



ISSN 0856 – 034X

Supplement No. 42

21st October, 2016

SUBSIDIARY LEGISLATION

to the Gazette of the United Republic of Tanzania No. 44 Vol. 97 dated 21st October, 2016

Printed by the Government Printer Dar es Salaam by Order of Government

GOVERNMENT NOTICE No. 292 published on 21/10/2016

**THE ELECTRICITY ACT
(CAP.131)**

REGULATIONS

(Made under section 41(6))

THE ELECTRICITY (MARKET RE-ORGANIZATION AND PROMOTION OF
COMPETITION) REGULATIONS, 2016

ARRANGEMENT OF REGULATIONS

**PART I
PRELIMINARY PROVISIONS**

1. Citation
2. Application
3. Interpretation

**PART II
RE-ORGANIZATION FRAMEWORK OF ELECTRICITY MARKET**

4. Electricity market re-organization
5. Electricity generation activities
6. Transmission and distribution activities
7. System operation activities
8. Market operation activities

*The Electricity (Market Re-Organization and Promotion of Competition)
Regulations, 2016*

GN. No. 292 (contd.)

9. Electricity retail activities
10. Electricity tariffs
11. Rules and licences of the Authority

PART III
COMPETITIVE POWER PROCUREMENT FRAMEWORK

12. Competitive power procurement framework

PART IV
ESTABLISHMENT OF THE ELECTRICITY INFRASTRUCTURE
PROCUREMENT COMMITTEE

13. Establishment of the Committee
14. Duties and functions of the Committee
15. Funds of the Committee
16. Coordinator of the Committee
17. Nomination and appointment of members
18. Tenure of officer of members
19. Resignation of a member
20. Cessation of membership
21. Procedure for filling in vacant posts
22. Meetings of the Committee
23. Remuneration of a member
24. Consumer protection

PART V
GENERAL PROVISIONS

25. Funds for feasibility studies
26. Minister to supplement procedures

THE ELECTRICITY ACT
(CAP.131)

REGULATIONS

(Made under section 41(6))

THE ELECTRICITY (MARKET RE-ORGANIZATION AND PROMOTION
OF COMPETITION) REGULATIONS, 2016

PART I
PRELIMINARY PROVISIONS

- Citation 1. These Regulations may be cited as the Electricity (Market Re-Organization and Promotion of Competition) Regulations, 2016.
- Application 2. These Regulations shall apply to:
(a) re-organization of the electricity market;
(b) promotion of competition in generation, transmission and distribution of electricity; and
(c) promotion of competition in consumer services and private sector participation in the electricity sub-sector.
- Interpretation 3. In these regulations, unless the context otherwise requires:
- Cap. 131 “Act” means the Electricity Act;
- Cap. 414 “Authority” means the Authority established under the Energy and Water Utilities Regulatory Authority Act;
- “Committee” means the Electricity Infrastructure Procurement Committee established under regulation 14;
- Cap. 78 “Capital Markets and Securities Authority” means the Capital Markets and Securities Authority established under the Capital Markets and

Securities Act;

“Distribution Network Operator also described as “DNO” means a distribution network operator licensed by the Authority to undertake electricity distribution operations;

“Electricity Supply Industry-Reform Strategy and Roadmap” “ESI-RSR” means a policy document issued by the Minister responsible for energy in June 2014 to restructure the Electricity Supply Industry in Tanzania;

“Independent System Operator” also described as “ISO” means a state owned independent system operator licensed by the Authority to undertake transmission system operations;

“large power project” also described as “LPP” means:

- (a) a project with capacity above 10MW using various energy sources and sells the generated power, at wholesale, to a TNO, DNO or eligible customer or, at retail, to end customers or combination of the two;
- (b) in the case of transmission lines projects, a transmission project with capacity greater or equal to 66kV; and
- (c) in the case of distribution lines projects, a distribution project with the step down transformer of at least 15MVA.

“Main Grid” means the interconnected electricity transmission network to which the largest cumulative capacity of electricity generating facilities are connected;

“market operation services” means services which are necessary in order to administer wholesale market operations and includes:

- (a) registration of market participants and balance responsible parties (BRP);
- (b) registration of market participants for participation in auctions for cross border capacities allocation;
- (c) calculation of imbalance of BRP and distribution of compensations to BRP;
- (d) ancillary services calculation;
- (e) creation of reports on internal and cross border trades;
- (f) creation of monthly and annual reports on transmission network flows;
- (g) creation of reports on the size of energy and peak loads for the companies taking over electricity from the transmission system; and
- (h) creation of financing report including obligations of each market participant involved in auctions for cross border transmission capacities;

“member” means a member of the Committee appointed under regulation 14;

“Minister” means the Minister responsible for electricity matters;

“Off Grid” means an electricity transmission and distribution network physically isolated from the Main Grid;

“procuring entity” means a DNO for projects to be connected to a distribution network or a TNO for projects to be connected to a transmission network;

“Rural Energy Agency” means the Rural Energy Agency established under the Rural Energy Act;

“sector entities” means the Ministry responsible for electricity, the Treasury Registrar’s Office, the Attorney General’s Chambers, the Tanzania Investment Center, the Rural Energy Agency, a TNO and a DNO;

“Small Power Project” also described as “SPP” means an

Cap. 321

electricity generating project with an installed capacity less or equal to 10MW using renewable energy, fossil fuels, cogeneration technology, or some hybrid system combining fuel sources and either:

- (a) sells the generated power at wholesale to a DNO; or
- (b) sells at retail directly to end customers or some combination of the two;

“system operation services” means all services which are necessary in order to dispatch generation and provide safe and efficient power transfer in the transmission system, resolve interruptions in transmission of power, maintain and re-establish the voltage balance in the transmission system;

Cap. 38

“Tanzania Investment Center” means the Tanzania Investment Center established under the provisions of the Tanzania Investment Act;

“tender Board” means the tender Board of ISO or a DNO;

“Transmission Network Operator” also described as “TNO” means a transmission network operator licenced by the Authority to undertake electricity transmission operations; and

Cap. 370

“Treasury Registrar Office” means the public office established under the Treasury Registrar (Powers and Functions) Act.

PART II

ELECTRICITY MARKET RE-ORGANIZATION FRAMEWORK

Electricity
market re-
organization

4.-(1) Electricity market shall be re-organized as prescribed in these regulations.

(2) The re-organization of the electricity market shall be effected in accordance with the timelines prescribed in the Schedule.

(3) The Minister shall oversee the re-organization process of the electricity market in accordance with the provisions of these Regulations and the ESI-RSR.

Electricity generation activities

5.-(1) There shall be competitive electricity generation activities in Mainland Tanzania.

(2) Any existing operator with a vertically integrated structure shall, within the time prescribed in the Schedule, unbundle its generation transmission and distribution activities.

(3) Without prejudice to the provisions of sub-regulation (1), all operators undertaking electricity generation activities may generate electricity and:

- (a) sell it to a DNO or a distribution company pursuant to a signed power purchase agreement;
- (b) sell it to an eligible customer subject to terms to be agreed upon by the parties; or
- (c) use it for its own consumption.

Transmission and distribution activities

6.-(1) An operator undertaking electricity transmission or distribution activity shall operate in a monopoly state.

(2) Notwithstanding the provisions of sub-regulation (1), all transmission activities shall be undertaken by a transmission company.

(3) An operator shall, subject to rules published by the Authority, be required to undertake electricity transmission and distribution activities and shall specifically be obliged:

- (a) to provide access to a generation licensee or an eligible customer to use its infrastructure subject to payment of a wheeling charge or tariff approved by the Authority; and
- (b) not to discriminate any generation licensee, distribution company or an eligible customer.

GN. No. 292 (contd.)

System operation activities

7.-(1) A system operator shall have exclusive rights in undertaking system operation activities in areas connected to the Main Grid.

(2) A DNO who operates a distribution network connected to an Off-Grid shall have exclusive rights in undertaking system operation activities in that respective network.

Market operation activities

8. A market operator shall, when power trading commences in Mainland Tanzania, have exclusive powers to undertake market operations activities.

Electricity retail activities

9. Electricity retail activities shall, in accordance with the timeline prescribed in the ESI-RSR be conducted in a competitive manner.

Electricity tariffs

10. The Authority shall, in accordance with the Act and ESI-RSR prescribe the applicable tariffs in each segment in the electricity supply market.

Rules and licences issued by the Authority

11. All operators who undertake electricity generation, transmission, distribution, system and market operations shall be bound by the rules published and licences issued by the Authority.

PART III COMPETITIVE POWER PROCUREMENT FRAMEWORK

Competitive power procurement framework

12.-(1) All procurement of large power projects for all technologies and SPP projects using solar and wind technology shall use framework for competitive procurement established by Regulator.

(2) No TNO or DNO shall procure a power project save as provided for under these Regulations and the rules published by the Authority.

(3) A private DNO may procure a large power project or an SPP using wind or solar technology using the procedure prescribed under the rules published by the Authority or use their own procedures,

Provided that, such procedures are competitive and approved by the Authority.

(4) Any person who procures a power project in contravention to this regulation, commits an offence and shall, on conviction, be liable to a fine of ten million shillings or imprisonment for a term not less than two years or both.

PART IV
ESTABLISHMENT OF THE COMMITTEE, ITS FUNCTIONS,
COMPOSITION AND MEETINGS

Establishment of
Committee

13.-(1) There shall be established a committee to be known as the Electricity Infrastructure Procurement Committee.

(2) The composition of the Committee shall be as follows:

- (a) one person from the Ministry responsible for electricity, who shall be the chairperson;
- (b) one person from the Treasury Registrar's Office;
- (c) one person from the Attorney General's Chambers;
- (d) one person from the Rural Energy Agency;
- (e) one person from the Tanzania Investment Center; and
- (f) two persons from a procuring entity.

(3) Members of the Committee referred to under sub-regulation (2) shall be nominated by sector entities and be appointed by the Minister pursuant to these regulations.

(4) Members of the Committee shall elect amongst themselves the Deputy Chairperson, who shall serve for the period of one year and be eligible for re-appointment for

one further term.

(5) Notwithstanding the provisions of sub-regulation (2), a person shall not be appointed as member of the Committee unless such person:

- (a) is a graduate of a recognized University or equivalent;
- (b) is a senior officer and has at least ten years experience in management, procurement, law, economics, finance or engineering;
- (c) has knowledge of the energy or utility regulation industry;
- (d) is willing to serve as a member; and
- (e) is, in the opinion of the Minister, otherwise suitable to perform the functions and duties of a member competently and honestly.

(6) The Committee may co-opt such number of experts to assist it in discharging its functions.

Duties and
functions of
Committee

14. The Committee shall coordinate procurement of electricity infrastructure to DNOs or TNOs and shall be responsible for:

- (a) preparing and submitting the Request for Qualification (RFQ) and Request for Proposal (RFP) documents in respect of procuring power project to the tender Board for approval;
- (b) analysing and evaluating bid proposals received from developers of power projects and thereafter submit such proposals to the tender Board for approval; and
- (c) any other functions as may be assigned by the Minister.

Funds of the
Committee

15. Procuring entities shall, in each financial year, set aside sufficient funds to facilitate functions of the Committee.

*The Electricity (Market Re-Organization and Promotion of Competition)
Regulations, 2016*

GN. No. 292 (contd.)

Coordinator of
the Committee

16. The coordinator shall be employed within the Ministry and shall be the champion of the competitive procurement of power project, the secretary to the Committee and specifically be responsible for:

- (a) coordinating activities of the Committee; and
- (b) establishing the capacity needs to be procured by the procuring entities in liaison with the Ministry and the Authority.

Nomination and
appointment of
members

17. The sector entities and the Minister shall, while nominating names or appointing a member, as the case may be, have regard to the desirability of the Committee to have members with knowledge and experience in matters relating to electricity sector, procurement issues or Government policies.

Tenure of office
of members

18. A member of the Committee shall serve for a term of three years and not eligible for re-appointment.

Resignation of a
member

19. A member may, at any time resign, by giving notice in writing to the Minister and from the date specified in the notice or if no date is so specified, from the date of receipt of the notice by the Minister, he shall cease to be a member.

Cessation of
membership

20. A person shall cease to be a member if such person:

- (a) is declared bankrupt;
- (b) is convicted of a criminal offence involving dishonest, fraud or an offence with imprisonment term of not less than six months;
- (c) is incapable of carrying out his duties due to ill health, physical or mental impairment; or
- (d) fails to attend at least three consecutive meetings of the Committee without reasonable cause in a period of twelve consecutive months.

*The Electricity (Market Re-Organization and Promotion of Competition)
Regulations, 2016*

GN. No. 292 (contd.)

Procedure on
filling in vacant
posts

- 21.-(1) A sitting member who-
- (a) ceases to work with the respective sector entity;
 - (b) dies;
 - (c) is removed pursuant to regulation 20;
 - (d) is appointed to a position higher than a Director; or
 - (e) is demoted to a position lower than a senior officer,

shall cease to be a member and his position shall be deemed to be vacant within the context of sub-regulation (2).

(2) Any vacant post as a result of the reasons referred to sub-regulation (1), shall be filled pursuant to regulation 13, provided that any person appointed to fill in the vacant post, shall serve for the remaining period of the tenure.

Meetings of the
Committee

22.-(1) The Committee shall meet whenever there is business to transact.

(2) The Committee shall have powers to regulate its own proceedings.

Remuneration of
a member

23. Remuneration and allowances of a member shall be as set out in their letters of appointment or as may be determined by the Minister on the advice of a procuring entity.

Consumer
protection

24.- (1) All operators undertaking licensed activities which are open to competition including generation and retail business shall not engage in anti-competitive behaviours.

(2) All operators undertaking licensed activities which are monopoly in nature, including transmission activities, distribution activities, system operations activities and market operations activities shall offer their respective services in a fair and non-discriminatory manner.

GN. No. 292 (contd.)

(3) The Authority shall regulate tariffs, rates and charges in respect of any licensed activity where it determines that:

- (a) such activity is a monopoly service;
- (b) competition has not yet developed to such an extent that interest of customers are protected;
or
- (c) a particular licensee is a dominant supplier.

Cap. 285 (4) Any person who contravenes this regulation commits an offence and shall, on conviction, be liable to penalties prescribed under the Fair Competition Act.

PART VI
GENERAL PROVISIONS

Funds for
feasibility
studies

25.-(1) All procuring entities shall, in each financial year, set aside funds for conducting feasibility studies for new power projects.

(2) The Authority shall, as part of its regular inspections, monitor compliance by procuring entities of the requirement prescribed under sub-regulation (1).

Minister to
supplement
procedures

26. Where procedures are not provided for in these Regulations, the Minister may do whatever is necessary and permitted by relevant laws to enable any responsible entity to effectively and completely adjudicate on any matter before it.

*The Electricity (Market Re-Organization and Promotion of Competition)
Regulations, 2016*

GN. No. 292 (contd.)

SCHEDULE

(Made under regulation 4)

Item	Activity	Responsible Institution	Timelines
1.	Unbundling of generation activities from transmission and distribution activities	The Authority, Treasury Registrar's Office and existing electricity operators.	December 2017
2.	Designation of system operator	The Authority	June 2018
3.	Establishment of a mechanism of setting/determining wheeling charges.	The Authority	June 2018
4.	Unbundling of distribution activities from transmission activities	The Authority and existing transmission and distribution operators	June 2018
5.	Designation of market operator	The Authority	June 2018
6.	Establishment of a mechanism of setting/determining retail tariffs	The Authority	June 2021
7.	Unbundling of distribution activities into several zonal distribution companies	The Authority and the existing distribution company	June 2025
8.	Listing of generation companies and distribution companies to stock markets	The Authority, Treasury Registrar's Office, stock markets, Capital Markets and Securities Authority and existing generation companies and distribution companies.	June 2025

Dar es Salaam ,
11th October, 2016

SOSPETER M. MUHONGO
Minister for Energy and Minerals