

THE PETROLEUM ACT

(No. 2 of 2019)

IN EXERCISE of the powers conferred by section 101 of the Petroleum Act, 2019, the Cabinet Secretary for Petroleum and Mining on the recommendation of the Authority makes the following Regulations —

THE PETROLEUM (LIQUEFIED PETROLEUM GAS)
REGULATIONS, 2019

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| 1. These Regulations may be cited as the Petroleum (Liquefied Petroleum Gas) Regulations, 2019. | Citation. |
| 2. In these Regulations, unless the context otherwise requires— | Interpretation. |
| “Act” means the Petroleum Act; | No. 2 of 2019 |
| “Authority” means the Energy and Petroleum Regulatory Authority established under section 9 of the Energy Act; | No. 1 of 2019 |
| “licensing agent” means a person appointed by the Authority under section 21 of the Energy Act; | No. 1 of 2019 |

“Boiling Liquid Expanding Vapor Explosion” means an explosion caused by the rupture of a vessel containing a pressurized liquid that has reached temperatures above its boiling point;

“brand caretaker” means a licensee appointed by the Authority to operate the cylinders of a distressed brand owner;

“brand owner” means a person who is the registered owner of a cylinder;

“bulk liquefied petroleum gas” means liquefied petroleum gas of a quantity exceeding eighty kilograms;

“bulk storage” means storage capacity exceeding eighty kilograms;

“consumer” has the meaning assigned to it in the Act;

“consumer charter” means a document which gives details of service delivery terms, payment, response times and overall quality of service standards;

“cylinder” means a receptacle for liquefied petroleum gas conforming to the Kenya Standard;

“cylinder deposit” means the amount of money collected by the brand owner or his appointed wholesaler or retailer at the point of sale as security for the cylinder;

“distressed brand owner” means a brand owner who has failed to meet the requirements for the renewal of a licence or who has failed to renew his licence, in either case for more than three months from the expiry of the previous licence;

“filling or refilling” means the packaging of liquefied petroleum gas into cylinders;

“feasibility study” means a document containing the analysis and evaluation of the proposed project to determine that the project meets technical requirements, can be completed within the estimated cost and time, and that it will be profitable;

“fire safety auditor” means a person registered as a fire safety professional under the Occupational Safety and Health Act;

No. 15 of 2007

“import route” means the prescribed import route under the East African Community Customs Management Act, 2004;

“importer” means a person licensed to import bulk liquefied petroleum gas under the Act;

“Kenya Standard” means the specification or code of practice provided under the Standards Act;

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“licensee” means a person who is a holder of a licence issued under these Regulations;

“liquefied petroleum gas” has the meaning assigned to it in the Act;

“liquefied petroleum gas business” includes the import, export, filling, storage, wholesale, retail or transport of liquefied petroleum gas in bulk or in cylinders;

“liquefied petroleum gas consumer site” means a facility used by a consumer to store bulk liquefied petroleum gas for own use;

“load port” means the immediate previous country of origin where the LPG was loaded for transit to Kenya;

“LPG” means liquid petroleum gas;

“Mutual Cylinder Exchange System” means a contractual arrangement among brand owners who have consented on the exchange of different brands of standard capacity cylinders at points of sale;

“premises” includes any land, building or structure;

“professional engineer” means a person registered to practice as an engineer by the Engineers Board of Kenya under the Engineers Act;

No. 43 of 2011

“requalification” means the procedure by which a cylinder is subjected to inspection and revalidation in accordance with the Kenya Standard;

“retail” has the meaning assigned to it in the Act;

“retailer” means a person engaged in retail business;

“reticulated piped gas system” means the system for supply of liquefied petroleum gas through a network of pipes from a centralized storage point;

“scrappage” means the destruction of a defective cylinder;

“seal” means a cap placed on the valve of the cylinder for the purposes of preventing ingress of water or dust into the valve;

“standard capacity cylinder” means a cylinder with a capacity of 0.5, 1, 3, 6 or 13 kilograms fitted with a unified valve;

“unified valve” means a valve type whose specifications conform to the Kenya Standard;

“wholesale” means the business of selling liquefied petroleum gas in bulk or in cylinders to retailers or bulk consumers; and

“wholesaler” means a person engaged in selling of bulk liquefied petroleum gas to retailers or bulk consumers.

3. These Regulations shall not apply to the Kenya Defence Forces.

Regulations not to apply to Kenya Defence Forces. Requirement for licence for liquefied petroleum gas business.

4. (1) A person shall not undertake liquefied petroleum gas business except in accordance with the terms and conditions of a valid licence issued by the Authority or its licensing agents.

(2) A person who contravenes these Regulations commits an offence and shall, where no fine or penalty thereof is expressly set out in the Act, be liable on conviction to the applicable fines set out in the Fifth Schedule.

5. (1) A person who wishes to undertake liquefied petroleum gas business shall make an application for a licence to the Authority or its licensing agents in the prescribed manner. Application for a licence.
- (2) The application in sub regulation (1) shall be submitted electronically together with the documents specified in the First Schedule, such additional documentation as the Authority may require and the fees set out in the Fourth Schedule.
- (3) The Authority may request for additional information before making a determination for an application for a licence.
6. A licence for a liquefied petroleum gas business shall be in the form set out in the Third Schedule and shall be valid for — Form and duration of licence.
- (a) in the case of a jetty, pipeline, bulk storage facility and liquefied petroleum gas reticulation system, for three years from the date of issue;
 - (b) in the case of retail of liquefied petroleum gas in cylinders, for two years from the date of issue;
 - (c) in the case of business to transport liquefied petroleum gas in bulk or in cylinders, for two years from the date of issue;
 - (d) in the case of business to import liquefied petroleum gas in bulk, for two years from the date of issue; and
 - (e) in the case of business to export or wholesale liquefied petroleum gas in bulk or in cylinders, for two years from the date of issue.
7. (1) An application for the renewal of a licence shall be made at least thirty days prior to the expiry of the licence. Renewal of licence.
- (2) The application in sub regulation (1) shall be submitted together with the documents set out in the Second Schedule and the fees set out in the Fourth Schedule.
- (3) Where an application for the renewal of a licence is made after the period specified in sub regulation (1), an additional fee equal to twenty percent of the licence fee shall be payable in addition to the fees specified in sub regulation (2).
8. (1) An importer shall import liquefied petroleum gas through the import routes prescribed by the East African Community Customs Management Act. Importation of bulk liquefied petroleum gas.
- (2) A person licensed under this regulation, shall within twenty four hours prior to the arrival of the bulk liquefied petroleum gas at a point of entry, declare to the Authority the —
- (a) load port of the bulk liquefied petroleum gas;
 - (b) total quantity of the bulk liquefied petroleum gas in kilograms; and
 - (c) final destination point of the bulk liquefied petroleum gas.
- (3) All imported bulk liquefied petroleum gas shall be tested at the prescribed point of entry as specified by the Kenya Bureau of Standards or any such body responsible for standards in Kenya;

(4) Where the specifications of such bulk liquefied petroleum gas fail to meet the Kenya Standard, the importer shall return the bulk liquefied petroleum gas to the load port.

(5) Where the importer fails to return the bulk liquefied petroleum gas specified in sub regulation (4) to the load port, the Authority shall facilitate the destruction of the bulk liquefied petroleum gas at the cost of the importer.

(6) An importer shall submit to the Authority the following information with respect to the preceding month, on or before the 10th day of each calendar month —

- (a) total quantity in metric tons of bulk liquefied petroleum gas imported;
- (b) the source of the imported liquefied petroleum gas;
- (c) total quantity in metric tons of bulk liquefied petroleum gas sold in the local market by sector and County;
- (d) total quantity in metric tons of bulk liquefied petroleum gas sold in the export market;
- (e) list of bulk liquefied petroleum gas sales to liquefied petroleum gas consumers indicating the quantity in kilograms, dates and places of delivery; and
- (f) in case the sales include liquefied petroleum gas in cylinders, the total bulk liquefied petroleum gas filled in cylinders.

(7) An importer shall not supply bulk liquefied petroleum gas to any person unless such a person is in possession of a valid bulk liquefied petroleum gas licence issued under the Act or such a person is a liquefied petroleum gas consumer.

(8) An importer shall terminate the supply of liquefied petroleum gas to a liquefied petroleum gas consumer where it is established that a liquefied petroleum gas consumer is undertaking refilling or further trade in liquefied petroleum gas without the requisite licence required under the Act.

(9) A person who contravenes this regulation commits an offence and shall be liable on conviction to the fine set out in the Fifth Schedule.

9. (1) A person shall not construct or install a bulk liquefied petroleum gas storage facility or a gas reticulation system without a construction permit from the Authority.

Storage of bulk liquefied petroleum gas.

(2) An application for a construction permit for a bulk liquefied petroleum gas storage facility or a gas reticulation system shall specify the following —

- (a) exact location of the storage site and easements for any pipelines and incidental infrastructure including land registration number;

- (b) capacity of the storage facility or gas reticulation system;
 - (c) scope of the project; and
 - (d) grade of product to be stored.
- (3) The application in sub regulation (2) shall be submitted together with the —

- (a) registration documents of the applicant;
- (b) identification documents of the applicant including those of its directors and partners;
- (c) feasibility study of the project which shall contain a financial model indicating the project financing costs, operations and maintenance costs and projected sales;
- (d) copy of title deed in the name of the applicant or a duly registered lease whose term shall not be less than five years;
- (e) an environmental impact assessment licence from the National Environment Management Authority;
- (f) development permission from the relevant County Government;
- (g) evidence of compliance with the Physical Planning Act;
- (h) detailed layout plan that complies with the Kenya Standard and approved by the relevant County Government;
- (i) detailed design drawings of the liquefied petroleum gas storage facility certified by a professional engineer in the mechanical field;
- (j) detailed design drawings for the liquefied petroleum gas storage facility's tank saddles, drainage and gas traps certified by a professional engineer in the civil or structural field; and
- (k) detailed designs for the firefighting system certified by a professional engineer in the mechanical field and a fire safety auditor which shall contain detailed calculations to prove the adequacy of the designs to prevent Boiling Liquid Expanding Vapor Explosion.

No. 6 of 1996.

(4) An application for a licence to store bulk liquefied petroleum gas shall meet the criteria set out in the First Schedule.

(5) Where bulk liquefied petroleum gas is stored in more than one premises, a separate licence shall be required for each premises.

10. A person intending to install a bulk liquefied petroleum gas storage facility for own use, shall —

- (a) declare the specific purpose for which the bulk liquefied petroleum gas is to be used;

Storage of bulk
liquefied
petroleum gas for
own use.

- (b) obtain a construction permit from the Authority; and
- (c) comply with regulations 9 (3) and 9 (4).

11. (1) The operator of a bulk liquefied petroleum gas storage facility shall not load or discharge liquefied petroleum gas to or from an unlicensed bulk liquefied petroleum gas transport vehicle.

Obligations of the operator of a bulk liquefied petroleum gas storage facility.

(2) The operator of a bulk liquefied petroleum gas storage facility shall not allow a bulk liquefied petroleum gas transport vehicle to be driven into his facility by a driver who is not in possession of a valid driver certificate issued by the Authority or its licensing agents.

(3) A person who contravenes this regulation shall be liable to the fine set out in the Fifth Schedule.

12. (1) A person shall not acquire or manufacture a standard capacity cylinder and valve for use in Kenya if the cylinder and the valve do not conform to the Kenya Standard provided that where a liquefied petroleum gas consumer acquires a cylinder from a licensee the obligation to ensure conformity of the cylinder and the valve shall lie with the licensee.

Acquisition of new cylinders and valves.

(2) A person who acquires a new cylinder shall declare it to the Authority not later than one calendar month from the date of acquisition.

(3) The declaration made in sub regulation (2) shall include the —

- (a) capacity and number of imported or locally manufactured cylinders;
- (b) landed cost of cylinders inclusive of all taxes for imported cylinders or ex-factory cost inclusive of all taxes for locally manufactured cylinders;
- (c) manufacturer's name and the country of origin of the cylinders; and
- (d) serial number for each cylinder.

(4) A person who contravenes this regulation shall be liable to the fine set out in the Fifth Schedule.

13. (1) A person shall not fill liquefied petroleum gas into cylinders unless he is the brand owner or has prior written consent from the brand owner.

Filling of liquefied petroleum gas.

(2) An application for a licence to fill liquefied petroleum gas into cylinders shall meet the requirements set out in the First Schedule.

(3) A copy of the consent in sub regulation 13(1) shall be submitted to the Authority by the brand owner.

(4) A person licensed to fill liquefied petroleum gas shall not fill cylinders that do not conform to the Kenya Standard.

(5) A person licensed to fill liquefied petroleum gas shall ensure that when every cylinder is filled, the —

- (a) accurate gross and tare weights of the filled cylinder are indicated on the body of the cylinder;
- (b) cylinder is fitted with an appropriate seal;
- (c) accurate records by unique serial numbers, capacities and net weights are maintained; and
- (d) relevant and clear safety messages are visibly appended on the body of the cylinder as set out in the Sixth Schedule.

14. The following acts constitute the unauthorized refilling of cylinders and any person who commits these acts shall be liable to the fine set out in the Fifth Schedule —

Prohibition
against
unauthorized
refilling.

- (a) refilling of a cylinder by a person or entity other than the brand owner or refilling of a cylinder without the prior written consent from the brand owner provided that such consent shall have been submitted to the Authority;
- (b) refilling of a cylinder that —
 - (i) does not bear the embossed markings of the brand or trade name; or
 - (ii) is defaced, tampered or bears illegible markings;
- (c) refilling of a cylinder that is due for repair, requalification or scrapping;
- (d) refilling of a cylinder directly from a bulk liquefied petroleum gas road transport vehicle;
- (e) decanting of liquefied petroleum gas from one cylinder to another cylinder save for safety reasons;
- (f) refilling of a cylinder from a facility or such other source that is not licensed by the Authority or its licensing agents;
- (g) refilling of a cylinder with a product or substance other than liquefied petroleum gas;
- (h) refilling of a cylinder with liquefied petroleum gas that does not conform to the Kenya Standard;
- (i) possession of a seal bearing a similar marking to another brand owner without written consent from the brand owner and such consent submitted to the Authority;
- (j) supply of a filled cylinder into the market without a seal; and
- (k) wholesale or retail of filled cylinders belonging to another brand owner without written consent from the brand owner and such consent submitted to the Authority.

15. Any of the following acts where performed without the written consent from the brand owner shall constitute willful damage of a cylinder and any person who commits these acts shall be liable to the fines set out in the Fifth Schedule —

Damage
cylinders. to

- (a) altering the brand name, symbol or any marking on the cylinder;

- (b) defacing or altering the shape of the cylinder;
- (c) removing or replacing a valve or a safety relief valve;
- (d) scrapping of an empty cylinder; or
- (e) repair or maintenance of a cylinder.

16. (1) A person licensed to transport bulk liquefied petroleum gas shall not permit any of his motor vehicles to load or discharge liquefied petroleum gas from or into a bulk liquefied petroleum gas storage facility that is not licensed under these Regulations except where the discharge is to a liquefied petroleum gas consumer.

Transport of bulk liquefied petroleum gas.

(2) A person who contravenes this regulation commits an offence and shall be liable to the fines set out in the Fifth Schedule.

17. (1) A person shall not transport more than three filled cylinders by road, except in accordance with the terms and conditions of a valid licence issued by the Authority or its licensing agents.

Transport of cylinders.

(2) An application for a licence to transport cylinders by road shall meet the requirements set out in the First Schedule.

(3) A person licensed to transport cylinders by road shall not permit any of his motor vehicles to load or off-load from or to a cylinder filling facility, wholesaler or retailer that is not licensed.

(4) A motor vehicle for use in the transport of cylinders shall be equipped with two serviced dry powder fire extinguishers of at least nine kilograms each.

(5) The arrangement of cylinders during transportation shall comply with the Kenya Standard.

18. (1) A person shall not undertake wholesale of liquefied petroleum gas in cylinders belonging to another brand owner without the prior written consent from the brand owner and such consent submitted to the Authority.

Wholesale of liquefied petroleum gas in cylinders.

(2) A person licensed to undertake wholesale of liquefied petroleum gas in cylinders shall not stock or offer for sale cylinders that do not conform to the Kenya Standard.

(3) A person licensed to undertake wholesale of liquefied petroleum gas in cylinders shall maintain records of each cylinder that is purchased or sold.

(4) The records in sub regulation (3) shall be maintained for at least one calendar year and shall contain the following information —

- (a) serial number of each cylinder;
- (b) cylinder brand;
- (c) date of purchase of each cylinder;
- (d) name of the business entity from which each cylinder was purchased;

- (e) date of resale of each cylinder;
- (f) name of retailer to which the cylinders were sold; and
- (g) net weight in kilograms of each cylinder sold.

(5) The Authority may require all licensees in liquefied petroleum gas cylinder business to subscribe to a common information technology platform for the ease of tracking sales of filled cylinders and submission of information required under the Act and these Regulations.

(6) A person who contravenes this regulation commits an offence and shall be liable to the fine set forth in the Fifth Schedule.

19. (1) A person shall not undertake the business of retail of liquefied petroleum gas in cylinders except in accordance with the terms and conditions of a valid licence issued by the County Government or its licensing agents.

Retail of liquefied petroleum gas in cylinders.

(2) Where the County Government does not have capacity to issue the licence in sub regulation (1), the Authority or its licensing agents shall issue the licence.

(3) An application for a licence for retail of liquefied petroleum gas in cylinders shall meet the requirements set out in the First Schedule and shall be made upon the payment of the fees specified in the Fourth Schedule.

(4) A person shall not undertake the business of retail of liquefied petroleum gas cylinders of another brand owner without prior written consent from the brand owner and such consent submitted to the respective County Government and the Authority.

(5) A person licensed to undertake the business of retail of liquefied petroleum gas in cylinders shall not stock or offer for sale cylinders that do not conform to the Kenya Standard.

(6) No person whether licensed or otherwise shall buy for resale liquefied petroleum gas in cylinders from a wholesaler who is not in possession of a licence issued by the Authority.

(7) A person licensed to undertake the business of retail of liquefied petroleum gas in cylinders, shall issue liquefied petroleum gas consumers with a receipt that shall include the following information

- (a) name, address and telephone number of the retailer;
- (b) name and telephone number of the liquefied petroleum gas consumer;
- (c) date of the sale;
- (d) cylinder brand;
- (e) serial number or quick response code of the cylinder;
- (f) serial number or quick response code of the seal;

- (g) net weight in kilograms of the cylinder; and
- (h) unit and total price of the transaction.

(8) A person who contravenes this regulation commits an offence and is liable to the fine set out in the Fifth Schedule.

20. A person who wishes to export liquefied petroleum gas in cylinders shall obtain prior written consent from the brand owner and such consent shall be submitted to the Authority for approval.

Export of liquefied petroleum gas in cylinders.

21. (1) Every brand owner shall —

Obligations of the brand owner.

- (a) ensure that its cylinders are in a good state of repair and are re-qualified in accordance with the Kenya Standard;
- (b) maintain a list of its authorized filling agents, wholesalers, retailers and cylinder requalification agents;
- (c) maintain the records of serial numbers or quick response codes and date of requalification of each cylinder;
- (d) maintain the serial numbers and date of sale of each cylinder;
- (e) Track cylinders by use of Radio Frequency Identification or quick response code or any other appropriate technology;
- (f) provide the relevant training and any relevant information to its approved filling agents, wholesalers and retailers on the safe storage and handling of cylinders;
- (g) ensure that cylinders are affixed with a notice informing consumers on the safe use, storage and handling of liquefied petroleum gas as prescribed in Sixth Schedule; and
- (h) obtain an appropriate insurance cover against injuries to liquefied petroleum gas consumers or third parties caused by faulty cylinders.

(2) A brand owner who contravenes sub regulation (1) commits an offence and shall be liable to the fine set out in the Fifth Schedule.

22. (1) A person shall not undertake the business of reticulation of liquefied petroleum gas without a valid licence issued by the County Government or its licensing agents.

Reticulation of liquefied petroleum gas.

(2) Where the County Government does not have capacity to issue the licence in sub regulation (1), the Authority or its licensing agents shall issue the licence.

(3) An application for a licence for the reticulation of liquefied petroleum gas shall meet the requirements set out in the First Schedule and shall be made upon the payment of the fees specified in the Fourth Schedule.

(4) A liquefied petroleum gas reticulation system shall conform to the provisions of the relevant Kenya Standard and be operated in accordance with Guidelines published by the Authority.

(5) The operator of a liquefied petroleum gas reticulation system shall obtain, maintain and safeguard wayleaves or rights of way where

the pipeline and incidental installation for liquefied petroleum gas distribution are located.

(6) A design for a liquefied petroleum gas reticulation system shall incorporate environment, health and safety standards and shall be certified by a professional engineer in the mechanical field.

(7) Each housing unit or consumer outlet shall have separate and functional metering system approved by the body responsible for Weights and Measures.

(8) The unit of sale of liquefied petroleum gas to liquefied petroleum gas consumers in a liquefied petroleum gas reticulation system shall be in kilograms.

(9) A person licensed to operate a liquefied petroleum gas reticulation system shall maintain an accidents and complaints register.

(10) The accidents register in sub regulation (9) together with the respective investigation reports shall be submitted to the Authority during application for renewal of the licence.

(11) Where a liquefied petroleum gas reticulation system serves more than one hundred housing units, the operator shall be required to maintain a liquefied petroleum gas consumer charter approved by the Authority.

(12) The operator of a liquefied petroleum gas reticulation system shall maintain a service contract for each liquefied petroleum gas consumer.

(13) The service contract in sub regulation (12) shall include the following —

- (a) name, address and telephone number of the operator and the liquefied petroleum gas consumer;
- (b) rights and obligations of the parties;
- (c) emergency response plan;
- (d) billing period and the mode of payment;
- (e) total cost per kilogram and the components thereof; and
- (f) dispute and complaints handling procedures.

(14) The operator of a liquefied petroleum gas reticulation system shall maintain records of all the bulk liquefied petroleum gas purchased and delivered which shall contain the —

- (a) respective times and dates;
- (b) registration number of the delivery vehicles;
- (c) name and licence number of the liquefied petroleum gas supplier; and
- (d) quantity of the liquefied petroleum gas.

23. (1) A person licensed to undertake liquefied petroleum gas business shall within forty eight hours notify the Authority in writing of any accident causing —

Reporting of accidents.

- (a) loss of life or personal injury;
- (b) damage to property or the environment; or
- (c) an explosion, spill or fire.

(2) The information to be submitted to the Authority shall include the following —

- (a) name of the owner and operator of the premises involved;
- (b) date and time of the incident and accident;
- (c) location and geographical spread of the incident or accident;
- (d) number of injuries and/or fatalities if any;
- (e) scale of environmental damage if any;
- (f) own and third party property damage if any;
- (g) in the case of a jetty, storage facility or pipeline give the number of days the infrastructure will continue to be out of service; and
- (h) description of the events leading to and the most probable cause of the incident and accident.

(3) A person licensed to undertake liquefied petroleum gas business who fails to comply with this regulation commits an offence and shall be liable to the fine set out in the Fifth Schedule.

24. (1) A person licensed to undertake liquefied petroleum gas business shall investigate any accident occurring with respect to a licensed activity and shall within fourteen days or any such extended period as approved by the Authority from the date of the accident submit a report containing the —

- (a) cause of the accident;
- (b) effects of the accident; and
- (c) proposed remedial measures and timelines thereof.

(2) The Authority shall review the report under sub regulation (1) within thirty days, and:

- (a) accept the report; or
- (b) request for adjustments; or
- (c) reject the report giving reasons and other directives.

(3) Notwithstanding sub regulations (1) and (2), the Authority may commission its own investigation.

(4) Where required, the person affected by the incident or accident shall be required to facilitate the Authority or its appointed agent or committee to undertake the investigation.

(5) No person shall obstruct, hinder or withhold such information as may be requested by the Authority's appointed agent or committee provided that such information was requested in the prescribed manner.

Investigation of accidents.

25. (1) A brand owner who wishes to operate under a Mutual Cylinder Exchange System shall — Mutual Cylinder Exchange System.
- (a) enter into a Mutual Cylinder Exchange Agreement with other interested parties; and
 - (b) apply in writing to the Authority for approval and attach —
 - (i) a copy of the Mutual Cylinder Exchange Agreement; and
 - (ii) an approval for the Mutual Cylinder Exchange System from the Competition Authority of Kenya.
- (2) Members of a Mutual Cylinder Exchange System may apply to the Authority to be recognized as a self-regulated organization.
- (3) The Authority shall satisfy itself that the agreement in sub regulation (1)(a) is not discriminatory and does not distort market competition.
- (4) The Authority shall within sixty days from the date of receipt of an application in sub regulation (1)(b), approve or reject the application.
- (5) Where the Authority rejects the application, the Authority shall communicate to the applicant in writing, of the decision and the reasons for the decision.
- (6) Where the Authority approves the agreement, the Authority shall communicate to the applicant in writing.
- (7) Parties to a Mutual Cylinder Exchange Agreement shall apply in writing to the Authority for approval —
- (i) whenever a new party becomes signatory to the Mutual Cylinder Exchange Agreement;
 - (ii) at the lapse of two years from the date of the immediate last approval of the Mutual Cylinder Exchange System.
- (8) The application in sub regulation (7) shall be accompanied by the documents specified in sub regulation (1)(b).
26. (1) A cylinder shall remain the property of the brand owner and a consumer shall pay a cylinder deposit where the liquefied petroleum gas consumer does not provide an empty cylinder in exchange during the purchase of liquefied petroleum gas in cylinders. Cylinder deposit.
- (2) A liquefied petroleum gas consumer who returns a cylinder to a brand owner shall be entitled to a full refund of the cylinder deposit.
27. (1) The Authority may appoint a brand caretaker in respect of a distressed brand owner to facilitate collection of cylinders from the market and refill the cylinders for such period as the Authority may determine. Brand caretaker.
- (2) The Authority shall by notice in the Gazette notify the public on the appointment of the brand caretaker.

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28. (1) Any penalties, fines, fees, expenses or other monies recoverable under these Regulations, the recovery of which is not otherwise specifically provided for, shall be a civil debt recoverable summarily. Penalties and fines.
- (2) The penalties and fines set out in the Fifth Schedule shall be determined by the Authority.
29. Any person who is dissatisfied with a decision of the Authority under these Regulations may appeal to the Energy and Petroleum Tribunal. Appeals.
30. Where any default in or contravention of any of the provisions of these Regulations is made for which no fine or penalty is expressly stated, the person so defaulting or contravening, shall on conviction, be liable to a fine not less than one hundred thousand shillings.. General penalty.
31. The transitional provisions set out in the Seventh Schedule shall apply. Transitional provisions.
32. The Energy (Liquefied Petroleum Gas) Regulations, 2009 are repealed. Repeal.
LN No. 121 of
2009

FIRST SCHEDULE

REQUIREMENTS FOR APPLICATION OF A NEW LICENCE (r. 5(2), 9(4), 13(2), 19(3), 22(3))

- I. Requirements for Licence for Import, Export and Wholesale of Bulk LPG
 1. Completed online application;
 2. Scan of original certificate of incorporation or business registration certificate;
 3. Scan of original CR 12 from registrar of companies or CR 13 from the Business Registration Service that is not older than 12 calendar months from the date of issue;
 4. Scan of original identification documents (National IDs or Passports) for all the company's directors or partners;
 5. Scan of original valid Single Business Permit from the County Government.
 6. Scan of original PIN Certificate.
 7. Scan of original valid tax compliance certificate;
 8. Scan of original valid Work permit Class "G" for foreign directors working in Kenya or notarized declaration of non-residence for foreign directors not residing in Kenya.
 9. Proof of access to a licensed storage facility through submitting scan of either:
 - (a) ownership of a licensed bulk LPG storage facility or a long term lease (minimum 5 years); or
 - (b) Valid hospitality agreement with a licensed bulk LPG Storage facility.
 10. Proof of presence in the market by submitting scan of either:
 - (a) throughput of at least 2,000 metric tons per annum; or
 - (b) Ownership of a cylinder brand.
- II. Requirements for Licence for Wholesale and Export of Bulk LPG
 1. Completed online application;
 2. Scan of original copy of certificate of incorporation or business registration certificate;
 3. Scan of original copy of CR 12 from registrar of companies or CR 13 from the Business Registration Service that is not older than 12 calendar months from the date of issue;
 4. Scan of original copies of identification documents (National IDs or Passports) for all the company's directors;
 5. Scan of original copy of a valid Single Business Permit from the County Government;
 6. Scan of original copy of PIN Certificate;
 7. Scan of original copy of a valid tax compliance certificate;

8. Scan of original copy of a valid Work Permit Class "G" for foreign directors working in Kenya or notarized declaration of non-residence for foreign directors not residing in Kenya.
 9. Proof of access to supply of LPG by submitting scan of either:
 - (a) a valid bulk LPG Import licence; or
 - (b) Supply agreement with a holder of a valid bulk LPG Import licence.
- III. Requirements for Licence for Storage and Wholesale of LPG in Cylinders
1. Completed online application;
 2. Scan of original copy of certificate of incorporation or business registration certificate;
 3. Scan of original copy of CR 12 from registrar of companies or CR 13 from the Business Registration Service that is not older than 12 calendar months from the date of issue;
 4. Scan of original copies of identification documents (National IDs or Passports) for all the company's directors;
 5. Scan of original copy of Single Business Permit from the County Government;
 6. Scan of original copy of PIN Certificate;
 7. Scan of original copy of a valid tax compliance certificate;
 8. Scan of original copy of a valid Work Permit Class "G" for foreign directors working in Kenya or notarized declaration of non-residence for foreign directors not residing in Kenya;
 9. Scan of original copy of a valid Certificate of Registration of Work Place;
 10. Scan of original copy of a valid Weighing Scale *Calibration Certificate* from the Department of Weights and Measures;
 11. Proof of authority to trade in a cylinder brand by submitting scan of either:
 - (a) Trade Mark registration certificate; or
 - (b) a valid copy of a written consent from the brand owner.
 12. Proof of safe premises by submitting scan of either:
 - (a) Proof of ownership or lease of a yard or warehouse; and
 - (b) A valid *Fire certificate* for the above premises.
 13. Scan of the applicant's *Customer Complaint Handling Procedures*.
- IV. Requirements for Licence for Storage and Retail of LPG in Cylinders
1. Completed online application;
 2. Scan of original copy of certificate of incorporation or business registration certificate;
 3. Scan of original copy of CR 12 from registrar of companies or CR 13 from the Business Registration Service that is not older than 12 calendar months from the date of issue.

4. Scan of original copies of identification documents (National IDs or Passports) for all the company's directors;
 5. Scan of original copy of Single Business Permit from the County Government;
 6. Scan of original copy of PIN Certificate;
 7. Scan of original copy of a valid tax compliance certificate;
 8. Scan of original copy of a valid Work Permit Class "G" for foreign directors working in Kenya or notarized declaration of non-residence for foreign directors not residing in Kenya;
 9. Scan of original copy of a valid Certificate of Registration of Work Place;
 10. Scan of original copy of a valid Weighing scale *Calibration Certificate* from the Department of Weights and Measures;
 11. Proof of safe premises by submitting scan of either:
 - (a) Proof of a retail facility conforming to the Kenya Standard; and
 - (b) A valid *fire certificate* for the above premises.
 12. Scan copy of the applicant's *Customer Complaint Handling Procedures*.
- V. Requirements to become a Brand Owner
1. Completed online application;
 2. Scan of original copy of certificate of incorporation or business registration certificate;
 3. Scan of original copy of CR 12 from registrar of companies or CR 13 from the Business Registration Service that is not older than 12 calendar months from the date of issue;
 4. Scan of original copies of identification documents (National IDs or Passports) for all the company's directors;
 5. Scan of original copy of Single Business Permit from the County Government;
 6. Scan of original copy of PIN Certificate;
 7. Scan of original copy of a valid tax compliance certificate;
 8. Scan of original copy of a valid Work permit Class "G" for foreign directors working in Kenya or notarized declaration of non-residence for foreign directors not residing in Kenya;
 9. Scan of original copy of Trade Mark registration certificate;
 10. Scan of original copy of a certificate of *Conformity of the Cylinders* to the Kenya Standard;
 11. Proof of ownership of Standard Capacity Cylinders by submitting scan of either:
 - (a) Proof of ownership of a minimum of five thousand cylinders of individual capacities of 0.5, 1, 3, 6 or 13 Kg fitted with Unified Valves; or
 - (b) A combination of any of the capacities in 11(a) totaling to a minimum five thousand and fitted with unified valves.

12. Inventory for each cylinder listed by:
 - (a) Serial number;
 - (b) Capacity; and
 - (c) Landed or ex-factory cost inclusive of all taxes.
13. Scan copy of a valid insurance policy against injuries to LPG Consumers and third parties related to faulty Cylinders; and
14. Scan copy of the applicant's *Customer Complaint Handling Procedures*.

VI. Requirements for Licence for Transport of Bulk LPG

1. Completed online application;
2. Scan of original copy of certificate of incorporation or business registration certificate;
3. Scan of original copy of CR 12 from registrar of companies or CR 13 from the Business Registration Service that is not older than 12 calendar months from the date of issue;
4. Scan of original copies of identification documents (National IDs or Passports) for all the company's directors;
5. Scan of original copy of Single Business Permit from County Government;
6. Scan of original copy of PIN Certificate;
7. Scan of original copy of a valid tax compliance certificate;
8. Scan of original copy of a valid Work permit Class "G" for foreign directors working in Kenya or notarized declaration of non-residence for foreign directors not residing in Kenya;
9. Scan of original copy of a valid certificate of calibration for the Bulk LPG tank mounted on each Bulk LPG transport vehicle;
10. Scan copy of a comprehensive emergency preparedness and response plan;
11. *Scan of original copy of Certificate of Conformity to the Kenya Standard for each Bulk LPG transport vehicle;*
12. Scan of original copy of a valid Fire certificate from the County Government for each Bulk LPG transport vehicle;
13. Scan of original copy of a valid *Report on Examination* for the LPG tank mounted on each Bulk LPG transport vehicle.
14. Scan of original copy of a valid *Motor Vehicle Inspection* certificate for each Bulk LPG transport vehicle;
15. Proof of fitting each vehicle with a working GPS enabled tracking system;
16. Scan of original copy of logbook for each Bulk LPG transport vehicle. The logbook shall be in the name of the applicant and in absence of such, the applicant shall provide a valid lease agreement with the Bulk LPG transport vehicle owner; and

17. List of drivers to be engaged plus the Driver Certificate number for each driver as issued by the Authority.

VII. Requirements for licence for Transport of LPG in Cylinders

1. Completed online application;
2. Scan of original copy of certificate of incorporation or business registration certificate;
3. Scan of original copy of CR 12 from registrar of companies or CR 13 from the Business Registration Service that is not older than 12 calendar months from the date of issue;
4. Scan of original copies of identification documents (National IDs or Passports) for all the company's directors;
5. Scan of original copy of Single Business Permit from the County Government;
6. Scan of original copy of PIN Certificate;
7. Scan of original copy of a valid tax compliance certificate;
8. Scan of original copy of a valid Work permit Class "G" for foreign directors working in Kenya or notarized declaration of non-residence for foreign directors not residing in Kenya;
9. Scan of comprehensive emergency preparedness and response plan;
10. Scan of original copy of Certificate of Conformity with the Kenya Standard for each vehicle;
11. Scan of original copy of a Fire certificate from the County Government for each vehicle;
12. Scan of original copy of logbook for the cylinder transport vehicle. The logbook shall be in the name of the applicant and in absence of such, the applicant shall provide a valid lease agreement with the Cylinder transport vehicle owner ;
13. Scan of original copy of a valid *Motor Vehicle Inspection* certificate for the transport vehicle;
14. List of drivers to be engaged plus the Driver Certificate number for each driver as issued by the Authority.

VIII. Requirements for Licence for Storage of Bulk LPG

1. Completed online application;
2. Scan of original copy of certificate of incorporation or business registration certificate;
3. Scan of original copy of CR 12 from registrar of companies or CR 13 from the Business Registration Service that is not older than 12 calendar months from the date of issue;
4. Scan of original copies of identification documents (National IDs or Passports) for all the company's directors;
5. Scan of original copy of Single Business Permit from the County Government;
6. Scan of original copy of PIN Certificate;

7. Scan of original copy of valid tax compliance certificate;
 8. Scan of original copy of a valid Work permit Class "G" for foreign directors working in Kenya or notarized declaration of non-residence for foreign directors not residing in Kenya;
 9. Proof of control of a Bulk LPG storage facility by submitting scan copy of either:
 - (a) Ownership documents; OR
 - (b) Long term lease (minimum 5 years)
 10. Scan of original copy of an Environmental Impact Assessment Licence;
 11. Scan of original copy of Certificate of Compliance with the Physical Planning Act;
 12. Scan of original copy of Certificate of Conformity with the Kenya Standard;
 13. Scan of original copy of a valid Fire Certificate from the County Government;
 14. Scan of original copy of a valid Report of Examination for the Bulk LPG storage tank;
 15. Scan of original copy of a valid Calibration Certificate for each Bulk LPG storage tank;
 16. Proof of access to a calibrated weighbridge by submitting scan copy of either:
 - (a) Ownership of a calibrated weighbridge; OR
 - (b) Long term agreement for use of a calibrated weighbridge (minimum 5 years)
 17. Scan of original copy of a valid copy of Certificate of Registration of Work Place;
 18. Proof of training of a minimum of four employees in safe handling of LPG in a NITA approved institution; and
 19. Scan copy of a signed Emergency Response Plan for the Facility.
- IX. Requirements for Licence for Storage and Filling of LPG in Cylinders
1. Completed online application;
 2. Scan of original copy of certificate of incorporation or business registration certificate;
 3. Scan of original copy of CR 12 from registrar of companies or CR 13 from the Business Registration Service that is not older than 12 calendar months from the date of issue;
 4. Scan of original copies of identification documents (National IDs or Passports) for all the company's directors;
 5. Scan of original copy of Single Business Permit from the County Government;
 6. Scan of original copy of PIN Certificate;
 7. Scan of original copy of a valid tax compliance certificate;

8. Scan of original copy of a valid Work permit Class "G" for foreign directors working in Kenya or notarized declaration of non-residence for foreign directors not residing in Kenya;
 9. Proof of control of a LPG storage facility by submitting scan of either:
 - (a) Ownership documents of a Bulk LPG storage facility; OR
 - (b) Long term lease (minimum 5 years).
 10. Scan of original copy of a valid Environmental Impact Assessment Licence;
 11. Scan of original copy of a valid Certificate of Compliance with the Physical Planning Act;
 12. Scan of original copy of a valid Certificate of Conformity to the Kenya Standard;
 13. Scan of original copy of a valid Fire Certificate from the County Government;
 14. Scan of original copy of a valid Report on Examination for each Bulk LPG storage tank;
 15. Scan of original copy of a valid Calibration Certificate for each Bulk LPG storage tank;
 16. Scan of original copy of a valid Certificate of Registration of Work Place;
 17. Proof of training of a minimum of four employees in the safe handling of LPG in a NITA approved institution;
 18. Proof of economic viability of the plant by submitting scan of either:
 - (a) Proof of ownership of at least 5,000 Cylinders of either or combination of 0.5, 1, 3, 6 or 13kg capacities fitted with unified valves; OR
 - (b) Written contract to fill LPG in cylinders on behalf of a licensed brand owner with an assurance of allocated filling capacity of at least 5,000 LPG cylinders per annum.
 19. Scan of original copy of Weighing scale *Calibration Certificate* from the Department of Weights and Measures;
 20. Proof of access to a calibrated weighbridge by submitting scan of either:
 - (a) Ownership of a calibrated weighbridge; OR
 - (b) Long term agreement on a calibrated weighbridge use (minimum 5 years)
 21. Scan of signed copy of Emergency Response Plan for the Facility.
 22. Scan of *Customer Complaint Handling Procedures* in compliance with LN 49/2012 and
 23. Proof of installation of intrinsically safe non-obscured Closed Circuit Television (CCTV) cameras at the filling area with access given to the Authority via a web-based portal.
- X. Licensing Requirements to operate a reticulated LPG System
1. Completed online application;

2. Scan of original copy of certificate of incorporation or business registration certificate;
3. Scan of original copy of CR 12 from registrar of companies or CR 13 from the Business Registration Service that is not older than 12 months from the date of issue;
4. Scan of original copies of identification documents (National IDs or Passports) for all the Company's directors;
5. Scan of original copy of Single Business Permit from the County Government;
6. Scan of original copy of PIN Certificate;
7. Scan of original copy of a valid tax compliance certificate;
8. Scan of original copy of a valid Work permit Class "G" for foreign directors for directors working in Kenya or notarized declaration of non-residence for foreign directors not residing in Kenya;
9. Proof of access to legal supply of Bulk LPG by submitting scan of either:
 - (a) A copy of a valid licence for Import, Export and Wholesale of Bulk LPG; or
 - (b) A copy of a supply agreement with a holder of a valid licence for Import, Export and Wholesale of Bulk LPG.
10. Scan of original copy of an Environmental Impact Assessment Licence;
11. Scan of original copy of a Certificate of Conformity to the Kenya Standard;
12. Scan of original copy of a Certificate of compliance with the building code.
13. Scan of original copy of a Fire Certificate from the County Government;
14. Scan of original copy of a valid Report on Examination for each Bulk LPG;
15. Scan of original copy of a valid Calibration Certificate for each Bulk LPG storage tank.
16. Scan of original copy of a valid Calibration Certificate for the metering equipment to be connected to LPG Consumers.
17. Scan of signed Emergency Response Plan for the Facility.
18. Scan of copy of an LPG Consumer customer charter where applicable;
19. Scan of copy of an LPG Customer Service Contract where applicable; and
20. Scan of copy of the applicant's Customer Complaint Handling Procedures.

SECOND SCHEDULE

APPLICATION FOR RENEWAL OF A LICENCE

(r. 7 (2))

- I. Requirements for renewal of licence for Import, Export and Wholesale of Bulk LPG
 1. Completed online application;
 2. Scan of original copy of CR 12 from registrar of companies or CR 13 from the Business Registration Service that is not older than 12 months from the date of issue;
 3. Scan of original copies of identification documents (National IDs or Passports) for the company's directors.
 4. Scan of original copy of a valid Work permit Class "G" for foreign directors working in Kenya or notarized declaration of non-residence for foreign directors not residing in Kenya;
 5. Scan of original copy of a valid Single Business Permit from County Government;
 6. Scan of original copy of a valid tax compliance certificate;
 7. Proof of access to a licensed storage facility by submitting scan of either:
 - (a) Ownership documents of a licensed Bulk LPG storage facility or long term lease (minimum 5 years); or
 - (b) A valid hospitality agreement with a licensed Bulk LPG Storage facility.
 8. Proof of presence in the market by submitting a scan of either:
 - (a) Throughput of at least 2,000 metric tons per annum; or
 - (b) Ownership of a licensed LPG Cylinder brand; and
 9. Proof of compliance with Legal Notice No. 6 of 2014 on timely and accurate submission of required petroleum statistics.
- II. Requirements for renewal of licence for Wholesale and Export of Bulk LPG
 1. Completed online application;
 2. Scan of original copy of CR 12 from registrar of companies or CR 13 from the Business Registration Service that is not older than 12 months from the date of issue;
 3. Scan of original copies of identification documents (National IDs or Passports) for the company's directors;
 4. Scan of original copy of a valid Work permit Class "G" for foreign directors working in Kenya or notarized declaration of non-residence for foreign directors not residing in Kenya;
 5. Scan of original copy of a valid Single Business Permit from the County Government;
 6. Scan of original copy of a valid tax compliance certificate;
 7. Proof of access to supply of Bulk LPG by submitting scan of either of the following:

- (a) A valid Bulk LPG Import licence; or
- (b) A valid supply agreement with a holder of a valid Bulk LPG Import licence.

III. Requirements for renewal of licence for Storage and Wholesale of LPG in Cylinders

1. Completed online application;
2. Scan of original copy of CR 12 from registrar of companies or CR 13 from the Business Registration Service that is not older than 12 months from the date of issue;
3. Scan of original copies of identification documents (National IDs or Passports) for the company's directors.
4. Scan of original copy of a valid Work permit Class "G" for foreign directors working in Kenya or notarized declaration of non-residence for foreign directors not residing in Kenya;
5. Scan of original copy of a valid Single Business Permit from the County Government;
6. Scan of original copy of a valid tax compliance certificate;
7. Scan of original copy of a valid weighing scale *calibration certificate* from the Department of Weights and Measures;
8. Scan of original copy of a valid work place registration certificate;
9. Proof of authority to trade in the Cylinder brand by providing scan of either:
 - (a) Copy of original Trade Mark registration certificate; and
 - (b) A valid copy of a written consent from the brand owner.
10. Proof of safe premises by submitting scan of either:
 - (a) Proof of ownership or lease of a yard or warehouse
 - (b) A valid Fire certificate for the above premises
11. Proof of compliance with Corrective Action Plans given during audits; and
12. Scan of report and list of reported and resolved customer complaints.

IV. Requirements for renewal of licence for Storage and Retail of LPG in Cylinders

1. Completed online application;
2. Scan of original copy of CR 12 from registrar of companies or CR 13 from the Business Registration Service that is not older than 12 months from the date of issue;
3. Scan of original copies of identification documents (National IDs or Passports) for the company's directors;
4. Scan of original copy of a valid Work permit Class "G" for foreign directors working in Kenya or notarized declaration of non-residence for foreign directors not residing in Kenya;
5. Scan of original copy of a valid Single Business Permit from the County Government;

6. Scan of original copy of a valid tax compliance certificate;
 7. Scan of original copy of a valid weighing scale *Calibration Certificate* from the Department of Weights and Measures;
 8. Scan of a valid original copy of work place registration certificate;
 9. Requirement for safe premises by submitting scan of either:
 - (a) Proof of ownership of an approved LPG cage for retail
 - (b) A valid *fire certificate* for the above premises' and
 10. Proof of compliance with Corrective Action Plans given during audits.
- V. Requirements for renewal of licence for Transport of Bulk LPG
1. Completed online application;
 2. Scan of original copy of CR 12 from registrar of companies or CR 13 from the Business Registration Service that is not older than 12 months from the date of issue;
 3. Scan of original copies of identification documents (National IDs or Passports) for the company's directors;
 4. Scan of original copy of a valid Work permit Class "G" for foreign directors working in Kenya or declaration of non-residence for foreign directors not residing in Kenya;
 5. Scan of original copy of a valid Single Business Permit from the County Government;
 6. Scan of original copy of a valid tax compliance certificate;
 7. Scan of copy of a valid certificate of calibration for the LPG tank mounted on each Bulk LPG road transport vehicle;
 8. Scan of a comprehensive emergency preparedness and response plan
 9. *Scan of original copy of a Certificate of conformity* to the Kenya Standard for each Bulk LPG road transport vehicle;
 10. Scan of original copy of a fire certificate from the County Government;
 11. Scan of original copy of a valid *Report on Examination* for the LPG tank mounted on each Bulk LPG road transport vehicle;
 12. Scan of original copy of a valid *Motor Vehicle Inspection* certificate for each Bulk LPG road transport vehicle;
 13. Proof of fitting all the vehicles with a working GPS enabled tracking system;
 14. Scan of original copy of logbook for each Bulk LPG road transport vehicle. The logbook shall be in the name of the applicant and in absence of such; the applicant shall provide valid lease agreements with the truck owner.
 15. List of drivers to be engaged plus the Driver Certificate number for each driver as issued by the Authority;
 16. Proof of compliance with Corrective Action Plans given during audits.
- VI. Requirements for renewal of licence for transport of LPG in cylinders

1. Completed online application;
 2. Scan of original copy of CR 12 from registrar of companies or CR 13 from the Business Registration Service that is not older than 12 months from the date of issue;
 3. Scan of original copies of identification documents (National IDs or Passports) for the company's directors;
 4. Scan of original copy of a valid Work permit Class "G" for foreign directors working in Kenya or notarized declaration of non-residence for foreign directors not residing in Kenya;
 5. Scan of original copy of a valid Single Business Permit from the County Government;
 6. Scan of original copy of valid tax compliance certificate;
 7. Scan of a comprehensive emergency preparedness and response plan in compliance to Legal Notice No. 8 of 2014.
 8. *Scan of original copy of certificate of Conformity to the Kenya Standard for the transport vehicle;*
 9. Scan of original copy of a fire certificate from the *County Government;*
 10. Scan of original copy of logbook for each vehicle. The logbook shall be in the name of the applicant and in absence of such, the applicant shall provide valid lease agreements with the truck owner;
 11. Scan of original copy of a valid *Motor Vehicle Inspection* certificate for the transport vehicle;
 12. List of drivers to be engaged plus the Driver Certificate number for each driver as issued by the Authority; and
 13. Proof of compliance with Corrective Action Plans given during audits.
- VII. Requirements for renewal of licence for storage of bulk LPG
1. Completed online application;
 2. Scan of original copy of CR 12 from registrar of companies or CR 13 from the Business Registration Service that is not older than 12 months from the date of issue;
 3. Scan of original copies of identification documents (National IDs or Passports) for the company's directors.
 4. Scan of original copy of a valid Work permit Class "G" for foreign directors working in Kenya or declaration of non-residence for foreign directors not residing in Kenya;
 5. Scan of original copy of a valid Single Business Permit from the County Government;
 6. Scan of original copy of a valid tax compliance certificate;
 7. Proof of control of a LPG storage facility by submitting scan of either:
 - (a) Ownership documents of a LPG storage facility; OR

- (b) Long term lease (minimum 5 years)
 8. Scan of proof of *Submission of Annual Environmental Audit* to NEMA;
 9. *Scan of original copy of a valid Fire Certificate* from the County Government;
 10. Scan of original copy of a valid *Report on Examination* for bulk LPG storage tanks;
 11. Scan of original copy of a valid *Calibration Certificate* for each Bulk LPG storage tank;
 12. Proof of access to a calibrated weighbridge by submitting scan of either:
 - (a) Ownership of a calibrated weighbridge; OR
 - (b) Long term agreement on use of a calibrated weighbridge use (minimum 5 years)
 13. Scan of original copy of a valid *Certificate of Registration of Work Place* in compliance with the Occupational Health and Safety Act, 2007;
 14. Scan of proof of training of a minimum of 4 employees in the handling of LPG in a NITA approved institution;
 15. Proof of compliance with Corrective Action Plans given during audits; and
 16. Proof of compliance with Legal Notice No. 6 of 2014 on timely and accurate submission of required petroleum statistics (via online platform to the Authority).
- VIII. Requirements for renewal of licence for storage of bulk LPG and filling of cylinders
1. Completed online application;
 2. Scan of original copy of CR 12 from registrar of companies or CR 13 from the Business Registration Service that is not older than 12 months from the date of issue;
 3. Scan of original copies of identification documents (National IDs or Passports) for the company's directors;
 4. Scan of original copy of a valid Work permit Class "G" for foreign directors working in Kenya or notarized declaration of non-residence for foreign directors not residing in Kenya;
 5. Scan of original copy of a valid Single Business Permit from the County Government;
 6. Scan of original copy of a valid tax compliance certificate;
 7. Proof of control of a LPG storage facility by submitting scan of either:
 - (a) Ownership documents of a LPG storage facility; OR
 - (b) Long term lease (minimum 5 years).
 8. Scan of proof of *Submission of Annual Environmental Audit* to NEMA;
 9. *Scan of original copy of a Fire Certificate* from the County Government;
 10. Scan of copy of a valid *Report on Examination* for the Bulk LPG storage tanks;

11. Scan of original copy of a valid *Calibration Certificate* for each Bulk LPG storage tank;
 12. Scan of original copy of a valid copy of *Certificate of Registration of Work Place*;
 13. Scan of proof of training of a minimum of 4 employees involved in the handling of LPG in a NITA approved institution;
 14. Proof of economic viability of the plant by submitting scan of either:
 - (a) Proof of ownership of at least 10,000 Cylinders of own brand in the 2nd year of operation; 15,000 in the 3rd year of operation and 20,000 in the 4th year of operation; or
 - (b) Written contract to fill LPG in Cylinders on behalf of a licensed brand owner with an assurance of allocated filling capacity of at least 5,000 LPG Cylinders per annum.
 15. Scan of original copy of weighing scale *Calibration Certificate* from the Department of Weights and Measures;
 16. Proof of installation of intrinsically safe non-obscured Closed Circuit Television (CCTV) cameras at the filling area with access given to the Authority via a web-based portal.
 17. Proof of compliance with Corrective Action Plans given during audits.
 18. Proof of compliance with Legal Notice No. 6 of 2014 on timely and accurate submission of required petroleum statistics; and
 19. Scan of report and list of reported and resolved customer complaints.
- IX. Requirements for renewal of licence to operate a reticulated LPG system
1. Completed online application;
 2. Scan of original copy of CR 12 from registrar of companies or CR 13 from the Business Registration Service that is not older than 12 months from the date of issue;
 3. Scan of original copies of identification documents (National IDs or Passports) for the company's directors.
 4. Scan of original copy of a valid Work permit Class "G" for foreign directors working in Kenya or notarized declaration of non-residence for foreign directors not residing in Kenya;
 5. Scan of original copy of a valid Single Business Permit from the County Government;
 6. Scan of original copy of a valid tax compliance certificate;
 7. Proof of access to legal supply of LPG by submitting scan of either:
 - (a) A copy of a valid Import, Export and Wholesale of bulk LPG licence; or
 - (b) Supply agreement with a holder of a valid Import, Export and Wholesale of bulk LPG licence.
 8. Scan of proof of *Submission of Annual Environmental Audit* to NEMA.

9. Scan of original copy of a valid *Fire Certificate* from the County Government;
10. Scan of original copy of a valid *Report on Examination* for Bulk LPG storage tanks;
11. Scan of original copy of a valid *Calibration Certificate* for each Bulk LPG storage tank;
12. Scan of original copy of a valid *Calibration Certificate* of the metering equipment to be connected to LPG Consumers;
13. Proof of compliance with Corrective Action Plans given during audits.
14. Proof of compliance with Legal Notice No. 6 of 2014 on timely and accurate submission of required petroleum statistics (via online platform to the Authority); and
15. Scan of report and list of reported and resolved customer complaints.

THIRD SCHEDULE

FORM OF LPG LICENCE

(r. 6)

Serial No.:.....

THE PETROLEUM ACT, 2019

LIQUEFIED PETROLEUM GAS BUSINESS LICENCE

Licence No. EPRA/LPG/ _____

Licence is hereby granted to _____ of P.O. Box
 _____ to carry on the following petroleum businesses:

TYPE OF LPG BUSINESS

On premises situated at:

Plot No. : _____

Building : _____

Road : _____

Town/County : _____

Licence issue date : _____

Licence Expiry date : _____

(SEAL)

Signature: _____

Issued under the authority of the Director General
 Energy and Petroleum Regulatory Authority

FOURTH SCHEDULE

APPLICABLE LICENCE FEES

(r 5(2), 7(2), 19(3), 22(3))

TYPE OF LICENCE	NEW APPLICATION	RENEWAL APPLICATION
Import of Bulk LPG	Kshs.20,000	Kshs.10,000
Export of Bulk LPG	Kshs.8,000	Kshs.5,000
Wholesale of Bulk LPG	Kshs.8,000	Kshs.5,000
Transport of Bulk LPG	Kshs.10,000	Kshs.5,000
Storage of Bulk LPG or Operation of LPG reticulation system	Kshs.20,000	Kshs.10,000
Filling of LPG into cylinders	Kshs.20,000	Kshs.10,000
Export of LPG in cylinders	Kshs.10,000	Kshs.5,000
Wholesale of LPG in cylinders	Kshs.8,000	Kshs.5,000
Retail of LPG in cylinders	Kshs.5,000	Kshs.2,000

FIFTH SCHEDULE

OFFENCES, PENALTIES AND FINES (r 4(2), 8(9), 11(3),12(4), 14, 15, 16(2), 18(6), 19(8), 21(2), 23(3), 28(2))

Offence	Penalty/Fine in Kenya Shillings
Importation, exportation or transportation of LPG without a valid licence issued by the Authority	Not less than KShs. 10,000,000
Resale of bulk LPG to another person for purposes of export or retail or final use without a valid licence issued by the Authority	Not less than KShs. 1,000,000
Use of a vehicle for purposes of transport of bulk LPG that does not possess a valid permit issued by the Authority	Not less than KShs. 1,000,000
Driving a vehicle or engaging a driver for the purpose of transport of bulk LPG without a valid driver certificate issued by the Authority	Not less than KShs. 250,000
Non-display of original or certified copy of licence or permit issued by the Authority at the premises of operation	Not exceeding KShs. 1,000,000
Operation of a non-licensed LPG facility	Not less than KShs. 10,000,000
Import of LPG through undesignated routes	A fine not less than Kshs. 200,000
Non-declaration of the load port for imported Bulk LPG and the quantity imported	25% of the customs value of the Bulk LPG
Falsified declaration of quantities of imported bulk LPG	25% of the customs value of the Bulk LPG
Non-declaration of the final destination of imported Bulk LPG	25% of the customs value of the Bulk LPG
Non-submission of Bulk LPG import data on a monthly basis	KShs. 100,000 for each month not submitted
Non-submission of cylinders import data on a monthly basis	KShs. 100,000 for each month not submitted
Supply of Bulk LPG to facilities not licensed under these Regulations other than LPG consumer facilities.	Kshs. 500,000 for each delivery to a non-licensed facility

<i>Offence</i>	<i>Penalty/Fine in Kenya Shillings</i>
Refilling, trading or rebranding of cylinders without the brand owner's consent	Not less Kshs. 10,000,000
Unauthorized possession of LPG Seals without the brand owner's authority	Kshs. 20,000 for each seal found within the premises
Stocking or offering for sale Cylinders that don't meet Kenya Standards	KShs. 20,000 for each non-conforming cylinder
Failure by Cylinder Wholesalers to maintain mandatory records prescribed in these Regulations	Kshs. 50,000
Failure by LPG licensee to comply with the obligations set forth in these Regulations.	Not less than Kshs. 200,000 for each offence
Obstruction of inspection officers from the Authority or its licensing agents.	Kshs. 100,000 for each day the obstruction occurs
Failure to report an LPG related accident within the prescribed 48 hour period	Not less than Kshs. 200,000 for every accident not reported within 48 hours

SIXTH SCHEDULE

MINIMUM SAFETY INFORMATION ON LPG CYLINDER REFILL (r 13(5)(d), 21(1)(g))

1. Company details:
 - a. Brand name.
 - b. Customer service number.
 - c. Emergency contacts.
 - d. KEBS standardization mark.
2. What to check when buying LPG during cylinder refill:
 - a. Check condition of valve.
 - b. Weight of cylinder against tare weight.
 - c. Check that the seal is intact and genuine.
 - d. Request cylinder use demonstration if not sure.
3. How to handle and store:
 - a. Keep the cylinder in upright position when transporting and storing.
 - b. Observe separation distance between cylinder and stove/ cooker/ oven (a minimum separation distance of 30 cm is recommended).
 - c. Keep the cylinder in an airy place.
 - d. Do not rollover, throw or bang the cylinder.
 - e. Do not store cylinders in exits or aisles.
 - f. Avoid exposing cylinders to rain and direct sun.
4. How to use LPG cylinder
 - a. Ensure the hose, regulator or burner is well fitted.

<i>Offence</i>	<i>Penalty/Fine in Kenya Shillings</i>
Refilling, trading or rebranding of cylinders without the brand owner's consent	Not less Kshs. 10,000,000
Unauthorized possession of LPG Seals without the brand owner's authority	Kshs. 20,000 for each seal found within the premises
Stocking or offering for sale Cylinders that don't meet Kenya Standards	KShs. 20,000 for each non-conforming cylinder
Failure by Cylinder Wholesalers to maintain mandatory records prescribed in these Regulations	Kshs. 50,000
Failure by LPG licensee to comply with the obligations set forth in these Regulations.	Not less than Kshs. 200,000 for each offence
Obstruction of inspection officers from the Authority or its licensing agents.	Kshs. 100,000 for each day the obstruction occurs
Failure to report an LPG related accident within the prescribed 48 hour period	Not less than Kshs. 200,000 for every accident not reported within 48 hours

SIXTH SCHEDULE

MINIMUM SAFETY INFORMATION ON LPG CYLINDER REFILL (r 13(5)(d), 21(1)(g))

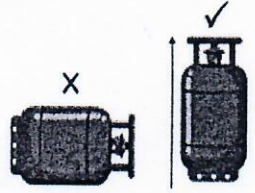




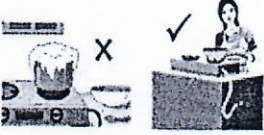



1. Company details:
 - a. Brand name.
 - b. Customer service number.
 - c. Emergency contacts.
 - d. KEBS standardization mark.
2. What to check when buying LPG during cylinder refill:
 - a. Check condition of valve.
 - b. Weight of cylinder against tare weight.
 - c. Check that the seal is intact and genuine.
 - d. Request cylinder use demonstration if not sure.
3. How to handle and store:
 - a. Keep the cylinder in upright position when transporting and storing.
 - b. Observe separation distance between cylinder and stove/ cooker/ oven (a minimum separation distance of 30 cm is recommended).
 - c. Keep the cylinder in an airy place.
 - d. Do not rollover, throw or bang the cylinder.
 - e. Do not store cylinders in exits or aisles.
 - f. Avoid exposing cylinders to rain and direct sun.
4. How to use LPG cylinder
 - a. Ensure the hose, regulator or burner is well fitted.

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- b. When using a rubber hose, ensure there are no visible cracks. Replace hose after three years.
 - c. Strike match before turning on LPG burner or regulator.
 - d. Never leave the burner un-attended during use.
 - e. Ensure to turn off LPG burner or regulator after use.
 - f. Ensure that you get LPG from genuine gas suppliers and source.
5. What to do in case of LPG leakage:
- a. When you smell LPG odor, do not panic.
 - b. Don't turn on any electrical appliances or light switch.
 - c. Turn off LPG regulator.
 - d. LPG is heavier than air; hence open the lowest openings such as doors, in addition to windows.
 - e. Remove the cylinder out of the room.
 - f. Inform the wholesaler or the brand owner.

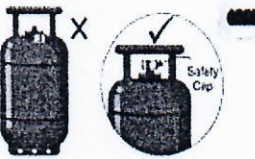


Sample poster

Dear customer,
 Congratulations on receiving gas [REDACTED]
 Here are a few tips to use your LPG in the right and safest way.

Steps to keep in mind while using LPG

<p>Always keep the cylinder in upright position.</p> 	<p>Keep the gas stove minimum 6 inches above the cylinder on a stable surface. Also always cook while standing.</p> 	<p>Do not place the gas stove where there is strong wind flow.</p> 
<p>Do not use any inflammable items in the kitchen other than the gas cylinder.</p> 	<p>Always light the match stick before turning on the gas stove.</p> 	<p>Avoid other work while cooking and always be present near the stove. Always use a cotton apron while cooking.</p> 
<p>Always use long to hold the hot vessel used to cook and avoid using cloth.</p> 	<p>Always keep the regulator switch off while sleeping or going out.</p> 	<p>If you smell LPG in air, avoid switching on electric switches, lighter and matches. Open windows and doors immediately.</p> 

Steps to follow in case you smell gas in the air

<p>In case of gas leakage, put on the safety cap, leave it in the open and contact the distributor immediately.</p> 	<p>In case of any gas leakage, contact your local gas distributor or call Helpline no. [REDACTED]</p> 	<p>Always replace the safety hose every 5 years. Avoid trying to repair the gas stove on your own.</p> 
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SEVENTH SCHEDULE

TRANSITIONAL CLAUSES

(r 31)

1. For the purposes of this Schedule —

“creditor” means a brand owner to whom the debt is owed;

LN 121/2009

“Repealed Regulations” means the Energy (Liquefied Petroleum Gas) Regulations, 2009;

“members” means the members of the Liquefied Petroleum Gas Cylinder Exchange Pool; and

“Pool” means the Liquefied Petroleum Gas Cylinder Exchange Pool established under regulation 14 of the Repealed Regulations

2. The Pool shall be dissolved once these Regulations come into force.

3. Notwithstanding paragraph 2 of this Schedule, the Liquefied Petroleum Gas Cylinder Exchange Pool Committee constituted under the Repealed Regulations shall remain in office for a maximum period of six months from the date of coming into force of these Regulations and any costs borne by the Pool during this period shall be borne by all the members.

4. (1) The Pool shall within four calendar months reconcile all cylinder exchange records and issue final invoices and the debt status for each brand owner.

(2) Each brand owner shall verify the accuracy of all the invoices issued by the Pool.

5. A brand owner shall declare to the Pool, the number of competitors' cylinders in his possession within one month of the coming into force of these Regulations and the Pool shall notify the owner of the cylinders within two months of the coming into force of these Regulations.

6. A brand owner shall be required to collect his empty cylinder from the premises of a competitor premises within two months of such notice.

7. Where a brand owner fails to collect his cylinder after six months of the coming into force of these Regulations, the owner of the facility where the cylinder is stored shall —

(a) be at liberty to rebrand the cylinder to his own brand or dispose off the cylinder to recover any attendant costs; and

(b) inform the Authority in writing before undertaking such rebranding or disposal.

8. (1) Any debt incurred pursuant to the Pool that was vested against a person immediately before the commencement of these Regulations, shall be enforceable against the debtor where no physical cylinder is available for exchange.

(2) A brand owner may enter into commercial negotiations with his debtor to offset debts.

9. All brand owners shall within twelve months of the coming into force of these Regulations take stock of the total number of

cylinders in their possession and in circulation and declare such number to the Authority.

10. (1) An application for the renewal of licence by a brand owner, shall be granted where the brand owner has paid all the debts accrued pursuant to the obligations under the LPG Cylinder Exchange Pool Agreement and as verified in the final invoice issued under paragraph 4(1) of this Schedule.

(2) A brand owner shall submit a letter of confirmation of clearance of the debt from the creditor.

11. (1) Every brand owner shall within two months of the coming into force of these Regulations declare to the Authority, points where consumers may return empty cylinders.

(2) The Authority shall publish the points in subparagraph (1) on its website.

Dated the 12th June, 2019.

JOHN MUNYES,
Cabinet Secretary for Petroleum & Mining.