

ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION ACT, CAP 387

LEGAL NOTICE NO.

THE ENVIRONMENTAL MANAGEMENT AND COORDINATION (STRATEGIC ASSESSMENT, INTEGRATED IMPACT ASSESSMENT AND AUDIT) REGULATIONS, 2018

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PART I – PRELIMINARY

Citation 1. These Regulations may be cited as the Environmental Management and Coordination (Strategic Assessment, Integrated Impact Assessment and Audit) Regulations, 2018.

Interpretation 2. In these Regulations unless the context otherwise requires:

“**Act**” means the Environment Management and Co-ordination Act, Cap 387 of the Laws of Kenya.

“**alternative**” means different means of meeting the general purpose and requirements of an activity, which may include alternatives to –

- (a) property on which or location where the activity is proposed to be undertaken;
- (b) type of activity to be undertaken;
- (c) design or layout of the activity;
- (d) technology to be used in the activity; or
- (e) operational aspects of the activity;
- (f) materials to be used in the activity;

and includes the option of not implementing the activity;

“**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;

“**County Environment Committee**” means the County Environment Committee established under section 29 of the Act;

“**cumulative impacts**” means the impacts on the environment that result from individually minor and the incremental processes of a project, program or activity over a period of time;

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

"economic analysis" means the use of analytical methods to assess the economic efficiency with which resources are used to meet the project, programme or policy and includes the use of valuation methodologies to assign economic values on natural resources and environmental impacts as well as incorporating these values in the cost – benefit analysis.

"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 to 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 7;

"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 assessment expert" means an individual expert or firm of experts registered under regulation 7 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 of the Act and regulation 19;

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

"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;

"environmentally sensitive area" means an area that is vulnerable to negative environmental impacts and which needs special environmental protection because of its landscape, fragile ecosystem, resources and historical, cultural and scientific values, and includes all areas that are vulnerable to negative environmental impacts as a result of human induced activities and natural occurrences;

"guidelines" means the procedures describing the methodology for implementation of environmental impact assessment requirements adopted by the Authority under section 58 of the Act;

"initial audit" means the first environmental audit undertaken within a period of twelve (12) months of the commencement of the operational phase.

"Integrated Environment Impact Assessment Study" means a systematic study conducted to determine whether or not a programme or project will have any adverse impacts on the environment as stipulated in Section 58 of the Act;

"lead agency" means any Government ministry, department, parastatal, state corporation or County Government, 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 minimizing negative aspects, which may include socio-economic and cultural losses suffered by communities and individuals, whilst enhancing positive aspects of the project;

"natural resources" has the meaning provided under Article 266 of the Constitution;

"no-project option" means the alternative of not implementing the project or activity;

"operator" means a person who manages a working enterprise, system or industrial establishment;

"precautionary principle" is the principle that where there are threats of damage to the environment, whether serious or irreversible, lack of full scientific certainty shall not be used as a reason for postponing

cost-effective measures to prevent environmental degradation;

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

"project" means site specific activity or undertaking, including those arising from policies, plans and programmes 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 and regulation 10;

"proprietary information" means information relating to any manufacturing process, trade secret, trade mark, copyright, patent or formula protected by any 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;

"Record of Decision" means a formal document explaining the Authority's decision to approve, improve or reject a proposed Project, Policy, Plan or Programme;

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

"screening" means the first stage of the environmental assessment process, and is used to determine which projects need to be subjected to environmental assessment as well as the level of environmental scrutiny that is required;

"scoping" means the process of determining the significant issues, study boundaries and alternatives that must be considered in an integrated Environmental Impact Assessment study or in a Strategic Environmental Assessment study;

"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 Environmental Assessment" means the formalized, systematic and comprehensive process of evaluating the environmental impacts of a Policy, Plan or Programme and its alternatives, including the preparation of a written report on the findings of that evaluation and using the findings in publicly accountable decision making to promote and guide sustainable development;

"strategic environmental plan" means a plan to ensure that the environment is ecologically sound and responsive to the health, safety and well-being of its inhabitants by identifying and implementing policies and practices which impact positively on the environment";

"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;

"Technical Advisory Committee" means the Technical Advisory Committee on environmental impact assessment or strategic environmental assessment established under Section 61 of the Act and these Regulations;

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

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

"urban renewal" means the re-use, re-development, upgrading and rehabilitation of impoverished, run-down, out-worn or underused urban neighborhoods by large-scale renovation and reconstruction of housing projects, infrastructure and public works with the intention of bringing them new life through physical, social, and economic vitality;

"waste" includes any matter prescribed to be 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, water-course, reservoir, well, dam, canal, channel, lake, swamp, open drain, or underground water.

Application

3. These Regulations shall apply to all Policies, Plans, Programmes, projects and activities specified in Part III, Part IV, Part V, Part VI and

Part VII of the Act and the Second Schedule of the Act.

Requirement for approval of Integrated Environmental Impact Assessment

4. (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 integrated environmental impact assessment has been concluded and an Environmental Impact Assessment Licence granted 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) If the Authority determines that an application for an environmental impact assessment licence raises issues that concern more than one (1) County, it shall submit the application to the relevant County Directors of Environment.
- (4) All proposals for projects listed in number 1 of the second schedule of the Act shall be submitted for review and issuance of a Record of Decision by the County Director of Environment working in the County where the project is located.

Requirement for approval of Strategic Environmental Assessment

5. (1) Every ministry, county, department, agency, institution, or private entity in Kenya shall submit a Policy, Plan or Programme brief to the Authority.
- (2) The Authority shall review the Policy, Plan or Programme brief to determine if a Strategic Environmental Assessment for a Policy, Plan or Programme is required.
- (3) If a Policy, Plan or Programme brief is required the Policy, Plan or Programme owner shall obtain a Strategic Environmental Assessment approval from the Authority before commencement.

Technical Advisory Committee

6. (1) The Authority may set up independent Technical Advisory Committees at National and County levels to advise it on environmental impact assessment and Strategic Environmental 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 that may be issued by the Authority.
- (3) Membership of Technical Advisory Committee shall not be drawn from the Authority.
- (4) 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.

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

PART II – REGISTRATION OF EXPERTS

*Registration of
environmental
assessment experts*

7. (1) A person or firm wishing to apply for registration as an environmental assessment expert or firm of experts for carrying out Strategic Environmental Assessment studies, integrated Environmental Impact Assessment studies and environmental audits shall be required to meet the qualification criteria and undergo the vetting process set out in the Second Schedule to these Regulations .
- (2) An applicant for registration under sub-paragraph (1) shall submit an application to the Authority in Form 1 set out in the First Schedule to these Regulations.
- (3) An environmental assessment expert practicing 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 assessment expert in Form 2 set out in the First Schedule to these Regulations within thirty (30) days from the date of submission of the application.
- (5) An environmental assessment expert registered as such under these Regulations may be de-registered by the Authority if the expert contravenes any of provisions of the code of practice issued by the Authority set out in the Third Schedule to these Regulations.
- (6) Notwithstanding the provisions of this regulation, the environmental assessment expert shall observe the multi-disciplinarity aspect of the Strategic Environmental Assessment studies, integrated Environmental Impact Assessment studies and environmental audits.

*Environmental
assessment practicing
licence*

8. (1) An environmental assessment expert registered under these Regulations may apply for an environmental assessment practicing licence in Form 3 set out in the First Schedule to these Regulations.
- (2) Where the Authority approves an application submitted under sub-regulation (1), it shall issue an annual environmental assessment practicing licence in Form 4 set out in the First Schedule to these Regulations within fourteen (14) days from the date of application.
- (3) The Authority shall maintain a register of environmental assessment experts holding a current environmental assessment practicing licence in Form 5 set out in the First Schedule of these Regulations and shall

publish a copy in the Authority's website.

Designation of training institutions for training environmental assessment experts

9. (1) The Authority shall in consultation with the ministry and associated institutions responsible for accreditation of learning institutions, designate accredited training institutions to offer training to environmental assessment experts.
- (2) An application for designation under sub-regulation (1) shall be in Form 6 set out in the First Schedule to these Regulations.
- (3) Upon approval, the Authority shall issue a Certificate of Designation in Form 7 of the First Schedule to these Regulations.
- (4) The training curriculum used by the designated training institutions under sub-regulation (1) above shall be developed by Authority in consultation with the ministry responsible for curriculum development and the relevant professional body recognized by the Authority.
- (5) Once an institution is designated under sub-regulation (3), it shall be required to apply for renewal every two (2) years or the timelines provided for renewal by the accrediting institutions.
- (6) The Authority shall consider the application under sub-regulation (5) and if satisfied that the institution has maintained the standards for training, shall issue a renewal of designation set out in Form 8 of the First Schedule of these Regulations.
- (7) The Authority may cancel the designation of a training institutions to offer training to environmental assessment experts upon being satisfied that the training institution is not meeting the standards set by the Authority at the time of designation and shall communicate its decision in writing to the training institution within Twenty One (21) days of making the decision and after giving the training institution an opportunity to be heard.

PART III - THE PROJECT REPORT

Preparation of a project report

10. (1) Every proponent undertaking a project listed in number 1 and 2 being low risk and medium risk projects of the Second Schedule of the Act shall prepare a project report stating -
 - (a) the nature of the project;
 - (b) the location of the project including 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) the design of the project;
 - (e) the materials to be used, products and by-products, including waste to be generated by the project and the methods of their disposal;
 - (f) the potential environmental impacts of the project and the

mitigation measures to be taken during and after implementation of the project;

- (g) an action plan for the prevention and management of possible accidents during the project cycle;
- (h) a plan to ensure the health and safety of the workers and neighbouring communities;
- (i) the economic and socio-cultural impacts to the local community and the nation in general;
- (j) a plan to ensure the relocation or resettlement of persons affected by the project;
- (k) a summary of issues discussed at the public participation forum;
- (l) an environmental management plan;
- (m) integration of climate change vulnerability assessment, adaptation and mitigation actions;
- (n) the project budget; and
- (o) any other information the Authority may require.

(2) In preparing a project report, the proponent shall hold at least one public meeting with the affected parties and communities to explain the project, its social, economic and environmental impacts, and to receive oral or written comments and objections to the proposed project and shall attach evidence of such public participation in the project report through signed attendance register, minutes and photographs;

(3) A project proponent shall send a meeting notice, through posters, invitation letters to affected and interest groups, letters through the local public administration officials or any other relevant channels, to all the affected parties and communities at least fourteen (14) days before the meeting informing them of the date, time, venue and purpose of the meeting. A copy of the meeting notice shall be attached to the project report.

(4) A project report shall be prepared by an environmental assessment expert registered as such under these Regulations.

*Application for
environmental impact
assessment licence
and
submission of project
report*

11. An application for an environmental impact assessment licence shall be in Form 9 as set out in the First Schedule to these Regulations and the applicant shall submit the application together with at least five (5) copies of the project report to the Authority.

*Comments on the
project report*

12. (1) Where the project report conforms to the requirements of Regulation 10, the Authority shall within five (5) days upon receipt of the project report, submit a copy of the project report to -

- (a) The County Governments within the area the proposed project is to be situated;
- (b) each of the relevant lead agencies;
- (c) the relevant County Environment Committee; and
- (d) where more than one County is involved, to the relevant County Environment Committees,

for their written comments which shall be submitted to the Authority within fourteen (14) days from the date of receipt of the project report from the Authority.

- (2) On receipt of the comments referred to in sub-regulation (1) or where no comments have been received by the end of the period of twenty one (21) days from the date of receipt of the project report, the Authority shall proceed to determine the project report.

Record of Decision on project report

13. (1) On determination of the project report, the decision of the Authority, together with the reasons thereof, shall be communicated to the proponent within thirty (30) 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 10 set out in the First Schedule to these Regulations.
- (3) If the Authority finds that the project will have a significant irreversible impact on the environment, or there is non-conformity with existing planning framework or laws, or considering the precautionary principle, the Authority shall reject the application with reasons and advise the proponent on suitable alternatives.
- (4) A proponent, who is dissatisfied with the Authority's decision to reject the application for a project report, may within sixty (60) days of the Authority's decision appeal against the decision to the Tribunal in accordance with regulation 55.

PART IV- INTEGRATED ENVIRONMENTAL IMPACT ASSESSMENT STUDY

Scoping of proposed projects for Integrated Environmental Impact Assessment Study

14. (1) An Integrated Environmental Impact Assessment study shall be conducted for all high risk projects tabulated in the Second Schedule of the Act.
- (2) The proponent shall undertake a scoping study and develop terms of reference for approval by the Authority prior to commencement of the Integrated Environmental Impact Assessment Study.
- (3) In carrying out the scoping study, the Proponent shall:
- (a) review relevant documents such as laws, regulations, guidelines, standards, policies, plans or programs
 - (b) consult and inform the affected public about the proposed project;
 - (c) consult and gather the views and concerns of key stakeholders about the proposed project;
- (4) A scoping report shall take into consideration the environmental,

- social, cultural and economic aspects of the proposed project and shall:
- (a) describe the proposed project and its objectives;
 - (b) provide a brief description of the environmental characteristics of the project area;
 - (c) identify the range of issues to be addressed in the Integrated Environmental Impact Assessment study and the issues raised by the stakeholders;
 - (d) provide a brief of the relevant policy, legislative and regulatory framework;
 - (e) determine the relevance of integration of climate change vulnerability assessment, adaptation and mitigation actions;
 - (f) identify anticipated significant impacts and issues that would need detailed study and reasons thereof;
 - (g) identify study issues that are not significant or very well understood and justifications thereof;
 - (h) describe the scope of the Integrated Environmental Impact Assessment study in terms of geographical extent;
 - (i) outline how the Integrated Environmental Impact Assessment study will be conducted, the disciplines and expertise to be involved together with the evidence of qualifications, and the implementation schedule of the study;
 - (j) provide the profile and evidence of experience in similar assignments for the lead expert or the firm of experts;
 - (k) list the main stakeholders who should be consulted during the Integrated Environmental Impact Assessment study and develop a strategic communication plan to ensure inclusive participation;
 - (l) determine the requirements for the collection of baseline and other relevant information; and
 - (m) provide the Terms of Reference for the Integrated Environmental Impact Assessment study.

Terms of reference

15. The terms of reference shall include matters required to be considered in the making of an Integrated Environmental Impact Assessment as the Director General may prescribe in writing.

*Integrated
Environmental Impact
Assessment guidelines*

16. (1) An Integrated Environmental Impact Assessment study shall be conducted in accordance with the general Integrated Environmental Impact Assessment guidelines that shall be issued by the Authority from time to time.
- (2) Sector specific Integrated Environmental Impact Assessment guidelines may be developed by the relevant lead agency in consultation with the Authority.

*Team of experts to
undertake Integrated
Environmental Impact
Assessment study*

17. (1) A proponent shall, upon approval of the scoping report and the Terms of Reference, constitute a competent team of registered environmental assessment experts authorized so to do in accordance with section 58 (5) of the Act and these Regulations to undertake the Integrated Environmental Impact Assessment study.

- (2) Every Integrated Environmental Impact Assessment study shall be carried out by a lead expert registered in accordance with the criteria specified in the Second Schedule to these Regulations.
- (3) A person undertaking an Integrated Environmental Impact Assessment study shall conduct themselves in accordance with the code of practice as contained in the Third Schedule to these Regulations or prescribed by the Authority from time to time.

*Preparation of
Integrated
Environmental
Impact Assessment
study report*

- 18. An Integrated Environmental Impact Assessment study report prepared under these Regulations shall take into account *inter alia* environmental, social, cultural, economic, legal, safety and health considerations, and shall:
 - (a) provide the socio-economic and environmental baseline characteristics of the area likely to be affected by the project;
 - (b) identify and predict the anticipated environmental impacts of the project and the scale of the impacts;
 - (c) identify and analyze at least three (3) alternatives to the proposed project, which are the proposed project, the no-project option and one other project alternative;
 - (d) propose mitigation measures to be taken during and after the implementation of the project; and
 - (e) develop an environmental management plan with mechanisms for monitoring and evaluating the compliance and environmental performance.

*Public
participation*

- 19. (1) During the process of conducting the Integrated Environmental Impact Assessment study, the proponent shall, seek the views of persons who may be affected by the project by:-
 - (a) holding at least one (1) public meeting or such number as determined in the approved terms of reference under regulation 15, with the affected parties and communities in a venue convenient and accessible, to explain the project and its effects and to receive their oral or written comments;
 - (b) ensuring that appropriate notices indicating the dates, times and venues of the meetings, are publicized to the affected communities and the other concerned parties at least fourteen (14) days prior to the meetings referred to in 19(1)(a);
 - (c) ensuring that the reports of the public meetings are annexed to Integrated Environmental Impact Assessment study report.
 - (d) posting posters in strategic public places and in the vicinity of the site of the proposed project informing the affected parties and communities of the proposed project.

*Contents of an
Integrated
Environmental Impact
Assessment study report*

- 20. (1) A proponent shall submit to the Authority, an Integrated Environmental Impact Assessment study report detailing but not limited to the following information:
 - (a) the nature of the project;
 - (b) methodology of undertaking the study including implementation of stakeholder engagement plan;

- (c) the proposed location of the project including the coordinates;
- (d) a concise description of the national environmental legislative and regulatory framework;
- (e) baseline information including environmental and socio-economic and any other relevant information related to the project;
- (f) the objectives of the project;
- (g) the technology, procedures and processes to be used in the implementation of the project;
- (h) the materials to be used in the construction and implementation of the project;
- (i) the products, by-products and waste generated by the project;
- (j) a description of the environment likely to be affected by the project;
- (k) a summary of issues discussed at the public participation forum with supporting documents annexed;
- (l) the environmental impacts analysis of the project including direct, indirect, cumulative, irreversible, short-term and long-term impacts anticipated, social analysis, economic analysis and cultural analysis;
- (m) integration of climate change vulnerability assessment, adaptation and mitigation actions;
- (n) analysis of alternatives including project site, design, technologies and processes and reasons for preferring the proposed site, design, technologies and processes;
- (o) 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;
- (p) provision of an action plan for the prevention of foreseeable accidents, occupational diseases and management of hazardous activities in the course of carrying out activities of the project;
- (q) the measures to prevent health hazards and to ensure safety in the working environment for the employees and for the management of emergencies related to the project;
- (r) an identification of knowledge gaps and uncertainties which were encountered in undertaking the Integrated Environmental Impact Assessment study;
- (s) an indication of whether the project is likely to affect the environment in any other country, the available alternatives and mitigation measures; and
- (t) such other matters as the Authority may require.

- (2) The Integrated Environmental Impact Assessment study report shall be accompanied by a non-technical summary outlining an overview of the project, the key findings, conclusions and recommendations of the study and shall be signed by the proponent and the lead expert involved

in its preparation.

*Submission of an
Integrated
Environmental Impact
Assessment study
report.*

21. A proponent shall submit at least ten (10) printed copies and an electronic copy of an Integrated Environmental Impact Assessment study report to the Authority accompanied by a duly completed Form 9 set out in the First Schedule to these Regulations.

*Invitation for
comments from lead
agencies*

22.(1) The Authority shall within fourteen (14) days of the receipt of the Integrated Environmental Impact Assessment study report, dispatch a copy of the report to any relevant lead agencies for their comments.

(2) Upon receiving the Integrated 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 15 and that it is comprehensive and shall thereafter send their comments on the study report to the Authority within thirty (30) days or such extended period as the Authority may specify.

(3) If the lead agencies to which a copy of the Integrated Environmental Impact Assessment study report is submitted fail to submit their comments within thirty (30) 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.

*Invitation for
comments by
the public*

23. (1) The Authority shall, within fourteen (14) days of receiving the Integrated Environmental Impact Assessment study report, invite the public to make written comments on the report.

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

(a) publish a notice on the proposed project in the Gazette and in at least two newspapers circulating in the area or the proposed area of the project, inviting the public to submit written comments on the Integrated Environmental Impact Assessment study report; and

(b) make an announcement of the notice in both official and local languages in a radio widely broadcasting in the area or the proposed area of the project for at least once a week for two consecutive weeks.

(3) The notice to the public to submit 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;

(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 under sub-regulation (3) shall be in the format prescribed in Form 11 set out in the First Schedule to these Regulations.

Public hearing

24. (1) Upon receipt of 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, time and venue of the public hearing shall be publicized at least seven (7) days prior to the meeting-
- (a) by notice in at least one daily newspaper of national circulation;
 - (b) by at least two announcements, one of which shall be in the official language and the other in a local language, which shall run in a radio station with wide coverage in the project area; and
 - (c) by posting posters of the notice in strategic public places in the vicinity of the site of the proposed project.
- (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) The proponent shall be given an opportunity to make a presentation and to respond to issues raised at the public hearing.
- (6) The presiding official shall in consultation with the Authority determine the rules of procedure at the public hearing.
- (7) On the conclusion of the hearing, the presiding official shall compile a report of the views presented at the public hearing and submit the report to the Director General within seven (7) days from the date of the public hearing.

Decision of the Authority

25. (1) The Authority shall give its Record of Decision on an Integrated Environmental Impact Assessment study report within three (3) months of receiving the study report.
- (2) The Record of Decision of the Authority shall be in writing and shall contain the reasons thereof.
- (3) In making a decision regarding an Integrated Environmental Impact Assessment under these Regulations, the Authority shall take into account:
- (a) the integrated environmental impact assessment study report submitted under regulation 21 with emphasis on the environmental, economic, social and cultural impacts of the project;
 - (b) the comments submitted by a lead agencies, indigenous communities, the public, and other interested stakeholders under these Regulations;
 - (c) recommendations of a Technical Advisory Committee, where applicable;
 - (d) the report of a presiding official compiled after a public hearing specified under regulation 24 together with minutes of the public

- hearing, where applicable; and
- (e) other factors which the Authority may consider relevant in the implementation of the project.

- (4) The Record of Decision shall be availed to the proponent by the Authority within fourteen (14) days from the date of the decision and a copy thereof shall be made available for inspection at the Authority's offices immediately thereafter.

*Environmental
Impact Assessment
licence*

26. Where the Authority approves an Integrated Environmental Impact Assessment study report under regulation 25, it shall issue an Environmental Impact Assessment licence in Form 10 set out in the First Schedule to these Regulations on such terms and conditions as it may deem necessary.

*Monitoring
compliance of
Environmental
Impact Assessment
licence.*

27. (1) A proponent shall during the construction phase of the project undertake continuous monitoring using indicators and parameters developed in the Environmental Management Plan and submit a biannual monitoring report to the Authority for review.
- (2) The content of the monitoring report shall be in accordance with the provisions of Regulation 40.
- (3) This Regulation shall apply to both project report and Integrated Environmental Impact Assessment study reports.

Variation of licence

28. (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 shall apply for a variation of the licence in Form 12 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 13 set out in the First Schedule to these Regulations.
- (3) A variation of an Environmental Impact Assessment licence issued under sub-regulation (2) may be issued without the holder of the licence submitting a fresh Integrated 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 the Authority is of the opinion that the proposed variation would cause a significant impact to the environment or that the requirement of the original licence would not be adequate, it shall require the proponent to undertake an Environmental Impact Assessment under the provisions of Part III or Part IV of these Regulations as the case may require before approving the variation.

Transfer of licence

29. (1) The holder of an Environmental Impact Assessment licence may, upon

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 the adherence to 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 of approval of the transfer.
- (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 14 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 15 set out in the First Schedule to these Regulations.

*Surrender of
licence*

- 30 (1) The holder of an Environmental Impact Assessment licence shall surrender the licence issued under these Regulations to the Authority before 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 sub-regulation (1) at least six (6) months before the surrender by submitting a notification in Form 16 set out in the First Schedule to these Regulations together with the prescribed fees.
- (3) 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 17 set out in the First Schedule to these Regulations.
- (4) A surrender shall be without prejudice to any obligations and liabilities which have accrued on the holder of the licence prior to the date of surrender.

*Revocation,
suspension or
cancellation of an
Environmental
Impact Assessment
licence*

31. (1) The Authority may, at any time after it issues an Environmental Impact Assessment licence under these Regulations-
 - (a) suspend the licence on such terms and conditions as the Authority may deem fit for a period not exceeding twenty four (24) months; or
 - (b) revoke or cancel the licence.
- (2) The Authority may suspend, revoke or cancel a licence as specified under sub-regulation (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.

PART V - ENVIRONMENTAL AUDIT AND MONITORING

Environmental audit study

32. (1) An environmental audit study shall be undertaken on development activities which are likely to have adverse environmental impacts and all projects for which an Environmental Impact Assessment licence has been issued by the Authority.
- (2) An environmental audit study shall be undertaken based on guidelines to be issued by the Authority from time to time.
- (3) An environmental audit study shall, unless it is a self-auditing study under regulation 34, be conducted by a qualified and authorized Environmental Assessment Expert or environmental inspector.
- (4) The Authority shall require the proponent to undertake an environmental audit study based on baseline information and the Environmental Management Plan provided in the initial environmental audit study, project report or the Integrated Environmental Impact Assessment study report.
- (5) The operator under sub-regulation (1) shall undertake an environmental audit study as follows:-
- (i) for projects listed in number 1 of the Second Schedule to the Act, being low risk projects every three (3) years;
 - (ii) for projects listed in number 2 of the Second Schedule to the Act, being medium risk projects every two (2) years;
 - (iii) for projects listed as high risk projects under the Second Schedule to the Act every twelve (12) months;
- provided that the Authority retains the right to require an audit for such facilities to be undertaken before the expiry of the stipulated period above on giving at least fourteen (14) days notice to the operator.
- (6) An audit report compiled under this regulation shall include but shall not be limited to the following information -
- (a) the physical location of the project;
 - (b) past and present impacts of the project;
 - (c) the responsibility and proficiency of the operators of the project;
 - (d) existing internal controls and mechanisms to identify and mitigate activities with a negative environmental impact;
 - (e) existing internal controls and mechanisms to ensure the occupational safety and health;

- (f) public consultations on project environmental and social impacts;
- (g) the existence of environmental awareness and sensitization measures, including environmental standards, rules and procedures, regulations, laws and policies, for all project personnel: and
- (h) compliance of the proponent with project's Environmental Management Plan, existing national environmental regulations and standards prescribed by the Authority and other relevant international standards.

Control auditing

33. (1) An environmental control audit study shall be carried out by the Authority whenever the Authority deems it necessary to check compliance with the environmental parameters and standards established for the project in the Environmental Management Plan.
- (2) A member of the public may, after showing reasonable cause whether orally or in writing, petition the Authority to cause an audit to be carried out on any project.
- (3) 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.
- (4) A control audit shall be conducted by environmental inspectors.

Self auditing

34. In executing a project after the Integrated Environmental Impact Assessment study report has been approved by the Authority, the proponent shall take all practical measures to ensure the implementation of the Environmental Management Plan by:
- (i) carrying out a self-auditing study;
 - (ii) monitoring compliance to and performance against the implementation of the Environmental Management Plan;
 - (iii) collecting and analyzing the environmental and social data for the purpose of determining the effectiveness of mitigation measures of adverse environmental impacts identified in the Environmental Management Plan;
 - (iv) submitting the self-audit reports to the Authority.

Conducting of environmental audits

- 35 (1) An environmental audit shall be carried out through but not limited to questionnaires, 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) describe the project and its objectives;
 - (b) indicate the objectives, scope and criteria of the audit;
 - (c) outline and analyze all relevant laws and regulatory frameworks and applicable international standards;

- (d) assess the level of compliance by the proponent with the conditions of the Environmental Management Plan and of all relevant national and international laws and standards on matters of environment;
- (e) evaluate the awareness, knowledge, and responsibility of personnel's on requirements of relevant legislation;
- (f) examine existing project documentation related to all infrastructural facilities and designs for their effectiveness in mitigating anticipated adverse environmental impacts;
- (g) integrate climate change vulnerability assessment, adaptation and mitigation actions;
- (h) examine monitoring programs, parameters, standards and procedures in place for control and corrective actions in case of emergencies;
- (i) examine records of incidents and accidents and the likelihood of future occurrence of the incidents and accidents;
- (j) 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;
- (k) seek and assess views on environmental, social, safety and health issues from the project employees, the local and other potentially affected communities; and
- (l) examine the records of health and environmental concerns of past and ongoing activities.

(3) In conducting a control audit the environmental inspectors shall -

- (a) describe the project and its objectives;
- (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 has been implemented and the extent to which it achieves the stated objectives;
- (e) identify any significant sources of air, water, land pollution and other degradation;
- (f) identify any significant disturbances to local communities, wildlife, natural resources, cultural and archeological resources, and livelihoods;
- (g) assess the impact of the project on the safety and health of the workers and the communities that live adjacent to the project site;
- (h) prepare a list of concerns emerging from the audit with recommendations.

36. (1) An environmental audit shall indicate in an audit report the measures that have been put in place to ensure compliance by the proponent with

the Environmental Management Plan for purpose of mitigating adverse environmental impacts and the extent to which the prescribed measures have been adhered to.

- (2) An environmental audit report compiled under these Regulations shall contain -
 - (a) a description of the type of activity being audited;
 - (b) a non-technical summary outlining the key findings, conclusions and recommendations of the auditor;
 - (c) an indication of the inputs used, final products, by-products, and waste generated by the project;
 - (d) a description of the different technical activities, processes and operations of the project;
 - (e) a description of the national and county environmental legislative and regulatory frameworks on the environment and socio-economic matters;
 - (f) a description of the potentially affected environment including public and occupational safety and health, the biophysical and socio-economic matters;
 - (g) integration of climate change vulnerability assessment, adaptation and mitigation actions;
 - (h) a prioritization of all past and on-going impacts of the project;
 - (i) an assessment on the efficacy and adequacy of the Environmental Management Plan of the project to ensure implementation is of acceptable environmental standards;
 - (j) detailed recommendations for corrective activities, their cost, timetable and mechanism for implementation;
 - (k) an assessment of views on environmental, social, safety and health issues from the project employees, the local and other potentially affected communities; and
 - (l) annex proof of compliance with applicable laws, regulations and standards.
- (3) On completion of an environmental audit study report, the proponent shall submit at least five (5) printed copies and an electronic copy of the report to the Authority in the prescribed format.
- (4) On receipt of the environmental audit report, the Authority shall within five (5) days dispatch a copy of the report to:
 - (a) the relevant County Government;
 - (b) each of the relevant lead agencies;
 - (c) the relevant County Director of Environment;
 - (d) Where more than one County is involved, to the relevant County Governments and the relevant County Directors of Environment;for their written comments which will be submitted to the Authority within fourteen (14) days from the date of receipt of the project report from the Authority.
- (5) On receipt of comments referred to in regulation 36 (4), or where no comments have been received by the end of the period of twenty one

(21) days from the date of receipt of the audit report, the Authority will proceed to evaluate the audit report.

- (6) Once the Authority is satisfied that the facility has complied with the Environmental Management Plan and that no adverse environmental impacts emanates from its operations, the Authority shall issue a Certificate of Environmental Compliance in Form 18 set out in the First Schedule of these Regulations within forty five (45) days from the date of receipt of the audit report.

Post audit orders

37. (1) Where the Authority is not satisfied that the facility has complied with the Environmental Management Plan and that its operations pose adverse environmental and health impacts, the Authority shall undertake the following enforcement actions as deemed necessary:
- (a) issue an improvement notice;
 - (b) issue a restoration order;
 - (c) issue a closure order; or
 - (d) institute legal proceedings.
- (2) The proponent must comply with the terms of the enforcement actions in sub-regulation (1) above within a period of ninety (90) days from the date of the receipt by the proponent of the improvement notice or such other period as may be decided by the Authority.
- (3) The Authority shall upon inspection and determination that the proponent has acted in accordance with the improvement notice or restoration order, issue the proponent with Certificate of Environmental Compliance within thirty (30) days from the date of inspection.
- (4) Where the Authority upon inspection determines that the proponent has not complied with the improvement notice or restoration order, it shall within seven (7) days from the date of inspection take any other enforcement actions stipulated in sub-regulation (1) above.

Inspections

38. (1) An environment inspector may, at all 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 environmental inspector commits an offence.

Monitoring by the Authority and lead agencies

39. (1) The Authority shall in consultation with the County Governments and lead agencies where applicable or necessary–
- (a) monitor environmental elements with a view to making an assessment of any possible changes in the environment and their possible impacts as a result of the project, Plan or Programme;
 - (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 32(4) 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 the project, Plan or Programme implementation.
- (2) The Authority shall, in consultation with the relevant lead agencies monitor ongoing projects on a continuous basis using parameters and indicators as defined in the Environmental Management Plan and Control Audit Action Plans.
- (3) The Authority shall, in consultation with the relevant lead agencies upon detection of non-compliance with the conditions of approval of an Environmental Impact Assessment licence immediately, compel the proponent to institute remedial action by any means provided under the Act and these Regulations.

*The monitoring
report*

40. (1) Where a lead agency has undertaken monitoring under regulation 39, it shall submit a monitoring report to the Authority which report shall include the following –
- (a) the name, physical and postal 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 in accordance with monitoring guidelines provided in the Environmental Management Plan and standards, sampling methodology and frequency;
 - (f) results of the actual monitoring exercise;
 - (g) baseline monitoring data and date of data collection;
 - (h) new actions to be implemented including the criteria for the next evaluation;
 - (i) recommendations arising from the monitoring exercise to be implemented by the proponent or any other lead agency; and
 - (j) a non-technical summary of findings, conclusions and recommendations.
- (2) An environmental inspector may enter any land, premises, vessel, motor vehicle, ox-drawn trailer for the purposes of monitoring the effects of any activities carried on that land or premises on the environment.

PART VI STRATEGIC ENVIRONMENTAL ASSESSMENT

*Strategic
Environmental
Assessment*

41. (1) The Authority shall in consultation with County Governments, lead agencies, institutions and private entities subject all proposals for

Policy, Plans or Programmes to a Strategic Environmental Assessment to incorporate environmental considerations for sustainable development.

- (2) The objectives of a Strategic Environmental Assessment study shall be to:
- (a) guide Policy, Programme or Plan proposals to ensure they are compatible with sustainable environmental planning and management;
 - (b) ensure the full consideration of alternative options including the do nothing option, at an early time when the Policy, Plan or Programme owner has greater flexibility;
 - (c) enable consistency to be developed across different sectors especially where trade-offs need to be made as between the objectives of the sectors;
 - (d) recognize and evaluate trans-boundary and regional environmental impacts of multi-sectoral developments over a specified time and broader geographical scales such as ecosystems and landscapes;
 - (e) guide investment Plans or Programmes involving multiple sub-projects or sector Policies;
 - (f) identify environmental impacts and opportunities of mitigation measures into Policy, Plan or Programme designs during the formulation stage and in the process enhance environmental management;
 - (g) ensure the cumulative, indirect or secondary impacts of diverse multiple activities are considered, including their unintended consequences;
 - (h) hinder the needless reassessment of issues and impacts at Policy, Plan or Programme level where such issues could have been more effectively dealt with at a strategic level, and offer time and cost savings;
 - (i) provide information to decision makers by evaluating alternative options that meet proposal objectives based on the best practicable environmental options;
 - (j) ensure environmental principles such as sustainability, polluter pays and the precautionary principles are integrated into the development, appraisal and selection of Policy, Plan or Programme options;
 - (k) prioritize environmental considerations in decision making alongside economic and social concerns including trade-offs;
 - (l) provide an early opportunity to check whether or not a proposal is consistent with national and international environmental policy and complies with related legislative obligations;
 - (m) contribute to the establishment of contexts and baselines for future development proposals and Strategic Environment Assessment reports;
 - (n) provide a publicly available and accountable decision making framework including ownership by stakeholders and communities.
- (3) The Strategic Environmental Assessment study shall be undertaken in accordance with guidelines that may be issued by the Authority from time to time.

Programme brief to the Authority for screening to determine the need for Strategic Environmental Assessment.

- (2) The Authority shall within seven (7) days communicate the screening results to the Policy, Plan or Programme owner.

Submission and approval of the scoping report

- 43.(1) Upon determination of the need for Strategic Environmental Assessment under regulation 42, the Authority shall advise the Policy, Plan or Programme owner to undertake a scoping study with the objective of defining the geographical or thematic scope of the assessment.

- (2) The Policy, Plan or Programme owner shall select a lead environmental assessment expert or firm of experts licensed by the Authority to undertake the scoping study.

- (3) The Policy, Plan or Programme owner shall prepare the scoping report and submit at least three (3) copies of the scoping report to the Authority for approval.

- (4) The scoping report shall include amongst others:
- (a) description of the level or tier at which the Strategic Environmental Assessment will take place;
 - (b) definition of the boundaries of any required further assessment in terms of time, space and subject matter;
 - (c) identification of which sectors and which other Policy, Plan or Programme to cover;
 - (d) description of Policy, Plan or Programme objectives;
 - (e) identification of the possible effects of the Policy, Plan and Programme on the environment and human wellbeing;
 - (f) identification of significant issues to be studied such as physical, ecological, social, economic, technological, institutional and political, based on the objectives established for the Strategic Environmental Assessment;
 - (g) identification of issues that are less significant at this stage;
 - (h) determination of the relevance of climate change vulnerability assessment, impacts, adaptation and mitigation actions
 - (i) justification of the scoping methodology and the criteria for the determination of significance;
 - (j) a strategic communication plan or stakeholder engagement plan detailing methodologies of identification and engagement of the potentially affected stakeholders about the Policy, Plan or Programme;
 - (k) analysis of the policy and legal framework;
 - (l) the objectives of the Strategic Environmental Assessment study including the decision making criteria as well as suitable indicators of desired outcomes;
 - (m) identification of the analytical methods and data needs;
 - (n) identification of best alternatives;
 - (o) the monitoring and evaluation plan and the methodology to be used;

- (p) the list of experts to be engaged including their qualifications, CVs and contact details;
- (q) the spatial and temporal dimensions of the study;
- (r) methodology of analysis in the Strategic Environmental Assessment study and the sources of relevant data as well as amount of information available.

(5) The Authority shall review the adequacy of the scoping report and avail a Record of Decision to either approve the scoping report or to request for additional information within a period of twenty one (21) days from the date of submission of the report.

*Contents of a Strategic
Environmental
Assessment report*

44. (1) Upon approval of the scoping report by the Authority, the Policy, Plan or Programme owner through the Environmental Assessment team of experts shall conduct the study and prepare the draft Strategic Environmental Assessment report.

(2) A Strategic Environmental Assessment report prepared under these Regulations shall include the following information:

- (a) the title of the report;
- (b) a succinct non-technical summary briefly describing the study and its outcomes;
- (c) introduction on the scope and methodology of work;
- (d) description of the proposed Policy, Plan or Programme focusing on:
 - (i) the objective, purpose and rationale;
 - (ii) alternative options and strategies;
 - (iii) areas and sectors affected;
 - (iv) proposed activities for Policy, Plan or Programme; and
 - (v) implementation plan and timescale;
- (e) environmental analysis including baseline environmental conditions, legislative framework, public or stakeholder engagement activities undertaken, prediction and evaluation of impacts, including cumulative effects, alternative options and justification of preferred alternatives and linkages between ongoing projects and proposed Policy, Plan or Programme;
- (f) recommendations including but not limited to changes to proposed Policy, Plan or Programme, mitigation measures and alternatives;
- (g) integration of climate change vulnerability assessment, adaptation and mitigation actions;
- (h) relevant appendices such as attendance register and minutes of stakeholders' meetings and topographical maps;
- (i) environmental management and monitoring plan outlining the measures and actions to be taken during Policy, Plan or Programme implementation;
- (j) a summary of the potential significant impacts of a proposed Policy, Plan or Programme.

(3) The following steps shall be followed in the conduct of a Strategic Environmental Assessment study:

- (a) description of Policy, Plan, or Programme, including the purpose,

- rationale and implementation plan, which should include time-scale and mitigation measures;
- (b) collection of baseline data including data on ecological processes and services, resilience and vulnerability of these processes and their significance to human well-being;
 - (c) a review of existing policy and legislative frameworks for environmental protection and existing environmental protection programs and their objectives;
 - (d) a review of all relevant development plans for the area within the study boundaries;
 - (e) an identification of alternatives that may include but not be limited to:
 - (i) doing nothing option;
 - (ii) employing alternatives to achieve the same Policy, Plan or Programme objectives;
 - (iii) employing alternative technologies;
 - (iv) demanding the reduction or addition in size of projects envisioned; and
 - (v) employing different forms of management;
 - (f) identifying and analyzing the potential impacts of proposals and their alternatives on the biophysical and social economic and cultural environments;
 - (g) identifying measures to enhance opportunities and to mitigate adverse impacts through:
 - (i) multiple and mutually reinforcing gains;
 - (ii) equitable conditions for all persons;
 - (iii) protecting and enhancement of the environment; and
 - (h) clearly documenting any trade-offs.
- (4) Before the commencement of any Strategic Environmental Assessment study, during scoping and the actual Strategic Environmental Assessment study itself it shall be mandatory to conduct consultation with relevant government authorities, agencies and the public.
- (5) In carrying out public consultations the Policy, Plan or Programme owner shall:
- (a) hold at least two public meetings with the relevant stakeholders and communities to explain the Policy, Plan or Programme and its effects, and to receive their oral, written comments or objections if any;
 - (b) ensure that the first meeting is held during the scoping stage;
 - (c) ensure that an appropriate notice is sent out at least fourteen (14) days prior to the meeting and that the venue, date and time of the meeting is convenient.

*Submission of draft
Strategic
Environmental
Assessment report*

45. (1) The Policy, Plan or Programme owner shall submit to the Authority at least ten (10) printed copies and one (1) electronic copy of the draft Strategic Environmental Assessment report accompanied by a submission Form 19 set out in First Schedule of these Regulations.
- (2) The Authority shall within fourteen (14) days from the date of submission of the draft report conduct an internal review process to

determine its adequacy.

- (3) The assessment carried out under this regulation shall consider the effect of implementation of alternative Policy, Plan or Programme actions taking into consideration -
 - (a) the use of natural resources and the impacts on the biophysical and the environment;
 - (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.

*Invitation of
comments on draft
Strategic
Environment
Assessment report*

46. (1) The Authority shall within seven (7) days of determination of adequacy under regulation 45(2), dispatch copies of the draft report to the relevant County Governments, lead agencies and stakeholders for their comments.
- (2) Upon receiving the draft report, the County Governments, lead agencies and stakeholders shall review it and submit their comments within forty five (45) days or such other period as the Authority may specify.
- (3) The Authority shall within seven (7) days of determination of adequacy, at the expense of the Policy, Plan or Programme owner –
 - (a) publish a notice on the draft Strategic Environmental Assessment report for the Policy, Plan or Programme in two newspapers of nationwide circulation and in the Gazette, inviting the public to submit written comments on the draft Strategic Environmental Assessment report; and
 - (b) make an announcement of the notice in both official languages in a radio broadcasting nationwide at least once a week for two consecutive weeks.
- (4) The Authority shall also publish a copy of the draft Strategic Environmental Assessment report in the Authority's website for the duration of the public participation period.
- (5) The notice under sub-regulation (3) shall be in the format prescribed in Form 20 set out in the First Schedule to these regulations.
- (5) The public may submit their comments to the Authority within forty five (45) days from the date of the last publication of the notice inviting comments.
- (6) The Authority may, on application by any person extend the period stipulated in sub-regulation (5) for a period not exceeding thirty (30) days, so as to afford reasonable opportunity for such person to submit written comments on the draft Strategic Environmental Assessment report.

- (7) Within the forty five (45) days stipulated under sub-regulations (2) and (5), the Authority shall undertake a review of the draft Strategic Environmental Assessment report and make comments from the review.

*Incorporation of
comments in the draft
Strategic
Environmental
Assessment report*

47. (1) Upon review and receipt of the comments under regulation 46, the Authority shall analyze the received comments and send the same to the Policy, Plan or Programme owner for incorporation in the draft Strategic Environmental Assessment report.

- (2) The Authority may appoint a Technical Advisory Committee to carry out a detailed review of the draft Strategic Environmental Assessment report incorporating the County Governments', lead agencies', stakeholders' and public comments within sixty (60) from the date of constitution of the Technical Advisory Committee.

- (3) The comments from the Technical Advisory Committee shall be communicated to the Policy, Plan or Programme owner for incorporation in the draft Strategic Environmental Assessment report.

- (4) The Policy, Plan or Programme owner shall incorporate the comments within sixty (60) days from the date of request by the Authority and submit three (3) printed copies and one (1) electronic copy of the revised draft Strategic Environmental Assessment report to the Authority.

- (5) Upon verification of the revised Strategic Environmental Assessment report by the Authority, the Policy, Plan or Programme owner in consultation with the Authority shall hold a validation workshop or workshops to engage the stakeholders and the public in reviewing and validating the revised Strategic Environmental Assessment report.

- (6) The Policy, Plan or Programme owner in consultation with the Authority shall incorporate the comments arising from the validation workshop and finalize the corrected Strategic Environmental Assessment report.

*Submission of the final
Strategic
Environmental
Assessment Report*

48. The Policy, Plan or Programme owner shall endorse and submit five (5) printed copies and one (1) electronic copy of the final Strategic Environmental Assessment report to the Authority accompanied by a duly completed Form 21 set out in the First Schedule to these Regulations.

*Record of Decision on
Strategic
Environmental
Assessment study*

49. (1) The Authority shall upon review of the final Strategic Environmental Assessment report, give its Record of Decision for a Plan or Programme within thirty (30) days from the date of submission of the report under regulation 48.

- (2) Where the record of decision for a Plan or Programme is an approval, the Authority shall issue to the Plan or Programme owner an approval with conditions in writing in Form 22 set out in the First Schedule of

these Regulations.

- (3) Where the record of decision for a Plan or Programme is a rejection, the Authority shall communicate the reasons thereto to the Plan or Programme owner in writing.
- (4) The Plan or Programme owner shall consent to the approval conditions under sub-regulation (2) in writing before implementing the Plan or Programme.
- (5) For a Policy, the Authority shall prepare a briefing note within thirty (30) days to the Cabinet Secretary responsible for environment who shall notify the Cabinet Secretary responsible for the Policy in writing on the recommendations in regard to the final Strategic Environmental Assessment report within sixty (60) days from the date of receipt of the recommendations from the Authority.
- (6) The contents of briefing note shall include:
 - (a) title of the Policy and proponent;
 - (b) objectives and justification of the policy;
 - (c) brief introduction of the Policy;
 - (d) process of arriving at the proposal;
 - (e) key environmental issues including:-
 - (i) ecological issues;
 - (ii) social issues;
 - (iii) cultural issues;
 - (iv) economic issues;
 - (f) preferred alternative;
 - (g) ranking of other alternatives;
 - (h) trade-offs, resettlement and compensation;
 - (i) impacts or effects;
 - (j) conclusion and recommendations.
- (7) The Cabinet Secretary responsible for the Policy shall table the relevant cabinet paper for the Policy in line with the recommendations under sub-regulation (6) to the Cabinet for approval.

*Monitoring and
evaluation of
Policy, Plan or
Programme*

50. (1) The Policy, Plan or Programme owner shall be responsible for the monitoring and evaluation of the Policy, Plan or Programme and shall submit reports to the Authority annually or such period as may be prescribed by the Authority from time to time.
- (2) The Authority shall undertake a formal evaluation of the monitoring results earlier submitted by the Plan or Programme owner within three (3) years to determine;
 - i. the accuracy of the implementation process;
 - ii. whether the Strategic Environmental Assessment led to sustainable Policy, Plan or Programme design;
 - iii. the achievement of the Policy, Plan or Programme goals by identifying ex-post adaptation with requirements for the

implementation mechanisms or actions that failed to deliver intended outcomes; and

iv. The need for revision or renewal of the Policy, Plan or Programme.

(3) The Cabinet Secretary responsible for environment in consultation with the Cabinet Secretary responsible for the Policy shall oversee the monitoring and evaluation of the Policy and may seek the technical assistance of the Authority.

PART VII - MISCELLANEOUS PROVISIONS

*Access to
information*

51. Information or documents submitted to the Authority by any person in connection with Part II, Part III, Part IV, Part V and Part VI of these Regulations together with the Authority's decisions and the reasons thereof shall be made available to the public in accordance with the relevant legislation and on such other terms and conditions as the Authority may prescribe.

*Protection of
proprietary
information*

52. (1) A person submitting information to the Authority may apply to the Authority in Form 23 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 in the interest of national security.

(2) If the Authority grants the request made under sub-regulation (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 application under sub-regulation (1), it shall communicate the decision to the applicant within fourteen (14) days of its decision.

(4) The Authority may review its decision made under sub-regulation (2) from time to time to determine whether the reasons for exclusion are still valid and whether the exclusion should continue and shall communicate the change of decision in writing to the Applicant within fourteen (14) days and in any case prior to making the protected information public.

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

Projects with trans-boundary impacts

53. Where a project is likely to have a trans-boundary 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.

Offences

54. (1) Notwithstanding any licence, permit or approval granted or offences 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 10 and 11;
 - (b) fails to prepare and submit an Integrated Environmental impact Assessment study report contrary to regulations 14, 18, 20 and 21;
 - (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 Integrated Environmental Impact Assessment study report;
 - (e) fraudulently alters a project report or an Integrated 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 29;
 - (h) after an audit report is submitted fails to implement any mitigation measures specified under regulation 37; or
 - (i) fails to prepare and submit a Strategic Environmental Assessment study report pursuant to regulations 42, 43, 44, 45 and 48;
- Commits an offence and on conviction shall be liable to the penalty prescribed under the Act.

Appeals

55. (1) Any person who is aggrieved by -

- (a) a refusal to grant a licence or 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 imposition of any environmental restoration order or environmental improvement order on the project by the Authority; or
- (e) the approval or reinstatement by the Authority of an environmental impact assessment licence;
- (f) A refusal to grant an approval for a Plan or Programme or the imposition of any condition, limitation or restriction on an approval.

may within sixty (60) 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 thirty (30) 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.

*Registers to be
maintained by the
Authority*

56. (1) The Authority shall maintain, in a retrievable and publicly accessible manner, the following registers -
 - (a) a register of all individual experts or firms of experts duly authorized to conduct or prepare Integrated Environmental Impact Assessment studies, environmental audits and Strategic Environmental Assessment studies;
 - (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;
 - (d) a register of approvals of applications seeking exclusion of proprietary information from public access; and
 - (e) a register of accredited training institutions.

FIRST SCHEDULE

(r.7 (2))

FORM 1

**THE ENVIRONMENTAL MANAGEMENT AND COORDINATION ACT, CAP 387
APPLICATION FOR REGISTRATION AS AN ENVIRONMENTAL ASSESSMENT EXPERT**

PART A: DETAILS OF THE APPLICANT

A1: Name of applicant (Individual or Firm):

A2: Nationality:

A3: PIN No.:

A4: Firm (Local/Foreign):

A5: Business/Company registration No. (where applicable):

A6: Postal and physical Address:
.....
.....

A7: Telephone No.:

A8: E-mail Address:

A9: Applicant's academic / professional qualifications:

.....

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

.....
.....
.....
.....

A11: Experience, training undertaken and summary of environmental work done in Integrated Environmental Assessment related activities (Table format):

.....
.....
.....

A12: Application for registration as:
Lead Expert;
Associate Expert; or
Firm of Experts;

.....

A13: Previous registration Number and date of registration (if applicable):
.....

PART B: DECLARATION BY APPLICANT

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

.....
Full name in block letters Signature of the Applicant Position

On behalf of.....
Firm name and Seal Date

PART C: *FOR OFFICIAL USE*

Approved/Not approved.....

.....
Comments.....
.....
.....

Officer's
Name.....Sign.....Date.....

Important Notes: Make application online at www.nema.go.ke (licensing portal)

FORM 2

Application Reference No:

Registration No:

THE ENVIRONMENTAL MANAGEMENT AND COORDINATION ACT, CAP 387

CERTIFICATE OF REGISTRATION AS AN ENVIRONMENTAL ASSESSMENT EXPERT

This is to certify that M/S

.....

of..... (address) has been registered as an Environmental Assessment Expert in accordance with the provisions of the Environment Management and Coordination Act, Cap 387 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,
National Environment Management Authority

FORM 3

Application Reference No.: (For *official use*)

**THE ENVIRONMENTAL MANAGEMENT AND COORDINATION ACT, CAP 387
APPLICATION FOR LICENCE TO PRACTICE AS AN ENVIRONMENTAL ASSESSMENT EXPERT**

PART A: DETAILS OF APPLICANT

A1: Name of applicant (Individual or Firm):

A2: Nationality:

A3: PIN No.:

A4: If Firm (Local/Foreign):

A5: Business /company Registration No. (*where applicable*):

A6: Postal Address:

A7: Telephone No.:

A8: E-mail:

A9: Applicant's academic/professional qualifications:

.....

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

.....

.....

A10: Experience in Environmental Impact Assessment related activities (Table):

.....

.....

.....

.....

A 11: Application for licence to practice as (Tick where applicable):

Lead Expert;

Associate Expert; or

Firm;

.....

PART B: DECLARATION BY APPLICANT

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

.....

Full name in block letters

Signature of applicant

Position

Date.....

On behalf of.....

Firm Name and seal

PART C: FOR OFFICIAL USE

Approved /Not approved

.....
Comments

.....
Official.....Sign.....Date.....

Important Notes

Make application online at www.nema.go.ke (licensing portal)

FOR OFFICIAL USE

FORM 4

Licence No.:
Application Reference No.:

THE ENVIRONMENTAL MANAGEMENT AND COORDINATION ACT, CAP 387
ENVIRONMENTAL ASSESSMENT PRACTICING LICENCE

M/S(Individual or firm) of
Postal Address
is Licensed to practice in the capacity of a (Lead Expert/Associate Expert/Firm of Experts)

Registration No.:
in accordance with the provisions of the Environmental Management and Coordination Act, CAP 387

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

Signature.....

(Seal)

Director-General, National Environment Management Authority.

Note:

This Licence expires on 31st December, 20.....

FORM 5

THE ENVIRONMENTAL MANAGEMENT AND COORDINATION ACT, CAP 387

**REGISTER OF ENVIRONMENTAL ASSESSMENTS EXPERTS HOLDING CURRENT
ENVIRONMENTAL ASSESSMENT PRACTICE LICENCE**

Name of expert	Registration No.	Licence No.	Nationality	Postal and Physical address	Email address	Level of expert	Academic qualifications	Telephone Number

FORM 6

THE ENVIRONMENTAL MANAGEMENT AND COORDINATION ACT, CAP 387

APPLICATION FOR DESIGNATION

This form should be filled in triplicate. Ensure that you complete all sections of this form before returning to the National Environment Management Authority-NEMA

PART 1

To be completed by applicant.

1. LEGAL NAME OF INSTITUTION *(as in the legal document from Ministry of Education)*

.....
.....

2. CONTACT ADDRESS

P.O. BOX.....CODE.....TOWN.....

TEL:.....FAX:.....EMAIL:.....

WEBSITE:.....

3. CLASSIFICATION OF THE INSTITUTION

Public Private *(Please tick where applicable)*

4. PHYSICAL LOCATION

i. County:.....

ii. Sub-County:.....

iii. Location/Town:.....

iv. Village/Estate/Street:.....

v. Building Name & Floor:.....

5. NAME AND ADDRESS OF HEAD OF INSTITUTION

NAME:.....

P.O. Box:.....Code:.....Town:.....

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

6. NAME AND ADDRESS OF EIA/EA TRAINING COORDINATOR

NAME:.....

P.O. Box:.....Code:.....Town:.....

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

Registration Certificate from Ministry of Education/CUE/TVETA

Certificate No.: Expiry date:

Training programmes authorized (attach relevant accreditation documents)

7. **MAXIMUM NUMBER OF TRAINEES EXPECTED TO BE ENROLLED PER SESSION:.....**

8. **TRAINING STAFF DETAILS (At least five members of staff)**

No.	NAME OF TRAINER	PROFESSIONAL QUALIFICATION (e.g. DIP IN IM)	NEMA EIA/EA REGISTRATION No.	TRAINING EXPERIENCE (YEARS)	FULL TIME OR PART TIME
1.					
2.					
3.					
4.					
5.					
6.					

Certify and attach copies of the following documents for each Trainer:

- i. Detailed Curriculum Vitae
- ii. Academic and Professional certificates***
- iii. Letter of Appointment
- iv. EIA/EA Registration Certificate for all staff
- v. EIA/EA Practicing Licence for all staff

9. **ADDITIONAL REQUIREMENTS**

- i. Institutional Registration Certificate from Ministry of Education/Directorate of Industrial Training
- ii. Institutional Registration Certificate as a Firm of Experts from NEMA(for EIA/EA Firms only)

10. **PHYSICAL FACILITIES**

a) *Administrative offices*

S. No.	NAME OF OFFICE	AVERAGE SIZE (M ³)	KEY FACILITIES IN THE ROOM
1.			
2.			
3.			
4.			

b) *Classrooms*

S. No.	NAME OF CLASSROOM	AVERAGE SIZE (M ³)	RESOURCES IN THE ROOM
1.			
2.			
3.			
4.			

5.			

c) *Other facilities (e.g. Toilets, playgrounds, firefighting equipment etc)*

S. No.	NAME	PURPOSE OF FACILITY	AVERAGE SIZE(M3)	RESOURCES IN THE ROOM/FIELD
1.				
2.				
3.				
4.				

Other conditions

Physical

Restrooms
Kitchens
Meeting rooms

Legal

Lease of premises
Business licences
Health permits
Fire licences
Tax compliance – KRA
- NHIF
- NSSF

Administration

Management structures
Student counseling
Student welfare
Staff welfare
Minutes of meetings

Academic

Curriculums
Certifications
Assessments

11. DECLARATION BY THE HEAD OF INSTITUTION

I hereby declare that to the best of my knowledge the information provided in this form is true and correct

Full Name:..... Signature:.....

Date and Stamp of Institution:.....

12. EVALUATION OF APPLICATION DOCUMENTS BY PEEIO

I hereby declare that I have scrutinized the application form and the supporting documents, and verified that the form is duly completed and supporting documents comply with the checklist (requirements) in the form.

I hereby forward the application to the Deputy Director Environmental Education and Information for further action.

Name:.....

Signature:.....Date:.....

13. FOR OFFICIAL USE

<p>Approved/Not Approved and Recommend for Accreditation:.....</p> <p>Deputy Director EEI:.....</p> <p>Signature:.....Date:.....</p>

Approved for Accreditation to train in EIA/EA:.....

Director EEIPP:.....

Signature:.....Date:.....

NB: *Payment of processing & monitoring fee of Kshs. 50,000/- shall only be made once an institution receives a certificate of designation from NEMA.(50% on application and balance on approval)*

FORM 7

THE ENVIRONMENTAL MANAGEMENT AND COORDINATION ACT, CAP 387

CERTIFICATE OF DESIGNATION

NATIONAL ENVIRONMENT MANAGEMENT AUTHORITY (NEMA)

In accordance with the Environmental Management (Strategic Assessment, Integrated Impact Assessment and Audit) Regulations, 2018, NEMA certifies that has been designated to offer a course in Integrated Environmental Assessment including; Strategic Environmental Assessment (SEA), Environmental Impact Assessment (EIA) and Environmental Audit (EA).

This Designation is valid for a period of with effect from and expiring on

Signature:

DIRECTOR GENERAL – NEMA

Date:.....

FORM 8

THE ENVIRONMENTAL MANAGEMENT AND COORDINATION ACT, CAP 387

RENEWAL OF DESIGNATION

NATIONAL ENVIRONMENT MANAGEMENT AUTHORITY (NEMA)

In accordance with the Environmental Management (Strategic Assessment, Integrated Impact Assessment and Audit) Regulations, 2018, NEMA certifies that the designation given to
to offer a course in Integrated Environmental Assessment including; Strategic Environmental Assessment (SEA), Environmental Impact Assessment (EIA) and Environmental Audit (EA) has been renewed for a period of with effect from and expiring on

Signature:

DIRECTOR GENERAL – NEMA

Date:.....

FORM 9

Application Reference No.:

THE ENVIRONMENT MANAGEMENT AND COORDINATION ACT, CAP 387

APPLICATION FOR ENVIRONMENTAL IMPACT ASSESSMENT LICENCE

PART A: DETAILS OF PROPONENT

- A1: Name of proponent (Person or Firm):
- A2: PIN No
- A3: Postal Address:
- A4: Name of contact person:
- A5: Telephone No.:
- A6: E-mail Address:

PART B: DETAILS OF THE PROJECT REPORT

- B1: Title of the proposed project:
- B2: Objectives and the scope of the project:
- B3: Brief description of the activities:
- B4: Location of the proposed project (L.R. No., area, County and GPS Coordinates)

PART C: DECLARATION BY THE PROPONENT/REPRESENTATIVE

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 ASSESSMENT EXPERT

Name (individual /firm):

Certificate of registration No.:

Postal Address:

Tel: Email address:

Position: Sign: Date:

PART E FOR OFFICAL USE

Approved/not Approved:

Comments:

.....

.....
.....

Name of officer..... Sign..... Date.....

NB: 1. If the Project Report does not contain sufficient information required under the Environmental (Strategic Assessment, Integrated Impact Assessment and Audit) Regulations 2017, the applicant may be requested to give further information concerning the project or be notified of any defects in the application and may be 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 under these regulations

Important Notes: Please submit the following:

(a) Three copies of this form;

(b) 5 copies of the Environmental Impact Assessment report:

To The Director-General,
National Environment Management Authority,
Popo Road, South C,
P.O. Box 67839-00200,
NAIROBI.

Tel. 254-020-2183718/2101370 or 0724 533398/0723 363010 / 0735 013046

E-mail: dgnema@nema.go.ke

Website : www.nema.go.ke.....

FORM 10
FOR OFFICIAL USE ONLY

Licence No.:
Application Reference No.:

THE ENVIRONMENTAL MANAGEMENT AND COORDINATION ACT, CAP 387

ENVIRONMENTAL IMPACT ASSESSMENT LICENCE

This is to certify that the / Environmental Impact Assessment Project/ Study Report.....
.....received from (name of individual/firm)
of..... (Address) submitted to the National Environment Management
Authority in accordance with the Environmental (Strategic Assessment, Integrated Impact Assessment and
Audit) Regulations) 20.... regarding (Title of project) whose objective is to carry
on.....

.....
.....
.....

(briefly describe purpose) located at(locality and County) has been
reviewed and a licence is hereby issued for implementation of the project, subject to the attached conditions.

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

Signature

(Seal)

Director General
National Environmental Management Authority

Conditions of licence:

FORM 11

THE ENVIRONMENTAL MANAGEMENT AND COORDINATION ACT, CAP 387

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

Pursuant to Regulation 24 of the Environmental Management (Strategic Assessment, Integrated Impact Assessment and Audit) Regulations, 2018, the National Environment Management Authority (NEMA) has received an Integrated Environmental Assessment Study Report for the implementation of the proposed project.....

..... (brief description of project).....

at (locality) of

County. The said project

anticipates the following impacts.

.....
..... (describe anticipated impacts and proposed mitigation measures).

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

- (a) Ministry Responsible for Environment;
- (b)The NEMA Headquarters;
- (c) NEMA County offices and sub county offices, where applicable;
- (d) NEMA website: www.nema.go.ke.

NEMA invites members of the public to submit written comments within 30 days of the date of publication of this notice to the:

- (a) Director-General, NEMA
- (b)Relevant County Director of Environment

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

Signature.....

(Seal)

Director –General-

National Environment Management Authority.

FORM 12

Application reference No.:
Licence No.:

THE ENVIRONMENTAL MANAGEMENT AND COORDINATION ACT, CAP 387

APPLICATION FOR VARIATION OF ENVIRONMENTAL IMPACT ASSESSMENT LICENCE

PART A: PREVIOUS APPLICATIONS

A 1: No. of previous application for variation of an environmental impact assessment licence. *

A 2: Environmental impact assessment licence was previously amended.*

PART B: DETAILS OF APPLICANT

B 1: Name (Individual or Firm):

B2: Business / Company Registration No.:

B3: Postal Address:

B4: Name of contact person:

B5: Position of contact person:

B6: Postal Address of contact person:

B7: Telephone No:

B8: E-mail:

PART C: DETAILS OF CURRENT ENVIRONMENTAL IMPACT ASSESSEMENT LICENCE

C 1: 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 ASSESSEMENT LICENCE

D1: Conditions in the current Environmental Impact Assessment licence:

.....
.....

D2: Proposed variation(s):

.....
.....

D3: Reason for variation(s):

.....

D4: Describe the environmental changes arising from the proposed variations:

.....
.....
.....

D5: Describe how the environment and the community might be affected by the proposed variations:

.....
.....

D6: Describe how and to what extent the environmental performance requirements set out in the Integrated Environmental Impact Assessment 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 impacts arising from the proposed variation(s) 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.

.....
Name Position Signature

.....
Date

on behalf of
Company name and seal

PART F: OFFICIAL USE

Approved/ Not approved.....

Comments.....
.....

Officers name..... Signature..... Date.....

Important Notes:

Please submit- your application online on www.nema.go.ke (licensing portal)

*Delete where applicable

FORM 13

Application Reference No.:

Certificate No.:

THE ENVIRONMENTAL MANAGEMENT AND COORDINATION ACT, CAP 387

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. (Postal address)

regarding

..... (title of project) whose objective is to

.....

.....

..... (briefly describe purpose) located at

(Title No. Locality and County) 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
National Environment Management Authority

FORM 14

Application reference No.:

Licence No.:

ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION ACT, CAP 387

NOTIFICATION OF TRANSFER OF ENVIRONMENTAL IMPACT ASSESSMENT LICENCE

PART A: DETAILS OF CURRENT LICENCE

A I: Name of the current Environmental Impact Assessment licence holder:

A2: PIN No.:

A3: Postal Address:

A4: Tel:

A5: E-mail:

A6: Application Number. of current Environmental Impact Assessment licence:

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

PART B: DETAILS OF THE TRANSFEREE

B I: Name (Individual/Firm):

B2: PIN No.:

B3: Address: B4 Tel:

B5: E-mail address:

B6 Name of contact person

B7: Capacity of transferee to run the project (financial, technological, manpower):

.....
.....

PART C: REASON(S) FOR TRANSFER OF LICENCE

.....
.....

PART D: DECLARATION BY TRANSFEROR AND TRANSFEREE

It is hereby notified that (Transferor)of (Postal Address).....has
on this..... day of.....20.....transferred Environmental
Impact Assessment licence No.....to (Transferee).....of (Postal Address)
.....who will assume his responsibility for all liability under this project.

Transferor
Name.....
Postal Address.....
Signed.....
Date.....

Transferee
Name.....
Postal Address.....
Signed.....
Date.....

PART E: FOR OFFICIAL USE

Approved/Not approved.....

.....

Comments.....

.....

.....

Officer's Name.....Signature.....Date.....

Important Notes make your application online on www.nema.go.ke (Licensing portal)

FORM 15

Application Reference No.:

Certificate No.:

THE ENVIRONMENTAL MANAGEMENT AND COORDINATION ACT, CAP 387

CERTIFICATE 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(Postal address)
 regarding(title of project) whose objective is to

 (briefly describe
 purpose) located at (Title No.. Locality and County) has been transferred to

 (name of new holder) of (Postal address) with effect from
 (date of transfer) in accordance with the provisions of the Act.

Dated this..... Day of..... 20

Signature

Director-General,
National Environment Management Authority.

FORM 16

Application reference No.:

Licence No.:

THE ENVIRONMENTAL MANAGEMENT AND COORDINATION ACT, CAP 387

NOTIFICATION OF SURRENDER OF ENVIRONMENTAL IMPACT ASSESSMENT LICENCE

PART A: PROPONENT DETAILS

A1: Name: (Individual or Firm):

A2: PIN No.:

A3: Postal Address:

A4: Name of contact person:

A5: Position of contact person:

A6: Tel:

A7: E- mail address:

PART B: DETAILS OF THE CURRENT ENVIRONMENTAL IMPACT ASSESSEMENT LICENCE

B1: Environmental Impact Licence No.:

B2: Title of project under the current Environmental Impact licence:

B3: Please state the following details of the Environmental Impact Assessment licence to be surrendered:

(a) Scope/Scale of project.....

(b) the Environmental Impact Assessment licence.....

PART C: REASON(S) FOR SURRENDER

PART D: DECLARATION BY THE PROPONENT

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

Name of applicant

Signature

Position

Date:

on behalf of

Company name and seal

PART E: FOR OFFICIAL USE

Approved/Not approved.....

Comments.....

Officer's name: Signature: Date:

FORM 17

Application Reference No.:
Certificate No.:

THE ENVIRONMENTAL MANAGEMENT AND COORDINATION ACT, CAP 387

CERTIFICATE OF SURRENDER OF INTERGRATED ENVIRONMENTAL IMPACT ASSESSMENT LICENCE

This is to certify that the Environmental Impact Assessment Licence No.:
issued on(date)
to (name of individual/firm) of (Postal
address) regarding
(title of project) whose objective is to
(briefly describe purpose) located at
L.R. No., Locality and County) 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)

Director-General,
National Environment Management Authority

FORM 18

Application Reference No.:
Certificate No.:

THE ENVIRONMENTAL MANAGEMENT AND COORDINATION ACT, CAP 387

CERTIFICATE OF ENVIRONMENTAL COMPLIANCE

Application I.D. (File Reference Number):
Date:
Address:
Proponent (operator):

The National Environment Management Authority (NEMA) is in receipt of your Environmental Audit (E.A.) Report for the year prepared by (Expert) and submitted on

The Authority has reviewed the report and found it to have complied with the requirements of the Environmental (Strategic Assessment, Integrated Impact Assessment and Audit) Regulations, 20..... and hereby issues you with a Certificate of Environmental Compliance for a period of commencing from to

You are therefore required to ensure that you continue implementing the Environmental Management Plan as proposed in the Audit Report. This will ensure that you maintain a clean and healthy environment at all times as you undertake your operations.

Take note that the Authority retains the power to revoke or cancel this Certificate in the event of non-compliance with any requirements under the Environmental Management and Coordination Act and its Regulations.

Signed

Director-General
National Environment Management Authority

FORM 19

Application Reference No.:
For Official use.....

THE ENVIRONMENTAL MANAGEMENT AND COORDINATION ACT, CAP 387
SUBMISSION FORM FOR DRAFT STRATEGIC ENVIRONMENTAL ASSESSMENT

Part A: DETAILS OF MINISTRY/INSTITUTION

A1: Name of Ministry/Institution/ Proponent:	.....
A2: Pin No.:	.....
A3: Address:	.....
A4: Name of Contact Person:	.....
A5: Telephone:	.....
A6: Fax No.:	.....
A7: Email:	.....

Part B: DETAILS OF THE SEA REPORT

B1: Title Proposed of the Plans/Programmes/Policy:	.....
B2: Objectives and Scope of the SEA:	.....
B3: Brief Description of the Plans/Programmes/Policy:	.....
B4: Location of the proposed Plans/Programmes/Policy:	.....
B5: Sectors and areas affected:	.....

Part C: DECLARATION BY THE MINISTRY/INSTITUTION

I hereby certify that the particulars given above are correct and true to the best of my knowledge.	
Name:	Position:
On behalf of (Name of Ministry/Institution)	Date:

PART D: DETAILS OF STRATEGIC ENVIRONMENTAL ASSESSMENT (SEA) TEAM

<p>Name of Expert (individual/firm)</p> <p>Address</p>
<p>PART E: FOR OFFICIAL USE</p>
<p>Approved / Not Approved</p> <p>Comments</p> <p>.....</p> <p>Officer</p> <p>Sign Date</p>

NB.

1. If the SEA does not contain sufficient information required under the Environmental (Strategic Assessment, Impact and Audit) Regulations, 2003, the applicant may be requested to give further information concerning the Policy/Program/Plan or be notified of any defects in the application and may be required to provide the additional information.
2. Any person who fraudulently makes a false statement in SEA, alters the SEA, or fails to give full disclosure of the PPP commits an offence.

Important Notes: Please submit the following:

- Three copies of this form
- 5 Number of copies of the SEA report, as prescribed by NEMA
- The prescribed fees to:

Director General
The National Environment Management Authority
Popo Road, South C
P.O. Box 67839-00200
NAIROBI
Tel. 254 20 2183718/2101370
Cell Phone: 0724 253 398, 0723 363 010 / 0735 013 046
Email: dgnema@nema.go.ke; Website: www.nema.go.ke

FORM 20

**THE ENVIRONMENTAL MANAGEMENT AND COORDINATION ACT, CAP 387
NOTICE TO THE PUBLIC TO SUBMIT COMMENTS ON A DRAFT STRATEGIC
ENVIRONMENTAL ASSESSMENT**

Pursuant to Regulation 45 of the Environmental Management (Strategic Assessment, Integrated Impact Assessment and Audit) Regulations, 2018, the National Environment Management Authority (NEMA) has received a draft Strategic Environmental Assessment Report for the implementation of the proposed Policy, Plan or Programme

.....
..... (brief description of Policy, Plan or Programme)

at • • (location) ofCounty.

The said Policy, Plan or Programme anticipates the following impacts:

.....
..... (describe anticipated impacts and proposed mitigation measures).

The full report of the proposed Policy, Plan or Programme may be inspected during working hours at:

- (a) Ministry Responsible for Environment;
- (b)The NEMA Headquarters;
- (c) NEMA website: www.nema.go.ke.

NEMA invites members of the public to submit written comments within 45 days of the date of publication of this notice to the:

Director-General, NEMA

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

Signature.....

(Seal)

Director –General-

National Environment Management Authority.

FORM 21

Application Reference No.:
For Official use.....

THE ENVIRONMENTAL MANAGEMENT AND COORDINATION ACT, CAP 387
SUBMISSION FORM FOR FINAL STRATEGIC ENVIRONMENTAL ASSESSMENT

Part A: DETAILS OF MINISTRY/INSTITUTION

A1:	Name of Ministry/Institution/ Proponent:
A2:	Pin No.:
A3:	Address:
A4:	Name of Contact Person:
A5:	Telephone:
A6:	Fax No.:
A7:	Email:

Part B: DETAILS OF THE SEA REPORT

B1:	Title Proposed of the Plans/Programmes/Policy:
B2:	Objectives and Scope of the SEA:
B3:	Brief Description of the Plans/Programmes/Policy:
B4:	Location of the proposed Plans/Programmes/Policy:
B5:	Sectors and areas affected:

Part C: DECLARATION BY THE MINISTRY/INSTITUTION

I hereby certify that the particulars given above are correct and true to the best of my knowledge.	
Name:	Position:
On behalf of (Name of Ministry/Institution)	Date:

PART D: DETAILS OF STRATEGIC ENVIRONMENTAL ASSESSMENT (SEA) TEAM

<p>Name of Expert (individual/firm)</p> <p>Address</p>
<p>PART E: FOR OFFICIAL USE</p>
<p>Approved / Not Approved</p> <p>Comments</p> <p>.....</p> <p>Officer</p> <p>Sign Date</p>

NB.

1. If the SEA does not contain sufficient information required under the Environmental (Strategic Assessment, Impact and Audit) Regulations, 2003, the applicant may be requested to give further information concerning the Policy/Program/Plan or be notified of any defects in the application and may be required to provide the additional information.
2. Any person who fraudulently makes a false statement in SEA, alters the SEA, or fails to give full disclosure of the PPP commits an offence.

Important Notes: Please submit the following:

- Three copies of this form
- 5 Number of copies of the SEA report, as prescribed by NEMA
- The prescribed fees to:

Director General
The National Environment Management Authority
Popo Road, South C
P.O. Box 67839-00200
NAIROBI
Tel. 254 20 2183718/2101370
Cell Phone: 0724 253 398, 0723 363 010 / 0735 013 046
Email: dgnema@nema.go.ke; Website: www.nema.go.ke

FORM 22A

Application Reference No.:
For Official use.....

**THE ENVIRONMENTAL MANAGEMENT AND COORDINATION ACT, CAP 387
PLAN OR PROGRAMME STRATEGIC ENVIRONMENTAL ASSESSMENT APPROVAL**

Application I.D. (File Reference Number):
Date:
Address (Plan or Programme Owner):

The National Environment Management Authority having reviewed your Strategic Environment Assessment Final Report in accordance with the Environmental Management (Strategic Assessment, Integrated Impact Assessment and Audit) Regulations, 2018 hereby issues you with an approval of the Plan or Programme (Description of the Plan or Programme

.....
.....
.....
.....

subject to the following conditions:-

General conditions

- 1.
- 2.
- 3.
- 4.
- 5.

Implementation Phase conditions

- 1.
- 2.
- 3.
- 4.
- 5.

Notification conditions

- 1.
- 2.
- 3.
- 4.
- 5.

The above conditions will ensure environmentally sustainable development and must be complied with.

Signed

Director General

FORM 22B

Application Reference No.:
For Official use.....

THE ENVIRONMENTAL MANAGEMENT AND COORDINATION ACT, CAP 387

IMPROVEMENT NOTICE

Application I.D. (File Reference Number):
Date:
Address:
Facility Owner (operator):

The National Environment Management Authority (NEMA) has received your initial/self environmental audit report Reference number prepared by and submitted to the Authority on

You are hereby issued with an improvement notice to address the following issue (s) that has/have arisen during the review.

- 1.
- 2.
- 3.
- 4.
- 5.

Please liaise with your Audit Expert to ensure that the issue(s) is/addressed and submit the information to the Director General, NEMA, within thirty (30) days from the date of this letter.

Signed:

Director General

FORM 23B

ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION ACT, CAP 387

APPLICATION FOR PROTECTION OF PROPRIETARY INFORMATION

FORM 24A

(r.56)

REGISTER OF ENVIRONMENTAL ASSESSMENT EXPERTS: (FIRMS)

No	Name of Firm	Registration No.	Date of Registration	Contact Address Telephone No. Email address	Area of specialization	Experience and category (e.g. Lead Associate)	

FORM 24B

REGISTER OF ENVIRONMENTAL ASSESSMENT EXPERTS (INDIVIDUALS)

No.	Name of Person	Registration No.	Date of Registration	Contact Address Telephone No. Email address	Area of Specialization	Years of Practice	

FORM 24C

REGISTER OF ENVIRONMENTAL IMPACT ASSESSMENT PROJECT REPORTS SUBMITTED TO NEMA

No.	Name of proponent	Contacts of the proponent Address Telephone No. Email Address	Title of project	Location of project	Sector	Date received	Status of project		

FORM 24D

REGISTER OF INTEGRATED ENVIRONMENTAL IMPACT ASSESSMENT STUDY REPORTS SUBMITTED TO NEMA

No.	Name of proponent	Contacts of the proponent Address Telephone No. Email Address	Title of project	Location of project	Sector	Date received	Status of project		

FORM 24E

REGISTER OF STRATEGIC ENVIRONMENTAL ASSESSMENT REPORTS SUBMITTED TO NEMA

Name of PPP owner	Title of PPP	Location of PPP	Sector	Date received	Status of SEA report	Signature of filling Officer	Remarks

FORM 24F:

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 filling officer	Remarks

FORM 24G

REGISTER OF ENVIRONMENTAL MONITORING REPORTS

Title of project	Name of proponent	Location of project	Sector	Date Received	Status of project	Signature of filling Officer	Date	Remarks

FORM 24H

REGISTER OF ENVIRONMENTAL AUDIT REPORTS

Title of project	Name of proponent	Location of project	Sector	Date Received	Status of project	Signature of filling officer	Date	Remarks

FORM 24I

REGISTER OF STRATEGIC ENVIRONMENTAL ASSESSMENT APPROVALS ISSUED BY NEMA

Name of PPP owner	Title of PPP	Location of PPP	Sector	Date Project Brief was received	Date of Approval	Signature of filling Officer	Remarks

FORM 24J:

REGISTER OF THE PROPRIETARY INFORMATION

Title of firm	Name of proponent	Licence Register	Contact Address	Type of proprietary Information	Status of project	Signature of filling Officer	Remarks

SECOND SCHEDULE

CRITERIA FOR REGISTRATION OF ENVIRONMENTAL ASSESSMENT EXPERTS

Local and foreign environmental assessment individuals and firms of experts wishing to undertake strategic impact assessment, integrated environmental impact assessment and/or environmental audit activities in Kenya shall register as experts with the Authority.

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 relevant field as set out in Section D plus training in strategic impact assessment, integrated environmental impact assessment or environmental audit from an accredited institution in accordance with requirements set out in Section E and F, with three (3) years practical experience in environmental assessment related activities including work experience, consultancy, training and research.

OR

A Masters Degree or equivalent in any relevant field as set out in Section D plus training in strategic impact assessment, integrated environmental impact assessment or environmental audit from an accredited institution in accordance with requirements set out in Section E and F, with five (5) years practical experience in environmental assessment related activities including work experience, consultancy, training and research.

OR

A Bachelors Degree or equivalent in any relevant field as set out in Section D plus training in strategic impact assessment, integrated environmental impact assessment or environmental audit from an accredited institution in accordance with requirements set out in Section E and F, with eight (8) years practical experience in environmental assessment related activities including work experience, consultancy, training and research.

B. ASSOCIATE EXPERT

An Associate Expert must have attained the following qualifications:

A Bachelors Degree or equivalent in any relevant field as set out in Section D or a diploma in any relevant field as set out in section D in addition to approved training in environmental assessment/ audit from an accredited institution as set out in Section E and F.

C. FIRM OF EXPERTS

A firm of experts must meet the following conditions:

- Must be registered in Kenya to offer environmental assessment expertise.
- Must submit to the Authority a firm profile indicating capacity of its directors, partners and associates to undertake environmental assessment and audit studies.
- A Lead Expert who must be registered by the Authority and must have a current practicing licence.
- Foreign firms must demonstrate the contribution of local expertise.

D. RELEVANT FIELD OF EXPERTISE

Environmental Studies, Biological Sciences, Chemistry, Engineering, Geography, Earth Sciences, Biophysical Sciences, Natural Sciences, Environmental Law or any other field approved by the Authority on the

recommendation of a Professional Body or the Environmental Expert Advisory Committee.

E. TRAINING REQUIREMENTS

- Training for at least three (3) weeks full time equivalent by an accredited institution.
- Training must be demonstrated by an exam passed and certificate issued.

F. VETTING.

Upon application, the Expert shall be invited in person for an interview and screening by the Registration Panel.

THIRD SCHEDULE

CODE OF PRACTICE AND PROFESSION ETHICS FOR ENVIRONMENTAL ASSESSMENT EXPERTS

Citation

(1) This Code of Practice may be cited as the Code of Practice and Professional Ethics for Environmental Assessment Experts.

Interpretation/Definitions

(2) In this Code of Practice, unless the context otherwise requires:

- “*Audit*” means Environmental Audit;
- “*Code of Practice*” means the Code of Practice and Professional Ethics for Environmental Assessment Experts;
- “*Committee*” means the Environmental Experts Advisory Committee established within this Code of Practice;

Objective of the Code of Practice

(3) The Object of this Code of Practice is to:

- a. Provide a system of nurturing competence, knowledge, professional conduct, consistency, integrity and ethics in the carrying out of environmental assessments and audits;
- b. Ensure that the preparation of environmental assessments and audits is carried out in an independent, professional, objective and impartial manner;
- c. Provide for the discipline and control of Environmental Assessment Experts.

Application of the Code of Practice

(4) (1) Environmental Assessment Experts certified and registered in accordance with the provision of relevant Regulations, may establish professional association to complement and implement the objectives of the Code of Practice.

(2) An Environmental Assessment Experts shall act professionally, accurately, fairly and in an unbiased manner in undertaking his work.

(5) (1) This Code of Practice shall apply to:

- (a) All registered and certified individual Environmental Assessment Experts;
- (b) Firms of Experts registered and certified by the Authority under these Regulations;

(2) The Authority in consultation with the Professional Association and relevant stakeholders may from time to time, issue guidelines for the proper conduct of registered Environmental Assessment Experts.

Receiving Instructions

6. No Environmental Assessment Expert shall act for any proponent or Policy, Plan and Programme owner unless he has received written instructions from such project proponent, Policy, Plan and Programme owner or his authorised agent.

Carrying-out of Instructions

7. (1) An Environmental Assessment Expert shall not unreasonably delay the carrying out of instructions received from the proponent, Policy, Plan and Programme owner or his authorized agent.
- (2) An Environmental Assessment Expert shall discharge his responsibilities to the proponent or Policy, Plan and Programme owner with due diligence and integrity and in accordance to this code of practice.

Withdrawal of Instructions

8. (1) An Environmental Assessment Expert may withdraw from the conduct of an environmental assessment or audit where:
 - (a) the proponent or Policy, Plan and Programme owner withdraws instructions in writing from the Environmental Assessment Expert;
 - (b) the proponent or Policy, Plan and Programme owner instructs the Environmental Assessment Expert to undertake an Environmental assessment or audit in a manner contrary to the Expert's professional ethics and the laws of Kenya;
 - (c) the proponent or Policy, Plan and Programme owner disregards or breaches an agreement or obligation as to the Environmental Assessment Expert's fees.
- (2) An Environmental Assessment Expert or proponent or Policy, Plan and Programme owner intending to withdraw instructions or services for carrying out an environmental assessment or audit, shall issue a seven-day notice to the other party of their intention to withdraw outlining the reasons for the withdrawal thereof.
- (3) Where the terms of a contract between the Environmental Assessment Expert and the proponent or Policy, Plan and Programme owner stipulate the termination notice period, the Environmental Assessment Expert must comply with the notice.
- (4) An Environmental Assessment Expert who withdraws his or her services under sub- regulation (2) and (3) and who has received advance fees from the proponent or the , Plan and Programme owner shall refund such fees that have not been earned.
- (5) An Environmental Assessment Expert who withdraws his/ her services for the reasons stipulated in regulation 8(1) (b) and (c) shall return the proponent or , Plan and Programme owner documents only upon being paid full accrued professional fees.

Collection of Data

9. (1) An Environmental Assessment Expert shall take all due care and diligence to collect and assess the relevant data to address the significant environmental issues in the various stages of the assessment or audit process.
 - (a) An Environmental Assessment Expert shall not include in his report without acknowledgement of the source of any data that is not the result of his/her findings.

Consultations and Guidelines

10. (1) In adhering with this Act, regulations and guidelines on the preparation of environmental assessments and audits, an Environmental Assessment Expert shall consult widely with all relevant agencies, stakeholders, interested parties and the general public on all matters that are likely to affect them.
- (2) An Environmental Assessment Expert shall follow relevant regulations or guidelines and written directives issued by the Authority.

Contents of Reports and References

11. (1) An Environmental Assessment or Audit Report shall be based on the Terms of Reference of the assignment and shall be in compliance with these regulations and must be guided by professional standards and judgments.

- (2) An Environmental Assessment Expert shall, in undertaking an environmental assessment or audit, bear in mind any previous environmental assessment or audit of a similar project made under the relevant regulation but shall not copy the previous documents wholesale.
- (3) An Environmental Assessment Expert in making reference to other environmental assessment or audit shall acknowledge the sources.

Responsibility of Lead Experts

- 12. (1) A Lead Expert shall be responsible for the output and documents prepared by him on behalf of the proponent or the Plan and Programme owner.
- (2) A lead expert shall endorse the environment assessment or audit report together with the proponent or, Plan and Programme owner.
- (3) A Lead Expert shall devote sufficient time and take responsibility for the conduct of any environmental assessment or audit report.
- (4) An Environmental Assessment Expert shall guide the proponent or the Plan and Programme owner throughout the preparation of the environmental assessment and/or environmental audit, and/or during implementation of the environmental management plan.
- (5) An Environmental Assessment Expert shall disclose to the proponent or the Plan and Programme owner any relationships of conflicting or competing interests that may influence his judgment prior to the carrying out any work.
- (5) A lead expert shall oversee the construction, operational and decommissioning phases of the environmental management plan.

Misconduct of Environmental Assessment Experts

- 13. (1) An Environmental Assessment Expert who contravenes a provision of the Code of Practice and Professional Ethics commits professional misconduct and shall be subject to disciplinary action by the Authority as appropriate.
- (2) A registered Environmental Assessment Expert shall be guilty of misconduct and shall be disciplined in accordance with the provisions of the code of practice and professional ethics, if:
 - (a) knowingly accepts any work which involves the giving or receiving of bribes or inducements;
 - (b) knowingly accepts to complete work partly done by another Environmental Assessment Expert while the latter has not been paid in accordance with the contractual obligations or his contract of engagement has not been terminated, or the matter has not been determined by the Committee;
 - (c) undertakes specialist work without sufficient knowledge or experience of the subject or expert assistance;
 - (d) conducts himself in a manner which the Authority deems, after due inquiry, incompetent, or grossly negligent in connection with the work performed by him;
 - (e) gives expert evidence in any court, tribunal or other judicial body where he or she has personal or vested interest and without disclosing the nature of the interest when expressing his or her opinion;
 - (f) releases or misuses information marked as confidential by the proponent or the Policy, Plan or Programme owner ;
 - (g) abandons work already started without giving a satisfactory explanation and a seven-day notice to the proponent or the Policy, Plan or Programme owner ;
 - (h) knowingly acts for two parties with declared conflicting or competing interests solely for his own benefit;
 - (i) withholds reports, information and other materials connected to a project or Policy, Plan and Programme from a proponent or the Policy, Plan and Programme owner who has paid all his/her contractual dues for an assignment;

- (j) claims as his own another Expert's ideas, designs and concepts without acknowledging such concepts, designs or ideas;
 - (k) found guilty of professional misconduct by another professional body to which that Environmental Assessment Expert is also a member.
 - (l) Fails to meet contractual obligations to other Environmental Assessment Assessments.
 - (m) exploits the lack of understanding and experience, illiteracy or other lack of technical knowledge in environmental matters of a proponent, Policy, Plan and Programme owner or the public for personal gain.
 - (n) Found guilty of any criminal offence that carries an imprisonment term of more than six (6) months or declared bankrupt by a court of law or a judicial body.
- (3) An Environment Assessment Expert person is deemed to have committed an offence and shall be disciplined in accordance with provisions of the Act and the Regulations:
- (a) practices or carries out any activity relating to the conduct of an environmental Assessment or audit without a valid certification of registration or licence;
 - (b) falsely uses the title "Lead or Associate Expert" without authorisation;
 - (c) makes a false statement or presents a false document with the intention of obtaining a practicing certificate of registration or licence;
 - (d) makes a false statement regarding the conduct of an environmental impact assessment or environmental audit;
 - (e) signs an environmental assessment report or environmental audit without having prepared it;
 - (f) knowingly makes any statement which is factually false or misleading;
 - (g) Issues statements that malign other professional Experts' character.

Environmental Experts Advisory Committee

14. (1) The Director General shall establish a Committee to be known as the Environmental Experts Advisory Committee.
- (2) The Committee shall consist of the following members:
- (a) the Director Legal Services of the Authority, who shall be the Chairperson;
 - (b) an Environmental Assessment Expert nominated by an environmental Professional body recognized by the Authority.
 - (c) a representative from the ministry responsible for environment matters;
 - (d) the Director, Compliance and Enforcement of the Authority;
 - (e) a representative of the Attorney General;
 - (f) a representative of the business community recognized by the Authority.
- (3) The Secretary to the Committee shall be appointed by the Director General.
- (4) The members of the Committee appointed in sub-clause (b), (c), (e) and (f) above, shall hold office for a period of three years and may be eligible for reappointment for one additional term only.
15. The functions of the Committee shall be to:
- (a) advise the Authority on matters regarding registration, certification, practice and conduct of environmental impact assessment and environmental audit experts;
 - (b) advise the Authority on matters regarding establishment, maintenance and monitoring of professional standards for environmental assessment practice;
 - (c) review complaints raised against Environmental Assessment Experts and advise the Authority on matters regarding inquiry, investigation and disciplinary action as is necessary for ensuring the maintenance of professional standards, ethics and integrity;
 - (d) advise the Authority on any other relevant and incidental issue necessary for ensuring the maintenance of professional standards, ethics and integrity.

Disciplinary Proceedings

16. (1) any person, lead agency, proponent, or plan, policy and programme owner, or any person or institution aggrieved by the conduct of an Environmental Assessment Expert in the carrying out of his work in accordance with the provisions of the Act or the relevant regulations there under, may lodge a complaint in writing with the Director General.
- (2) The Director General as may be advised by the Committee after giving the reasons thereof may institute disciplinary proceedings against any Environmental Assessment Expert *suo motto* or upon investigation of the complaint raised under clause 16(1).

17. Investigating Complaints and Charging of an Expert shall be done in accordance with rules of procedures as set out in annex I attached to this Schedule.

Continuing Professional Development

18. (1) Every Environmental Assessment Expert shall each year attend at least one relevant seminar organized by the recognized Environmental Professional Association in consultation with the Authority for the purposes of improving the professional expertise of its members.

Interpretation

19. In the event of any conflict in the interpretation of the provisions of this Code of Practice the Environmental Experts' Advisory Committee shall issue an interpretation of the provisions thereof.