

GOVERNMENT NOTICE NO. 253 published on 8/06/2018

THE WATER SUPPLY AND SANITATION ACT, 2009
(CAP.272)

REGULATIONS

[Made under sections 44(5)]

THE NATIONAL WATER INVESTMENT FUND REGULATIONS,
2018

ARRANGEMENT OF REGULATIONS

PART I
PRELIMINARY PROVISIONS

1. Citation.
2. Objectives of the Fund.
3. Interpretation .

PART II
SOURCES AND UTILIZATION OF FUNDS

4. Sources of funds.
5. Use of funds.
6. Execution of water projects.
7. Selection of water projects to be financed by the Fund.
8. Payment procedures.

PART III
POWERS AND FUNCTIONS OF THE BOARD

9. Powers of the Board
10. Functions of the Board
11. Administration of the Fund
12. Establishment and appointment of Secretariat
13. Functions of Secretariat
14. Annual report, accounts and financial audit

PART IV
DUTIES OF IMPLEMENTING AGENCY

15. Duties of implementing agency
16. Funding of projects
17. Funding criteria
18. Performance agreement
19. Submission of reports

PART V
GENERAL PROVISIONS

20. Monitoring of utilization of funds
21. Project files
22. Issuance of loans
23. Criteria for issuance of loans
24. Powers of the Minister
25. Repeal.

THE WATER SUPPLY AND SANITATION ACT, 2009
(CAP.272)

REGULATIONS

[Made under sections 44(5)]

THE NATIONAL WATER INVESTMENT FUND REGULATIONS,
2018

PART I
PRELIMINARY PROVISIONS

- Citation 1. These Regulations may be cited as the National Water Investment Fund Regulations, 2018.
- Objectives of the Fund 2.-(1) The objectives of the Fund shall be to provide investment support for water service provision, and management of catchment areas serving water supply abstractions, in areas of Mainland Tanzania which are without adequate water services.
(2) In attaining the objectives provided under sub-regulation (1), the Fund shall issue funds to implementing agencies for the purpose of executing water supply and sanitation projects especially for areas with lowest water supply coverage, management of catchment areas and development of water sources in Mainland Tanzania.
- Interpretation 3. In these regulations unless the context otherwise requires:
- Cap.272 “Act” means the Water Supply and Sanitation Act;
“applicant” means an Implementing Agency requesting for support of funds to execute water projects from the Fund under these Regulations;
- Cap.331 “Basin Water Board” means the Basin Water Board established under the Water Resources

- Management Act;
- “Board” Means the Board of Trustees of the Fund appointed in accordance with the Act;
- “Chief Executive Officer” means Chief Executive Officer of the Fund appointed under regulation 12;
- “Community Organisation” means the Community Owned Water Supply Organisation established in accordance with section 31 of the Act;
- “contingency” means amount of money budgeted for any unforeseen events;
- “Eligible Water Projects” means water projects which have met the criteria and selected to receive funds from the Fund;
- “Fund” means the National Water Investment Fund established under section 44 of the Act;
- “implementing agency” mean a legal entity which is eligible to receive funds from the Fund to undertake water projects under these Regulations;
- “Minister” means the Minister responsible for Water;
- “Water Authority” means the Water Supply and Sanitation Authority established under the Act;
- “Water Project” means project for the construction, expansion or rehabilitation of water supply and sanitation infrastructure; and development, protection and conservation of water resources.

PART II

SOURCES AND UTILIZATION OF FUNDS

Sources of funds

4. The Fund sources shall consist of-
- (a) monies as may be appropriated by Parliament for the purposes of the Fund;
 - (b) monies received from donations, grants and bequeaths; and
 - (c) such monies as may, by or under any other Act, be payable to the Fund.

Use of the funds

- 5.-(1) The monies deposited in the Fund shall be

utilized in financing the eligible water priority projects.

(2) Without prejudice to sub-regulation (1) the monies shall be allocated in the following manner-

- (a) not less than eighty eight percent of the monies deposited in the Fund shall be used for capital investment expenditure of water projects;
- (b) not more than ten percent of the monies deposited in the Fund shall be used for water development related administrative and operational costs which may include project preparations, design, supervision, monitoring and evaluation;
- (c) not more than two percent of the monies deposited in Fund shall be used for operational costs of the Fund.

(3) The funds for water development related administrative and operational costs under sub-regulation (2)(b) shall be deposited into the account of the Ministry in every disbursement.

(4) The monies deposited in the Fund shall not be used for any other purposes than those provided in these Regulations.

(5) The Board in consultation with the Minister, shall develop guidelines providing thresholds of allocation of funds for uses prescribed under sub regulation (2).

Execution of
water projects

6. Without prejudice to the generality of regulation 5, the water project to be executed shall include-

- (a) protection and conservation of water catchment areas;
- (b) development of water storage, safety and security facilities; and
- (c) construction, rehabilitation and expansion of water supply and sanitation infrastructure in areas with lowest water supply coverage.

GN. No. 253 (contd.)

Selection of
water projects
to be financed
by the Fund

7.-(1) During preparation of annual budget, the Ministry shall submit water projects which are eligible for funding by the Fund.

(2) The Fund shall scrutinize the list of proposed water projects and submit its recommendation to the Minister through the Permanent Secretary.

(3) The Minister shall approve-

(a) the list of water projects eligible for funding from the Fund for the respective financial year; and

(b) utilisation of funds for water development related administrative and operational costs under regulation 5(2)(b).

Payment
Procedures

8.-(1) During implementation of the approved water projects, the respective Implementing Agency through the Ministry shall submit verified payment claims to the Fund.

(2) The Fund shall scrutinize and process payment of the respective claims.

(3) Upon payment of the claims the Fund shall notify the respective Implementing Agency and the Ministry.

(4) The Fund shall only finance approved water projects and activities in the annual budget.

PART III POWERS AND FUNCTIONS OF THE BOARD

Powers of the
Board

9. The Powers of the Board shall be to-

(a) recommend to the Minister the appointment of the Chief Executive Officer;

(b) recruit such number of staff as it considers fit;

(c) approve operational instruments including policies, manuals, plans and budget of the Fund;

(d) monitor management of the funds and performance of the Secretariat; and

(e) make any other decision as it considers

necessary to enable the Fund achieve its objectives.

Functions of
the Board

10. The functions of the Board shall be to-

- (a) ensure full collection and transfer of funds from various sources to the Fund's account;
- (b) ensure that monies deposited into the Fund are used to achieve objectives of the Fund;
- (c) disburse funds from the Fund to implementing agencies for implementation of approved water projects;
- (d) ensure that the operations of the Fund are exercised in an economical and efficient manner;
- (e) monitor the use of the funds disbursed to implementing agencies;
- (f) recommend to the relevant authority taking of appropriate measures against misuse of funds by implementing agencies;
- (g) approve annual estimates of income and expenditure and adhere to any such estimates;
- (h) recommend to the Minister guidelines for issuance of loans to implementing agencies;
- (i) execute annual performance agreement with implementing agencies receiving funds for execution of water projects;
- (j) approve list of all funded projects for each quarter and submit to the Minister for information;
- (k) advise the Minister on use of the funds and on regulations governing the Fund; and
- (l) advise the Minister on new sources of funds for the purpose of ensuring adequate and stable flow of funds for implementation of water projects.

Administration
of the Fund

11.-(1) In administering the Fund, the Board shall:-

- (a) establish separate accounts in the Bank of Tanzania and a certified bank into which all monies received by the Fund shall be paid in and out;
 - (b) ensure books of account and proper records of its operation are maintained in accordance with international accounting standards; and
 - (c) ensure the Secretariat performs day to day functions of the Fund effectively.
- (2) Disbursements and utilization of funds from the Fund shall only be done with the approval of the Board.

Establishment
and
appointment of
Secretariat

12.-(1) There shall be established a Secretariat of the Fund which shall be executive body of the Fund.

(2) The Secretariat shall be headed by the Chief Executive Officer appointed by the Minister after recommendation of the Board on competitive selection procedure for the term not exceeding four years and upon satisfactory performance, shall be eligible for re-appointment for one further term only.

(3) Upon recommendation of the Chief Executive Officer, the Board may appoint on competitive selection procedure such other key staff of the Secretariat as it may deem fit for proper functioning of the Fund.

(4) For the purpose of sub-regulations (2) and (3), the Board shall invite applications for the post by publishing an advertisement in at least two local newspapers of wide circulation countrywide and relevant websites.

(5) A member of the Secretariat with knowledge of law shall be appointed by the Board of the Fund to be the Secretary of the Board.

Functions of
Secretariat

13. The functions of the Secretariat shall be to-

- (a) implement the decisions and directives of the Board in relations to the objectives of the Fund;
- (b) propose mechanisms for allocation of funds to

- implementing agencies;
- (c) keep all records of the affairs and the meetings of the Board and ensure the implementation of its decisions and directives;
- (d) review, scrutinize and submit water project proposals to the Board for its recommendation and onward submission to the Minister;
- (e) establish management information system to capture and store data concerning operations and implementation of water projects financed by the Fund;
- (f) engage in resource mobilization programmes for improving the Fund envelope;
- (g) prepare proposals for additional means and sources of funds to the Board;
- (h) timely collect and deposit all the funds from sources specified under the Act into the account of the Fund;
- (i) promote the Fund to the appropriate local, national and international stakeholders;
- (j) Prepare monthly report on the status of funding and progress of execution of projects and furnish a copy to the Ministry
- (k) prepare operational policies, annual plans, annual budgets and other plans and submit to the Board for approval;
- (l) ensure that monies deposited into the Fund are used for the purposes approved by the Board; and
- (m) execute any other functions as directed by the Board in furtherance of the objectives of the Fund.

Annual report,
accounts and
financial audit

Cap.418

14.-(1) The Board shall keep books of account and maintain proper records of its operation in accordance with acceptable international accounting standards.

(2) The Fund shall be audited in accordance with the Public Audit Act.

(3) The Board shall prepare annual report in

relation to each year ended 30th June and submit it to the Minister before 31st December in that year.

(4) The annual report shall provide detailed information regarding the activities of the Fund during the previous year ended 30th June, the financial statements of the Fund for the immediately preceding year and the auditor's report based on the aforementioned statements and any additional information requested by the Minister who thereafter shall table the report in the National Assembly.

(5) Without prejudice to provisions of sub regulation (2), the Fund may, on its own motion or after receiving a complaint, conduct an appropriate audit where it has reason to believe that there is misuse of funds.

PART IV DUTIES OF IMPLEMENTING AGENCY

Duties of
implementing
agency

15. Notwithstanding any obligation imposed on Implementing Agency under these Regulations, the Implementing Agency shall, for the purposes of utilizing funds received from the Fund-

- (a) prepare and submit to the Ministry list of water projects proposed to be implemented using monies from the Fund;
- (b) utilize disbursed funds according to the performance agreement and for the purposes approved by the Fund;
- (c) supervise and monitor execution of approved water projects;
- (d) put in place and implement quality control and quality assurance mechanism of water projects;
- (e) verify works executed as per contract;
- (f) approve and timely submit payment claims of water projects to the Fund through the Ministry; and
- (g) submit various reports as required under these Regulations.

Funding of projects

16. In allocation of funds for water projects, the Fund will only finance projects approved by the Minister based on the availability of funds.

Funding criteria

17.-(1) Implementing Agency shall insure consideration of alignment with sector and national policy objectives in preparing list and budget for water projects to be funded by the Fund.

(2) Without prejudice to sub-regulation (1) an Implementing Agency shall also consider the following criteria -

- (a) projects from areas with lowest water supply coverage;
- (b) projects for conservation of water sources which are vulnerable to degradation;
- (c) projects with quick impact to beneficiaries preferably short and medium term projects;
- (d) projects from areas with limited water sources for water supply; and
- (e) capacity of the entity to be responsible for operation and maintenance of the project after completion.

Performance agreement

18.-(1) In discharging its functions, the Board shall enter into a performance agreement with the Implementing Agency to which the Board disburses funds for execution of water project in every financial year.

(2) The performance agreement referred to under sub regulation (1) shall be signed before the first release of funds in a particular financial year.

(3) The performance agreement shall consider enforcement of relevant policies including:-

- (a) National Water Policy;
- (b) Labour Policy;
- (c) National Environmental Policy;
- (d) HIV/AIDS Policy; and
- (e) any other national policies.

GN. No. 253 (contd.)

Submission of reports

19.-(1) For the purpose of monitoring and evaluation, Implementing Agency which have received funds shall submit to the Fund the following reports with respect to water projects status:-

- (a) quarterly progress report;
- (b) Semi-annual report;
- (c) annual progress report; and
- (d) document acknowledging receipt of funds.

(2) The Fund shall prepare and submit to the Minister quarterly and semi annual progress reports.

PART V GENERAL PROVISIONS

Monitoring and evaluation of utilization of Funds

20.-(1) The Fund shall monitor and evaluate utilization of funds disbursed to the implementing agencies for the purpose of executing water projects.

(2) In carrying out evaluation under sub regulation (1), the Fund may appoint a public servant or government institutions to undertake such monitoring on its behalf.

(3) Implementing Agency shall ensure that any planned work is executed within the time, cost and quality stipulated in the relevant contract.

Project files

21.-(1) Implementing Agency shall keep and maintain at all time during the implementation of water project a project file containing the following-

- (a) copy of contract document;
- (b) copies of progress report;
- (c) site instructions book;
- (d) site Diary;
- (e) minutes of project meetings;
- (f) paid certificates if any; and
- (g) any other document as the Fund may prescribe.

(2) The project file under sub regulation (1), shall be made available to the Fund during the project monitoring and evaluation exercises.

Issuance of loan

22. Without prejudice to the objectives of the Fund under the Act, the Board may issue funds in the form of loan to water authority on favourable terms for purposes of implementing approved water project.

Criteria for Issuance of loans

23.-(1) The Fund shall issue loan to water authority or implementing agency basing on the following criteria:

- (a) possession of the business plan approved by regulatory Authority;
- (b) proposed project is technically feasible;
- (c) the water authority or implementing agency obtained approval from the Minister and relevant authority to apply for loan;
- (d) proposed project will improve service, increase revenues or reduces operating costs for the water authority or implementing agency;
- (e) existence of reliable cash flows capable of servicing the loan;
- (f) having an effective financial control system;
- (g) proposed project or component of the project under which fund is requested should not be double financed; and
- (h) readiness of water authority or implementing agency to comply with loan repayment modality.

(2) Subject to approval by the Minister, the Board shall prepare guidelines providing the procedures, terms and conditions under which the Fund will issue loans to water authority or implementing agency.

Powers of the Minister

24.-(1) Where the Minister is of the opinion that the members of the Board are not carrying out their functions in a proper and reputable manner, he may give such directions in writing to ensure that they carry out their functions in proper and reputable manner or take

other appropriate measures.

(2) Notwithstanding the provisions of sub regulation (1), the Minister may terminate or suspend the appointment of a member of the Board including the Chairman, on the following ground-

- (a) physical or mental inability to perform the functions of his office;
- (b) gross misconduct or incompetence;
- (c) failure to attend three consecutive meetings of the Board without sufficient cause;
- (d) if a member is convicted of a criminal offence;
- (e) if a member, in any particular case, fails to comply with the provisions of the Act relating to the disclosure of interest; or
- (f) if a member is declared bankrupt.

Repeal
G. N. No.
236 of 2013

25. The National Water Investment Fund Regulations, 2013 is hereby repealed.

Dodoma
11st May, 2018

ISACK A. KAMWELWE
Minister for Water and Irrigation