

(Legislative Supplement No. 16)

LEGAL NOTICE NO. 31

THE ENVIRONMENTAL MANAGEMENT AND CO-
ORDINATION ACT

(No. 8 of 1999)

AMENDMENT OF THE SECOND SCHEDULE

IN EXERCISE of the powers conferred by section 58(4) of the Environmental Management and Coordination Act, 1999, the Cabinet Secretary for Environment and Forestry on the advice of the Authority amends the Second Schedule to the Act by deleting the undertakings specified thereunder and substituting therefor the following—

1. Low Risk Projects.

- (a) establishment of places of worship including churches, mosques and temples;
- (b) community based and social projects including sport facilities, stadia, social halls;
- (c) community water projects including boreholes, water pans, sand dams and sub-surface dams;
- (d) dispensaries, health centers and clinics;
- (e) livestock holding grounds and cattle dips;
- (f) expansion or rehabilitation of markets;
- (g) car and bus parks;
- (h) local roads and facility access roads;
- (i) business premises including shops, stores, urban market sheds;
- (j) cottage industry, jua kali sector and garages;
- (k) small scale rehabilitation, maintenance and modernization of projects;
- (l) schools and related infrastructure for learners not exceeding one hundred; and
- (m) standard warehouses not exceeding one thousand four hundred square meters.

2. Medium Risk Projects.

- (1) Urban Development including—

- (a) establishment of multi-dwelling housing developments of not exceeding one hundred units;
 - (b) tourism and related infrastructure;
 - (c) hotels with bed capacity not exceeding one hundred and fifty; and
 - (d) shopping centers, commercial centers and complexes, business premises, shops and stores not exceeding ten thousand square meters.
- (2) Transportation including—
- (a) construction and rehabilitation of roads including collectors and access roads;
 - (b) construction of a light rail transit;
 - (c) construction of jetties, marinas, piers and pontoons;
 - (d) rehabilitation works of airports and airstrips;
 - (e) helipads;
 - (f) parking facilities; and
 - (g) construction of bridges.
- (3) Water resources and infrastructure, including—
- (a) drilling for purposes of utilizing ground water resources and related infrastructure;
 - (b) water abstraction works; and
 - (c) water supply and distribution infrastructures.
- (4) Artisanal mining including quarrying of—
- (a) precious metals and gemstones;
 - (b) limestone and dolomite;
 - (c) harvesting of aggregate, sand, gravel, soil, clay, stone and slate;
 - (d) gypsum;
 - (e) pozzolana;
 - (f) carbon dioxide; and
 - (g) ferrous and non-ferrous ores.
- (5) Forestry related activities, including—
- (a) timber harvesting in plantation forests;
 - (b) reforestation and afforestation; and
 - (c) wood preservation or treatment facilities.
- (6) Agriculture and related activities, including—

- (a) medium-scale agriculture not exceeding one hundred hectares;
 - (b) medium size grain storage;
 - (c) medium size agricultural and livestock produce storage facilities;
 - (d) aquaculture not exceeding one hectare; and
 - (e) medium scale irrigation projects.
- (7) Medium scale processing and manufacturing industries, including—
- (a) brick and earth-ware manufacture;
 - (b) abattoirs and meat-processing plants;
 - (c) fish-processing plants;
 - (d) plants for the construction or repair of aircrafts or railway equipment;
 - (e) plants for the manufacture of tanks, reservoirs and sheet-metal containers;
 - (f) plants for manufacturing or recycling of plastics or paper;
 - (g) plants for manufacturing pharmaceuticals;
 - (h) plants for the manufacture of coal briquettes;
 - (i) distilleries;
 - (j) any other food-processing plants or agro-based processing plants; and
 - (k) go-downs for storage and warehouses.
- (8) Power and infrastructure projects, including—
- (a) hydropower development not exceeding ten megawatts;
 - (b) electrical sub-stations;
 - (c) pumped-storage schemes;
 - (d) cogeneration of power;
 - (e) low voltage power transmission lines; and
 - (f) solar power farms or plants.
- (9) Hydrocarbons projects, including—
- (a) service stations;
 - (b) LPG filling plant; and
 - (c) lubricant blending facilities.
- (10) Waste disposal, including—
- (a) waste transfer stations or storage facilities;

- (b) composting sites or plants;
 - (c) removal and onsite disposal of asbestos.
- (11) Packaged treatment plants or onsite waste water treatment plants.
- (12) Biofuels processing plants.
- (13) Telecommunication infrastructures.
- (14) Expansion of tertiary institutions and related infrastructures.
3. High Risk Projects—
- (1) General —
- (a) an activity out of character with its surrounding; and
 - (b) any structure of a scale not in keeping with its surrounding.
- (2) Changes in land use including—
- (a) major changes in land use; and
 - (b) large scale resettlement schemes.
- (3) Urban Development including—
- (a) designation of new townships;
 - (b) establishment or expansion of industrial estates;
 - (c) establishment or expansion of recreational areas in National Parks, National reserves, forests, nature reserves and any areas designated as environmentally sensitive;
 - (d) establishment of shopping centers, commercial centers and complexes;
 - (e) establishment of hospitals;
 - (f) hotels with a bed capacity exceeding one hundred and fifty;
 - (g) establishment of new housing estate developments exceeding one hundred housing units;
 - (h) establishment of schools and other learning institutions exceeding one hundred learners; and
 - (i) other related urban developments.
- (4) Transportation and related infrastructure projects, including—
- (a) all new major roads including trunk roads;
 - (b) railway lines;
 - (c) airports and airfields;
 - (d) oil and gas pipelines;
 - (e) harbors and ports;
 - (f) construction of tunnels and channels;

- (g) metro transport facilities; and
 - (h) underground transport works.
- (5) Water resources and related infrastructure including—
- (a) storage dams and barrages;
 - (b) river diversions and water transfer between catchments;
 - (c) flood control schemes;
 - (d) sea walls; and
 - (e) water abstraction works.
- (6) Mining and other related activities including—
- (a) precious metals;
 - (b) salt firms;
 - (c) gemstones;
 - (d) ferrous and non-ferrous ores;
 - (e) coal;
 - (f) phosphates;
 - (g) limestone and dolomite;
 - (h) quarrying of stone and slate;
 - (i) harvesting of aggregate, sand, gravel, soil and clay; and exploration for the production of petroleum and minerals in any form.
- (7) Forestry related activities including—
- (a) clearance of forest areas;
 - (b) reforestation and afforestation with alien species;
 - (c) introduction of alien species;
 - (d) excisions of gazette forests;
 - (e) conversion of forests for whatever purposes; and
 - (f) any projects located within forest reserves such as construction of dams or other control structures that flood large areas.
- (8) Agriculture including—
- (a) aerial spraying;
 - (b) large-scale agriculture exceeding one hundred hectares;
 - (c) introduction of new crops and animals;
 - (d) large scale irrigation exceeding one hundred hectares;

- (e) major developments in biotechnology including the introduction and testing of genetically modified organisms; and
 - (f) biofuel plantations.
- (9) Processing and manufacturing industries, including —
- (a) mineral or ores refining and processing;
 - (b) large scale brick and earth-ware manufacture;
 - (c) cement manufacturing plants and lime processing;
 - (d) glass works;
 - (e) fertilizer manufacture or processing;
 - (f) explosive plants;
 - (g) tanneries;
 - (h) abattoirs handling more than one hundred animals per day and meat-processing plants;
 - (i) brewing and malting;
 - (j) bulk grain processing and storage plants;
 - (k) large scale fish-processing plants;
 - (l) pulp and paper mills;
 - (m) heavy manufacturing plants;
 - (n) lead smelting and processing plants;
 - (o) edible oil plants;
 - (p) steel mills;
 - (q) sugar factories; and
 - (r) any other chemical works and processing plants.
- (10) Power and infrastructure projects, including —
- (a) thermal and hydropower development exceeding ten megawatts;
 - (b) geothermal development;
 - (c) wind farms;
 - (d) nuclear reactors and nuclear plants; and
 - (e) high voltage electrical transmission lines.
- (11) Hydrocarbon projects, including —
- (a) depots and refinery facilities for hydrocarbons;
 - (b) depots for natural gas;
 - (c) oil and gas fields development; and
 - (d) oil refineries and petro-chemical works.

- (12) Waste disposal works, including—
- (a) sewerage works and waste water treatment plants;
 - (b) installation for disposal of industrial wastes;
 - (c) installation of incinerators;
 - (d) sanitary landfill sites;
 - (e) hazardous waste treatment or disposal facilities;
 - (f) facilities for disposal of solid or liquid hazardous waste;
 - (g) sludge treatment facility;
 - (h) e-waste recycling facilities;
 - (i) waste oil recycling facilities;
 - (j) waste tyre processing and recycling facilities; and
 - (k) commercial asbestos disposal sites.
- (13) Activities in natural conservation areas, including—
- (a) establishment of protected areas, buffer zones and wilderness areas;
 - (b) actions likely to affect endangered species of flora and fauna;
 - (c) formulation or modification of water catchment management projects;
 - (d) projects for the management of ecosystems especially by manipulating fire and water;
 - (e) commercial exploitation of natural fauna and flora;
 - (f) introduction of alien species of fauna and flora into ecosystems;
 - (g) wetlands reclamation or any projects likely to affect wetlands;
 - (h) projects located in indigenous forest including those outside of gazetted forests; and
 - (i) any project in an environmentally sensitive area.
- (14) Marine resource exploitation and reclamation, including—
- (a) mineral exploitation of resources in the marine areas;
 - (b) reclamation of marine areas; and
 - (c) mariculture.
- (15) Any other project which poses high environmental risks.

Dated the 30th April, 2019.

KERIAKO TOBIKO,
Cabinet Secretary for Environment and Forestry.

LEGAL NOTICE NO. 32

THE ENVIRONMENTAL MANAGEMENT AND CO-
ORDINATION ACT

(No. 8 of 1999)

IN EXERCISE of the powers conferred by section 147 of the Environmental Management and Co-ordination Act, 1999, the Cabinet Secretary for Environment and Mineral Resources makes the following Regulations —

THE ENVIRONMENTAL (IMPACT ASSESSMENT AND AUDIT)
(AMENDMENT) REGULATIONS, 2019

Citation.

1. These Regulations may be cited as the Environmental (Impact Assessment and Audit) (Amendment) Regulations, 2019.

L. N. 101/2003.

2. The Environmental (Impact Assessment and Audit) Regulations, 2003 are amended in by deleting regulation 7 and substituting therefor the following new regulation —

Preparation of project
report.

7. (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 sub regulation (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 sub regulation (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 socio-economic 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.

Dated the 30th April, 2019.

KERIAKO TOBIKO,
Cabinet Secretary for Environment and Forestry.