations outlining—

(i) suggested policy changes;

(ii) proposed mitigation measures;

(iii) strategic environment assessment; and

(f) relevant technical appendices such as stakeholders meetings referred to in the assessment.

44. Regional and international issues

Where a project is likely to have a transboundary impact, the proponent shall, in consultation with the Authority, ensure that appropriate measures are taken to mitigate any adverse impacts taking into account any existing treaties and agreements between Kenya and the other country.

45. Offences

(1) Notwithstanding any licence, permit or approval granted under any written law, any person who commences, proceeds with, executes or conducts or causes to commence, proceed with, execute or conduct any project without approval granted under these Regulations commits an offence and on conviction is liable to the penalty prescribed under the Act.

(2) Any person who—

(a) fails to prepare and submit a project report to the Authority contrary to regulations 7 and 8;

(b) fails to prepare and submit an environmental impact assessment study report contrary to regulations 18 and 19;

(c) is in breach of any condition of any licence or certificate issued under these Regulations;

(d) fraudulently makes a false statement in a project report or environmental impact assessment study report;

(e) fraudulently alters a project report or an environmental impact assessment study report;

(f) fraudulently makes a false statement in an environmental audit;

(g) fails to inform the Authority of a transfer of an environmental impact assessment licence in accordance with regulation 26; or

(h) after an audit report is submitted fails to implement any mitigation measures specified under regulation 37,

commits an offence and on conviction shall be liable to the penalty prescribed under the Act.

46. Appeal to Tribunal

(1) Any person who is aggrieved by—

(a) a refusal to grant a licence or by a refusal to transfer a licence under these Regulations;

(b) the imposition of any condition, limitation or restriction on a licence;

(c) the revocation, suspension or variation of a licence issued under these Regulations;

(d) the amount of money which the person is required to pay as fees;

(e) the imposition of any environmental restoration order or environmental improvement order on the project by the Authority; or

(f) the approval or reinstatement by the Authority of an environmental impact assessment licence, may within sixty days after the date of the decision against which he or she is dissatisfied, appeal to the Tribunal.

(2) A person aggrieved by a decision or order of the tribunal, may within sixty days of such a decision or order, appeal against such decision or order to the High Court.

(3) The fact that approval is given in respect of an environmental impact assessment shall not be a defence to any civil action or to a criminal prosecution under any enactment.

47. Registers

(1) The Authority shall maintain the following registers—

(a) a register of all individual experts or firms of experts duly authorized to conduct or prepare environmental impact assessment studies and audits;

(b) a register of all environmental impact assessment licences issued under these Regulations;

(c) a register of environmental impact assessment reports, audit study reports, strategic environmental assessment reports and monitoring reports; and

(d) a register of approvals of applications seeking exclusion of proprietary information from public access.

(2) The registers referred to in subparagraph (1) shall be public documents maintained at the offices of the Authority for inspection by any person on the payment of the prescribed fees.

48. Fees

The Authority may, for the purposes of these Regulations charge the fees specified in the Fifth Schedule to these Regulations.

FIRST SCHEDULE

FORMS

FORM 1 (r. 6)

Application Reference No. .....

THE ENVIRONMENT MANAGEMENT AND CO-ORDINATION ACT

SUBMISSION OF PROJECT REPORT

PART A: DETAILS OF PROPONENT

A1. Name of proponent (Person or Firm) .....

A2. PIN No. .....

A3. Address. .....

A4. Name of contact person .....

A5. Telephone No. ..... A6. Fax No. .....

A7. E-mail. .....

PART B: DETAILS OF THE PROJECT REPORT

B1. Title of the proposed project .....

.....

B2. Objectives and scope of the project.....

.....

B3. Description of the activities .....

.....

B4. Location of the proposed project .....

PART C: DECLARATION BY THE PROPONENT

I hereby certify that the particulars given above are correct and true to the best of my knowledge.

Name ..... Position .....

Signature .....

On behalf of .....

Date .....

(Firm name and seal)

PART D: DETAILS OF ENVIRONMENTAL IMPACT ASSESSMENT EXPERT

Name (individual/firm).....

Certificate of registration No. .....

Address .....

Tel: ..... Fax: ..... E-mail.....

PART E: OFFICIAL USE

Approved/not approved .....

Comments .....

.....

.....

.....

Officer ..... Sign ..... Date.....

NB: 1. If the Project Report does not contain sufficient information required under the Environmental (Impact Assessment and Audit) Regulations the applicant may be requested to give further information concerning the project or be notified of any defects in the application and maybe required to provide the additional information.

2. Any person who fraudulently makes a false statement in a project report or alters the project report commits an offence.

Important Notes: Please submit the following:

(a) Three copies of this form

(b) 10 copies of the project report

(c) the prescribed fees, to:

Director-General,
The National Environment Management
Authority.

_____

FORM 2 (r. 19)

Application Reference No. .....

FOR OFFICIAL USE

THE ENVIRONMENT MANAGEMENT AND CO-ORDINATION ACT

SUBMISSION OF ENVIRONMENTAL IMPACT ASSESSMENT STUDY REPORT

PART A – DETAILS OF PROPONENT

A1. Name of proponent (Person or Firm) .....

A2. PIN No. .....

A3. Address. .....

A4. Name of contact person .....

A5. Telephone No. ..... A6. Fax No. .....

A7. E-mail. .....

PART B: DETAILS OF THE ENVIRONMENTAL IMPACT ASSESSMENT STUDY REPORT

B1. Title of the proposed project .....

.....

B2. Objectives and scope of the project.....

.....

B3. Description of the activities .....

.....

B4. Location of the proposed project .....

PART C: DECLARATION BY THE PROPONENT

I hereby certify that the particulars given above are correct and true to the best of my knowledge.

Name ..... Position .....

Signature .....

On behalf of .....

Date .....

(Firm name and seal)

PART D: DETAILS OF ENVIRONMETAL IMPACT ASSESSMENT EXPERT

Name(individual/firm).....

Certificate of registration No. .....

Address .....

Tel: ..... Fax: ..... E-mail.....

PART E: OFFICIAL USE

Approved/not approved .....

Comments .....

.....

.....

.....

Officer ..... Sign ..... Date.....

Important Notes: Please submit the following:

(a) Three copies of this form

(b) 10 copies of the project study report

(c) the prescribed fees, to:

Director-General,
The National Environment Management
Authority.

FORM 3 (r. 24)

Application Reference No: .....
Registration No: .....

FOR OFFICIAL USE

THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION ACT

ENVIRONMENTAL IMPACT ASSESSMENT LICENCE

This is to certify that the Project Report/Environmental Impact Assessement Study Report ..... received from ..... (name of individual/firm) .....(address) submitted to the National Environment Management Authority in accordance with the Environmental Impact Assessment & Audit Regulations regarding ..... (title of project) whose objective is to carry on ..... (briefly describe purpose) located at ..... (locality and District) has been reviewed and a licence is hereby issued for implementation of the project, subject to attached conditions.

Dated this ..... day of..... 20.....

Signature .....

(Seal)

Director-General,

The National Environment Management

Authority.

Conditions of Licence:

1 . This licence is valid for a period of ..... (time within which the project should commence) from the date hereof.

2. The Director-General shall be notified of any transfer/variation/surrender of this licence.

———————

FORM 4 (r. 14 (2))

Application Reference No. .....

FOR OFFICIAL USE

THE ENVIRONMENT MANAGEMENT AND CO-ORDINATION ACT

APPLICATION FOR REGISTRATION AS AN ENVIRONMENTAL IMPACT ASSESSMENT/AUDIT EXPERT

PART A – DETAILS OF PROPONENT

A1. Name of proponent (Individual or Firm) .....

A2. Nationality .....

A3. No. .....

A4. Firm (Local/Foreign) .....

A4. Business registration No. (where applicable) ..... Date .....

A5. Address. .....

A6. Telephone No. ..... A7. Fax No. .....

A8. E-mail. .....

A9. Applicants academic/professional qualifications .....

.....

A10. List of professionals and their academic/professional qualifications and their nationalities (where applicable) .....

.....

A11. Experience in Environmental Impact Assessment related activities.....

.....

A12. Application for registration as Lead Expert or Associate Expert .....

.....

A13. Previous registration No. and date of registration (if applicable) .....

.....

PART B: DECLARATION BY APPLICANT

B1: I hereby certify that the particulars given above are correct and true to the best of my knowledge and belief

.....	.....	.....
Signature of applicant	*Full Name in Block letters*	*Position*
On behalf of	.....	.....
	Firm name and seal.	*Date*

PART E: OFFICIAL USE

Approved/not approved .....

Comments .....

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.....

Officer ..... Sign ..... Date.....

Important Notes: Please submit the following:

(a) Application Form in duplicate;

(b) curriculum vitae of all applicants; and

(c) the prescribed fee, to:

Director-General,

The National Environment Management Authority.

(NEMA)

FORM 5 (r. 14(4))

Application Reference No: .....

Registration No: .....

FOR OFFICIAL USE

THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION ACT

CERTIFICATE OF REGISTRATION AS AN ENVIRONMENTAL IMPACT ASSESSMENT/AUDIT EXPERT

This is to certify M/s ..... of ..... (Address) has been registered as an Environmental Impact Assessment Expert in accordance with the provisions of the Environment Management and Co-ordination Act and is authorized to practice in the capacity of a Lead Expert/Associate Expert/Firm of Experts (Type) .....

Dated this ..... day of ....., 20 .....

Signature .....

(Seal)

Director-General,

The National Environment Management Authority.

(NEMA)

FORM 6 (Rule 15(1))

[*Deleted by LN 133/2007, s.4.*]

———————

FORM 7 (Rule 15(2))

[*Deleted by LN 133/2007, s.4.*]

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FORM 8 (r. 21)

THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION ACT

NOTICE TO THE PUBLIC TO SUBMIT COMMENTS ON AN
ENVIRONMENTAL IMPACT ASSESSMENT STUDY REPORT

Pursuant to Regulation 21 of the Environmental (Impact Assessment and Audit) Regulations. the National Environmental Management Authority (NEMA) has received an Environmental Impact Assessment Study Report for the implementation of the proposed project .....(brief description of project) at ..... (locality) of .....District. The said project anticipates the following impact ..... (describe anticipated impacts and proposed mitigation measures).

The full report of the proposed project may be inspected during working hours at:

(a) The NEMA Headquarters,

(b) .....

(c) .....

NEMA invites members of the public to submit oral or written comments within ..... days of the date of publication of this notice to assist the Authority in the approval process of the project to:

(a) Director-General, NEMA,

(b) .....

(c) .....

Dated this ..... day of ....., 20 .....

Signature .....

(Seal)

Director-General,
The National Environment Management
Authority.

FORM 9 (r. 25)

Application Reference No: .....

Licence No: .....

FOR OFFICIAL USE

THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION ACT

APPLICATION FOR VARIATION OF ENVIRONMENTAL IMPACT ASSESSMENT LICENCE

PART A: PREVIOUS APPLICATIONS

No previous application for variation of an environmental impact assessment licence.

The environmental impact assessment licence was previously amended.

PART B: DETAILS OF APPLICANT:

B1. Name (Individual or Firm): .....

B2. Business Registration No.: .....

B3. Address: .....

B4. Name of contact person: .....

B5. Position of contact person: .....

B6. Address of contact person: .....

Telephone No.: ..... Fax No.: .....

E-mail: .....

PART C: DETAILS OF CURRENT ENVIRONMENTAL IMPACT ASSESSEMENT LICENCE

C1. Name of the current Environmental Impact Assessment licence holder .....

.....

C2. Application No. of the current Environmental Impact Assessment licence .....

.....

C3. Date of issue of the current Environmental Impact Assessment licence .....

.....

PART D: PROPOSED VARIATIONS TO THE CONDITIONS IN CURRENT ENVIRONMENTAL IMPACT ASSESSMENT LICENCE

D1: Conditions in the current Environmental Impact Assessment licence .....

.....

.....

.....

D2: Proposed variation(s).....

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.....

D3: Reason for variation(s).....

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.....

D4: Describe the environmental changes arising from the proposed variation(s) .....

.....

.....

.....

D5: Describe how the environment and the community might be affected by the proposed variation(s).....

.....

.....

.....

D6: Describe how and to what extent the environmental performance requirements set out in the EIA report previously approved or project profile previously submitted for this project may be affected .....

.....

.....

.....

D7: Describe any additional measures proposed to eliminate, reduce or control any adverse environmental impact arising from the proposed variation(s) and to meet the requirements in the Technical Memorandum on Environmental Impact Assessment Process. .....

.....

.....

.....

PART E: DECLARATION BY APPLICANT

I hereby certify that the particulars given above are correct and true to the best of my knowledge and belief. I understand the environmental impact assessment licence may be suspended, varied or cancelled if any information given above is false, misleading, wrong or incomplete.

.....	.....	.....
Signature of applicant	*Full Name in Block letters*	*Position*
On behalf of	.....	.....
	Company name and seal.	*Date*

PART F: OFFICIAL USE

Approved/not approved .....

Comments .....

.....

.....

.....

Officer ..... Sign ..... Date.....

Important Notes:

Please submit the following:

(a) 3 copies of this completed Form; and

(b) The prescribed fee, to:

Director-General,
The National Environment Management
Authority.

*Delete where applicable

FORM 10 (r. 25)

Application Reference No: .....

Certificate No: .....

FOR OFFICIAL USE

THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION ACT

CERTIFICATE OF VARIATION OF ENVIRONMENTAL IMPACT ASSESSMENT LICENCE

This is to certify that the Environmental Impact Assessment Licence No. ..... Issued on ..... (date)to ..... (name of individual/firm) of .....(address) regarding..... (title of project) whose objective is to ..... (briefly describe purpose) located at .....(locality and District) has been has

been varied to ..... (nature of variation) with effect from .....(date of variation) in accordance with the provisions of the Act.

Dated this..... day of..... 20.....

Signature.....

(Seal)

Director-General,
The National Environment Management
Authority.

FORM 11 (r. 26)

Application Reference No: .....
Licence No: .....

FOR OFFICIAL USE

THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION ACT

NOTIFICATION OF TRANSFER OF ENVIRONMENTAL IMPACT ASSESSMENT LICENCE

PART A: DETAILS OF CURRENT LICENCE

A1. Name of the current Environmental Impact Assessment licence holder.....

A2. PIN No. .....

A3. Address ..... A4. Tel: .....

A5. Fax No. ..... A6. E-mail.....

A7. Application No. of current Environmental Impact Assessment licence .....

A8. Date of issue of current Environmental Impact Assessment licence .....

PART B DETAILS OF THE TRANSFEREE

B1 Name (Individual/Firm) .....

B2. PIN No. .....

B3 Address ..... B4 Tel: .....

B5 Fax No. ..... A6. E-mail .....

B7 Name of contact person.....

B8 Capacity of transferee to run the project (financial, technological, manpower) .....

PART C: REASON(S) FOR TRANSFER OF LICENCE

.....

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PART D: REASON(S) FOR TRANSFER OF LICENCE

It is hereby notified that ..... of ..... on this day of ..... transferred EIA licence No. ..... to ..... of ..... who will assume his responsibility for all liability under this project.

Transferor	*Transferee*
Name	Name .....
Address	Address .....
Signed	Signed .....
Date	Date .....

PART F: OFFICIAL USE

Approved/not approved .....

Comments .....

.....

.....

.....

Officer ..... Sign ..... Date.....

Important Notes:

1. Where an Environmental Impact Assessment licence is transferred, the person to whom it is transferred and the person transferring it shall jointly notify the Director-General, of the transfer.
2. The person holding an environmental impact assessment licence assumes responsibility for the transfer of the licence only in respect of the project to which this licence was issued.
3. Any transfer of an environmental impact assessment licence, shall take effect on the date the Director General is notified.
4. This Form must he submitted in quadruplets, with
5. Prescribed fees, to:

Director-General,

The National Environment Management Authority.

FORM 12 (r. 26)

Application Reference No: .....

Licence No: .....

FOR OFFICIAL USE

THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION ACT

CERTICATE OF TRANSFER OF ENVIRONMENTAL IMPACT ASSESSMENT LICENCE

This is to certify that the Environmental Impact Assessment Licence No. ..... Issued on ..... (date) to ..... (name of previous holder) of .....(address) regarding .....(title of project) whose objective is to ..... (briefly describe purpose) located at ..... (locality and District) has been transferred to..... (name of new holder) of ..... (address) with effect from .....(date of transfer) in accordance with the provisions of the Act.

Dated this ..... day of..... 20.....

Signature .....

(Seal)

Director-General,

The National Environment Management

Authority.

Important notes:

1. The transferee as well as the transferor of a licence under this regulation shall be liable for all liabilities and the observance of all obligations imposed by the transfer in respect of the licence transferred.
2. The transferor shall not be responsible for any future liabilities or any obligations so imposed with regard to the licence from the date the transfer is approved.

FORM 13 (r. 27)

Application Reference No: .....

Licence No: .....

FOR OFFICIAL USE

THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION ACT

NOTIFICATION OF SURRENDER OF ENVIRONMENTAL IMPACT ASSESSMENT LICENCE

PART A: PROPONENT DETAILS

A1. Name: (Individual or Firm).....

A2. PIN No.....

A3. Address.....

A4. Name of contact person.....

A5. Position of contact person .....

A6. Address ..... Tel ..... Fax No.....

E-mail .....

PART B: DETAILS OF THE CURRENT ENVIRONMENTAL IMPACT ASSESSEMENT LICENCE

B1. Environmental Impact Licence No. .....

B2. Title of project under the cuirent Environmental Impact licence .....

B3. Please state the following details of the Environmental Impact Assessment licence to he surrendered.....

(a) Scope/scale of project(s) .....

.....

.....

(b) Conditions on the EIA licence .....

.....

.....

PART C: REASON(S) FOR SURRENDER

.....

.....

.....

.....

.....

.....

PART D: DECLARATION BY PROPONENT

I hereby certify that the particulars given above are correct and true to the best of my knowledge and belief.

.....	.....	.....
Signature of applicant	*Full Name in Block letters*	*Position*
On behalf of	.....	.....
	Company name and seal.	*Date*

PART E: OFFICIAL USE

Approved/not approved .....

Comments .....

.....

.....

.....

Officer ..... Sign ..... Date.....

Important Notes:

Intent to surrender an environmental impact assessment licence should be communicated to the Authority at least six months before the date of surrender.

FORM 14 (r. 27)

Application Reference No: .....

Certificate No: .....

FOR OFFICIAL USE

THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION ACT

CERTIFICATE OF SURRENDER OF ENVIRONMENTAL IMPACT ASSESSMENT LICENCE

This is to certify that the Environmental Impact Assessment Licence No: .....
issued on ..... (date) to ..... (name of individual/firm)
of.....(address) regarding ..... (title of project) whose objective
is to ..... (briefly describe purpose) located at..... (locality and District)
has been has been duly surrendered with effect from ..... (date) to the National Environment
Management Authority in accordance with the provisions of the Act.

Dated this .....day of ..... 20.....

Signature .....

(Seal)

Important Note:

A surrender shall be without prejudice to any liabilities or obligations which have accrued on the holder of the licence prior to the date of surrender.

Director-General,

The National Environment Management

Authority.

FORM 15 (r. 29)

Application Reference No: .....

Reference No: .....

FOR OFFICIAL USE

THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION ACT

NATIONAL ENVIRONMENT MANAGEMENT AUTHORITY

APPLICATION FOR ACCESS TO INFORMATION

PART A: DETAILS OF APPLICANT

A1. Name: .....

Address:.....

Telephone: ..... Fax: .....

Email.....

Profession.....

Date.....

A2. NAME OF EMPLOYER (if applicable) .....

Address:.....

Address:.....

Telephone: ..... Fax:.....

E-mail.....

Designation.....

PART B - INFORMATION DETAILS

B1. TYPE OF INFORMATION REQUIRED (tick as appropriate)

☐ Project Report.

☐ Environmental Impact Assessment Study Report.

☐ Environmental Audit Report.

☐ Strategic Environmental Assessment Report.

☐ Environmental Monitoring Report.

☐ Record of Decision (ROD) for Environmental Impact Assessment Approvals.

☐ Licences for Project Reports.

☐ Licences for Environmental Impact Assessment.

☐ Environmental Impact Assessment Experts (Individuals).

☐ Environmental Impact Assessment Experts (Firms).

B2. DOCUMENT

Title of the document .....

Author .....

Year .....

B3. HOW THE INFORMATION IS EXTRACTED?

☐ Reading, ☐ Inspection/viewing

B4. PURPOSE FOR REQUIRING THE INFORMATION

☐ Educational ☐ Research ☐ Interested party

☐ Affected party

Important note:

A prescribed fee of Kshs. 200 will be charged for access to information per record/register.

FORM 16A (r. 47)

REGISTER OF ENVIRONMENTAL IMPACT ASSESSEMENT/AUDIT EXPERTS: (FIRMS)

Name of Firm	*Registration No.*	*Date of Registration*	*Contact Address*	*Area of Specialization*	*Experience & Category (eg. Lead, Associate)*	*Signature of Filing Officer*

FORM 16B (r. 47)

REGISTER OF ENVIRONMENTAL IMPACT ASSESSEMENT/AUDIT EXPERTS: (INDIVIDUALS)

Name of Person	*Registration No.*	*Date of Registration*	*Contact Address*	*Area of Specialization*	*Experience*	*Signature of Filing Officer*

———————

FORM 16C (r. 47)

REGISTER OF ENVIRONMENTAL IMPACT ASSESSMENT PROJECT REPORTS SUBMITTED TO NEMA

Name of Proponent	*Title of Project*	*Location of Project*	*Sector*	*Date Received*	*Status of Project*	*Signature of Filing Officer*	*Decision of NEMA*

———————

FORM 16D (r. 47)

REGISTER OF ENVIRONMENTAL IMPACT ASSESSMENT STUDY REPORTS SUBMITTED TO NEMA

Name of Proponent	*Title of Project*	*Location of Project*	*Sector*	*Date Received*	*Status of Project*	*Signature of Filing Officer*	*Remarks*

———————

FORM 16E (r. 47)

REGISTER OF ENVIRONMENTAL ASSESSMENT REPORTS SUBMITTED TO NEMA

Name of Proponent	*Title of Project*	*Location of Project*	*Sector*	*Date Received*	*Status of Project*	*Signature of Filing Officer*	*Remarks*

———————

FORM 16F

(r. 47)

REGISTER OF ENVIRONMENTAL IMPACT ASSESSMENT LICENCES

Project Title	*Name of Proponent*	*Location of Project*	*Value of Project (Kshs)*	*Licence No.*	*Date of Issue*	*Conditions Attached to Licence (If Any)*	*Date Filed*	*Status of Licence*	*Name of Filing Officer*	*Date And Signature of Filing Officer*	*Remarks*

Note: Details of Status of Licence

(a)New

(b) Transferred

(c) Surrendered

FORM 16G (r. 47)

REGISTER OF ENVIRONMENTAL IMPACT ASSESSEMENT AUDIT REPORTS

Name of Proponent	*Title of Project*	*Location of Project*	*Sector*	*Date Received*	*Status of Project*	*Signature of Filing Officer*	*Date*	*Remarks*

———————

FORM 16H (r. 47)

REGISTER OF ENVIRONMENTAL IMPACT ASSESSEMENT MONITORING REPORTS

Title of Project	*Name of Proponent*	*Location of Project*	*Sector*	*Date Received*	*Status of Project*	*Signature of Filing Officer*	*Date*	*Remarks*

———————

FORM 16I (r. 47)

REGISTER OF THE PROPRIETARY INFORMATION

Title of Firm	*Name of Proponent*	*Licence Register*	*Contact Address*	*Type of Proprietary Information*	*Status of Project*	*Signature of Filing Officer*	*Remarks*

SECOND SCHEDULE [r. 11]

ISSUES TO BE CONSIDERED IN ENVIRONMENTAL IMPACT ASSESSMENT

The following issues may, among others, be considered in the making of environmental impact assessments.

1. Ecological Considerations—
    (a) Biological diversity including—
        (i) effect of proposal on number, diversity, breeding habits, etc. of wild animals and vegetation;
        (ii) gene pool of domesticated plants and animals e.g. monoculture as opposed to wild types.
    (b) Sustainable use including—
        (i) effect of proposal on soil fertility;
        (ii) breeding populations of fish, game or wild animals;
        (iii) natural regeneration of woodland and sustainable yield;
        (iv) wetland resource degrading or wise use of wetlands.
    (c) Ecosystem maintenance including—
        (i) effect of proposal on food chains;
        (ii) nutrient cycles;
        (iii) aquifer recharge, water run-off rates etc.;
        (iv) a real extent of habitants;
        (v) fragile ecosystems
2. Social considerations including—
    (a) economic impacts;
    (b) social cohesion or disruption;
    (c) effect on human health;
    (d) immigration or emigration;
    (e) communication – roads opened up, closed, rerouted;
    (f) effects on culture and objects of culture value.
3. Landscape—
    (a) views opened up or closed;

(b) visual impacts (features, removal of vegetation), etc.;

(c) compatibility with surrounding area;

(d) amenity opened up or closed, e.g. recreation possibilities.

4. Land uses—

(a) effects of proposal on current land uses and land use potentials in the project area;

(b) possibility of multiple use;

(c) effects of proposal on surrounding land uses and land use potentials.

5. Water—

Important aspects to consider are the effects of the proposal on—

(a) water sources (quantity and quality)—

(i) rivers;

(ii) springs;

(iii) lakes (natural and man-made);

(iv) underground water;

(v) oceans;

(b) drainage patterns/drainage systems.

THIRD SCHEDULE [r. 12]

ENERAL GUIDELINES FOR CARRYING OUT AN ENVIRONMENTAL IMPACT ASSESSMENT STUDY

An environmental impact assessment study shall be conducted in accordance with the general environmental impact assessment guidelines and administrative procedures issued by the Authority. An environmental impact assessment study shall include the following—

1. Sources of Impact.
2. Project Inputs.
3. Project Activities.
4. Areas of Impact on the Natural and Human Environments.
5. Environmental Impacts (General Impacts on the Natural and Human Environment).
6. Environmental Guidelines and Standards (National Legislation, International guidelines.

International Conventions and Treaties).

7. Mitigation Measures.
8. Environmental Management Plan.
9. Environmental Monitoring and Auditing.

FOURTH SCHEDULE [r. 13(2)]

CRITERIA FOR ENVIRONMENTAL IMPACT ASSESSMENT EXPERTS

Local and foreign environmental impact assessment individual and firm of experts wishing to undertake environmental impact assessment activities in Kenya shall register as experts with the National Environment Management Authority on payment of the prescribed fees. The following shall be the criteria for registration of experts—

A. LEAD EXPERT

A lead expert must have attained the following qualifications:

A Doctorate degree or equivalent in any field plus training in environmental impact assessment from a recognised institution, with 3 years experience in environmental impact assessment related activities;

or

A Doctorate, Masters or Bachelors degree plus 5 years experience in environmental impact assessment related research consultancy or teaching and at least two relevant publications in referred journals;

or

A Masters degree or equivalent in any field plus training in environmental impact assessment from a recognised institution, with 5 years experience in environmental impact assessment related activities;

or

A Bachelors degree or an equivalent in any field plus training in environmental impact assessment from a recognised institution, with 8 years experience in environmental impact assessment related activities.

B. ASSOCIATE EXPERT

An associate expert must have attained the following qualifications:

A Bachelors degree or equivalent in any field plus training in environmental impact assessment from a recognised institution.

C. FIRM OF EXPERTS

A firm of experts must meet the following conditions:

Must be registered in Kenya;

Must submit to the Authority a firm profile indicating capacity to undertake environmental impact assessment /audit studies.

FIFTH SCHEDULE [r. 48]

FEES

[L.N. 133/2007, L.N. 30/2009]

1. Application for registration as Environmental Impact Assessment/Audit* expert ..... Shs.

[L.N 133/2007, r 5(a)]

2. *Deleted by L.N. 133/2007, r. 5(b).*

3. Inspection of records/register ..... 200 per record/register.

4. Environmental impact assessment licence - 0.05% of the total cost of the project, to the minimum of KSh. 10,000 and maximum of KSh. 1,000,000 payable as follows:

   (a) 50% of the 0.05% being Processing Fee Payable upon submission of a project report;

   (b) 50% of the 0.05% being licence fee payable upon collection of the Environmental Impact Assessment Licence.

[L.N 30/2009, r 2]

5. Surrender, transfer or variation of environmental impact assessment licence ..... 5,000.

   *Delete where applicable