



Legal Notice No.....

THE ENERGY ACT (No. 1 of 2019)

IN EXERCISE of the powers conferred by sections 114, 167(1)(f), 208, 214 and 221 of the Energy Act, 2019, the Cabinet Secretary for Energy makes the following Regulations —

Energy (Electricity Incident and Accident Reporting) Regulations, 2024 PART I – PRELIMINARIES

Citation and commencement

1. (1) These Regulations may be cited as the Energy (Electricity Incident and Accident Reporting) Regulations, 2024.

- (2) These Regulations shall come into force upon gazettment by the Cabinet Secretary.

Interpretation

2. (1) In these Regulations, unless the context otherwise requires—

No 1 of 2019

“**Act**” means the Energy Act;

“**Accident**” means an unintended, unforeseen and undesirable event especially one that causes harm, injury, damage or loss;

“**Accident notification**” refers to the initial reporting of an accident by the Responsible Person in the prescribed form;

“**Authority**” means the Energy and Petroleum Regulatory Authority established under section 9 of the Act;

“**Cabinet Secretary**” means the Cabinet Secretary responsible for energy;

“**Committee**” in these Regulations, refers to the Energy Sector Safety Committee as established under Regulation 15;

“**Consumer**” shall have the same meaning as assigned in the Act;

“**Dangerous Occurrence**” is a readily identifiable incident that causes damage to property with potential to cause an injury, death or disease to persons at work or the public;

“**Energy Sector Safety Committee**” means the Committee established under Regulation 16.

“**Grid Code**” means the Kenya National Transmission Grid Code and the Kenya National Distribution Grid Code.

“**Incident**” is an unplanned and undesired event or chain of events that has or could have resulted in injury or illness, damage to assets, the environment, company reputation and/or consequential business loss;

“**License**” shall have the meaning assigned to it under the Act;

“**Licensee**” shall have the meaning assigned to it under the Act;

“**Person**” shall have the meaning assigned to it under the Act;

“**Power Undertaking**” means any person engaged in generation, transmission, distribution, or retail supply of electricity, including any holder of a license or permit under the Act;

“**Responsible Person**” means the person designated under Regulation 15

“**Tribunal**” means the Energy and Petroleum Tribunal established under Section 25 of the Act;

Purpose

3. The purpose of these Regulations is to promote safety and provide a framework for incident and accident reporting in the electricity sector.

Application

4. These Regulations shall apply to any person carrying out or intending to carry out;
- i. Generation, exportation, importation, transmission, distribution and retail supply of electricity and to any agent, contractor or sub-contractor acting on such person's behalf in relation to a matter which is the subject of these Regulations.
 - ii. Electrical installation work at the premises of any consumer
 - iii. Exploration and extraction of energy resources for electricity generation.
 - iv. Transportation, storage and handling of coal, natural gas and petroleum products for the purposes of electricity generation.

General Requirements.

5. (1) A Licensee shall ensure their undertaking is constructed, installed, protected (both electrically and mechanically), operated, tested, inspected and maintained in compliance with applicable standards, codes and regulations to guarantee safety of their customers and the public. This includes adherence to —
- (a) Electricity Energy (Electricity Reliability, Quality of Supply and Service) Regulations, 2024 and the Grid Code shall apply.
 - (b) Carrying out electrical installation work, the requirements of the energy (energy supply) regulations, 2021 shall apply.
 - (c) Efficient, safe, reliable, and coordinated system operations of the Kenya National Transmission System and Interconnected Transmission System the requirements of the Energy (System Operations) Regulations, 2024 shall apply.
- (2) A Licensee shall take measures to safeguard their undertakings from unauthorized access, theft and vandalism.
- (3) A Licensee shall allocate at least 0.5% of its turnover for public education and awareness campaigns to educate customers and the public on safety requirements associated with their undertakings. This shall include awareness regarding potential dangers arising from activities conducted in proximity to the energy infrastructure, and the means by which such dangers can be avoided.
- (4) A Licensee shall develop standard operating procedures for routine tasks carried out by their employees or agents for purposes minimizing health and safety risks.

- (5) A Consumer shall cause testing and inspection of their premises in accordance with the Energy (Energy Supply) Regulations, 2021.
- Notification of Incident and Accidents** 6. (1) A Responsible Person shall on behalf of a Licensee notify the Authority on the occurrence of an accident/incident within 48hrs from the time it's known to the license in a form prescribed in **First Schedule**. Reportable accidents are as defined in Regulation 8 and shall either be attributable to their undertaking and/or attributable in whole or in part to the presence of energy on their consumer's premise.
- (2) Where the incident involves —
- (a) An Employee of a Licensee the notification shall also be made to the Director of Occupational Health and Safety Services pursuant to the Occupational Safety and Health Act.
 - (b) Wildlife or their habitat, the report shall also be made to the Kenya Wildlife Service or Kenya Forest Service.
 - (c) Damage to the environment, the report shall also be made to the National Environment Management Authority.
 - (d) Operations and stability of the power system, the reporting shall be as specified in the Grid Code.
- (3) For fatal and non-fatal accidents, the Licensee shall report to the police and obtain a police notification number.
- System for Reporting of Incident and Accidents** 7. (1) The Authority shall develop and maintain an online system for ease of reporting of incident and accidents by the Licensees.
- (2) The Authority shall provide a 24-hour service incident hotline where a Licensee or a member of the public can report incidents and accidents.
- Categories of reportable incidents/accidents** 8. (1) Incidents/Accidents shall be considered reportable if they fall under the following categories—
- (a) Fatal (human/animals)
 - (b) Non-Fatal (human/animals)
 - (c) Dangerous occurrences
 - (d) Environmental incidents related to the electricity undertaking.
- Fatal accidents (human/animals)** 9. An accident shall be considered fatal—
- (a) Here any person or animal dies as a result of a power undertaking-related accident.

- (b) Where any person has suffered an injury related to a power undertaking which results in death within 30 days of the date of the accident.
- Non-Fatal accidents (humans/animals)** 10. (1) A non-fatal accident to humans/ animals shall include the following—
- (a) Electric shock that causes permanent disability or injury of any nature
 - (b) Any burn injury, including scalding, which:
 - i. Covers more than 10% of the whole body; or
 - ii. Causes significant damage to the eyes, respiratory system or other vital organs
- (2) (c). Electricity related fire that causes property damage.
- Dangerous occurrences** 11. An incident shall be considered a dangerous occurrence if it falls within the definitions given under the **Second Schedule** of these Regulations
- Environmental incidents** 12. An incident shall be considered environmental if it results in damage to the environment, flora and fauna within which the power undertaking is taking place.
- Accident investigation and Reporting** 13. (1) A Responsible Person shall constitute a competent team to carry out an investigation into any reported incident/accident and submit a report to the Authority within thirty (30) days from the date of its occurrence.
- (2) Where an incident/accident is reported to the Authority by a member of the public who is not an employee of a Licensee, the Authority shall notify the affected Licensee(s) within 48 hours of receiving such notification requiring the Licensee to institute investigations.
- (3) A detailed report of an incident/accident shall contain at a minimum the information prescribed in the **Third Schedule**.
- (4) The Authority shall on receipt of the incident/accident investigation reports, review the reports and publish on its website an annual report with recommendations before the end of the first quarter of the subsequent year.
- (5) The Authority may conduct its own independent investigation into any of the reported incident/accident and issue directives as deemed necessary.
- (6) The Authority may conduct follow ups on the investigated accidents to establish the status and/or effectiveness of proposed corrective actions.

Record of incidents/accidents

14. (1) A Responsible Person shall maintain a register of all incidents/accidents. The register shall at minimum contain the information specified in **Fourth Schedule**.
(2) An entry in the register in sub regulation (1) shall be maintained for at least five years from the date it was made or until such a time that the issues relating to that incident/accident are resolved.

Designation of a Responsible Person

15. (1) A Licensee shall designate a competent person who shall be responsible for the co-ordination and promotion of safety programs affecting their undertaking.
(2) The responsible person in sub regulation (1) shall carry out the following functions on behalf of the Licensee—
a) notify the Authority on incidents/ accidents specified in Regulation (8)
b) institute investigations into the incidents/accidents;
c) submit reports on incidents/accidents to the Authority;
d) Keep and maintain a register of all incidents/accidents.

A Responsible Person may be a member of the safety and health Committee established under the Occupational Health and Safety Act, 2007 where applicable.

- (3) A Licensee shall define a procedure for co-ordination between the employees, Responsible person, any agent, contractor, sub-contractor and Management for purposes of complying with these Regulations. The procedure shall be made known to all parties.

Establishment and Membership of the Electricity Sector Safety Committee

16. (1) The Authority may establish an Electricity Sector Safety Committee for the purpose of assisting the Authority to perform the functions under the Act on environment, health and safety in the energy sector.
(2) The appointment of the Electricity Sector Safety Committee shall define the terms of reference and period of appointment. The functions may include those prescribed in the **Fifth Schedule**.
(3) The Electricity Sector Safety Committee shall consist of not more than thirteen (13) members including representation from the Directorate of Occupational Safety and Health Services, National Environmental Management Authority and Consumers,
(4) The members in sub-regulation three shall include four from licensees in the electricity sector
(5) No person shall be appointed under sub-regulation (1) unless that person —

- a) Is a holder of a degree in occupational health, environment health and safety, engineering, physics, chemistry, biology or law; and
- b) Has at-least seven years relevant work experience in the environment, health and safety within the energy sector.

(6) The Authority shall consider recommendations by the Energy Sector Safety Committee or any other person towards enhancing environment, health and safety in the energy sector.

Insurance Cover 17.

(1) A Licensee shall obtain and maintain an insurance cover in respect of any liability that the Licensee may incur as a result of safety incidents associated with their undertaking. Standard procedures for raising claims shall be published on the Licensee’s website.

(2) A Licensee shall submit an annual report to the Authority on safety related liabilities and status of the closure with the insurer.

Powers of inspection 18.

The Authority or its agents may carry out inspection, in relation to compliance with these Regulations, in accordance with provisions of Section 11 of the Act.

Offences and Penalties 19.

A Licensee who commits any of the offences listed in this regulation shall be liable to the fine/penalty indicated against it.

Offence	Fine/Penalty
a) Failure to report an incident/accident within the prescribed timelines	Kshs. 5,000 for each day the incident/accident remains unreported up to a maximum of 30 days.
b) Failure to report an incident/accident	Kshs. 100,000 for each unreported incident/accident.
c) Failure to keep records	Kshs. 100,000 for each breach.
d) False notification and reports	Kshs. 100,000 for each false notification and/or report.
e) Failure to implement Authority’s directive and /or recommendations	Kshs. 100,000 for each breach.

f) Failure to appoint a Responsible Person	Kshs. 5,000 for each day that such an appointment is not in place.
g) Failure to investigate an accident	Kshs. 5,000 for each day the incident/accident remains uninvestigated up to a maximum of 30 days.

- General Penalty** 20.
- (1) Where a contravention of any of the provisions of these Regulations is made for which no fine or penalty is expressly stated, the person so contravening shall, on conviction, be liable to a fine not less than one hundred thousand shillings.
- (2) The fines or penalties in Regulation 19 above are without prejudice to the Authority's right to suspend or revoke the Licensee's licence.
- (3) Where a Licensee has previously been penalised for an offence and commits a similar offence, the fine payable shall be two times the amount provided for such an offence.
- (4) Any fines or penalties which are not paid shall be a civil debt recoverable summarily.
- Compliance Orders** 21.
- (1) Where the Authority finds that any provisions of these Regulations have been contravened by a Licensee or consumer or that a condition has arisen which may lead to the contravention of these Regulations, the Authority may issue a compliance order compelling the person to comply with these Regulations.
- (2) An order issued under sub regulation (1) shall state:
- a) the specific provision(s) which has/have been or are likely to be contravened;
 - b) the measures which should be taken to rectify the contravention; and the period within which the order shall be complied with.
- Handling of Complaints and Disputes** 22. Any complaints and/or disputes under these Regulations shall be referred to the Authority for resolution in accordance with the Energy (Complaints and Disputes Resolution) Regulations 2012.
- Appeals** 23. Any person who is dissatisfied or aggrieved by a decision of the Authority shall lodge an appeal with the Energy and Petroleum Tribunal.

FIRST SCHEDULE (r.6 (1))

INCIDENT/ACCIDENT NOTIFICATION FORM

INCIDENT/ACCIDENT REF No:

LICENSEE (COMPANY):

LICENSEE'S RESPONSIBLE PERSON:

DATE of INCIDENT/ACCIDENT:

TIME of INCIDENT/ACCIDENT:

DATE of NOTIFICATION:

ACCIDENT LOCATION (Locality, Sub-county, County):
.....

GPS Coordinates:

NAME OF PERSON(S) AFFECTED:

NATURE OF ACCIDENT/INCIDENT (Fatal, Non-fatal, Dangerous occurrence,
Environmental):
.....

BRIEF DESCRIPTION OF ACCIDENT/INCIDENT:
.....

VOLTAGE LEVELS:

PROBABLE CAUSE OF ACCIDENT/INCIDENT:
.....

OB No. & POLICE STATION REPORTED:

NAMES AND CONTACTS OF WITNESS(ES):
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METER No. (where accident occurred in a customer's premises):
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TRANSMISSION/DISTRIBUTION LINE (where accident occurred on/near at
Transmission/ Distribution line):
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MINI GRID (where accident occurred in a mini grid):
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IMMEDIATE REMEDIAL ACTION TAKEN:
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SECOND SCHEDULE (r. 11)

DANGEROUS OCCURRENCES

Dangerous occurrences include:

1. A leaning or fallen electric pole or transmission line tower.
2. Poor sagging overhead electric conductors or cables.
3. Exposed underground electric cables
4. Electric conductors in close proximity to buildings such that it can cause an electrical discharge.
5. Failure of a turbine, flywheel or any rotating machine.
6. Collapse or failure of a crane, derrick, winch, hoist or other appliance used in raising or lowering persons or equipment, or any part thereof or the overturning of a crane.
7. Electrical short circuit or failure of electrical machinery plant or apparatus, caused by explosion or fire causing structural damage.
8. Plant or equipment coming into contact with overhead power lines; or coming into close proximity with such an electric line, such that it causes an electrical discharge.
9. The explosion of any steam boiler, failure of fire tubes or steam tubes or furnace collapse or fusible plug.
10. Dangerous occurrence at a geothermal well including:
 - a) A blow-out (which includes any uncontrolled flow of well-fluids from a well);
 - b) The coming into operation of a blow-out prevention or diversion system to control flow of well-fluids where normal control procedures fail;
 - c) The detection of hydrogen sulphide at a well or in samples of well-fluids where the responsible person did not anticipate its presence in the reservoir drawn on by the well;
 - d) The mechanical failure of any part of a well whose purpose is to prevent or limit the effect of the unintentional release of fluids from a well or a reservoir being drawn on by a well, or whose failure would cause or contribute to such a release.

THIRD SCHEDULE (r.13(3))

MINIMUM INFORMATION TO BE CONTAINED IN AN INCIDENT/ACCIDENT INVESTIGATION REPORT

- i. Incident/accident ref no:
- ii. Licensee (Company).
- iii. Licensee's responsible person:
- iv. Date and time of incident.
- v. Date of notification and investigation:
- vi. Detailed accident location (include GPS coordinates)
- vii. Name of person(s) affected:
- viii. OB No. & police station reported.
- ix. Nature of accident/incident (Fatal, Non-fatal, Dangerous occurrence, Environmental)
- x. Names and details of accident investigation team.
- xi. Names, details and contacts of witnesses and persons interviewed.
- xii. Detailed description of accident (Prior events, Accident event, Events after).
- xiii. Cause of accident and findings
- xiv. Remedial action taken.
- xv. Proposed corrections and corrective action taken:
- xvi. Photos of accident scene.

FOURTH SCHEDULE (r.14 (1))

INCIDENT/ACCIDENT REGISTER

The Incident /Accident Register shall at a minimum provide the following:

- 1) Incident/Accident report identifier, (Reference number);
- 2) The date and time of the incident/accident;
- 3) A brief description of the incident/accident;
- 4) The location of the incident/accident;
- 5) The persons or animals involved in the incident/accident;
- 6) Brief details of injuries sustained;
- 7) Police notification (OB number) where applicable and the police station reported to.

FIFTH SCHEDULE (r.16(2))

THE FUNCTIONS OF THE ENERGY SECTOR SAFETY COMMITTEE

- a.) Provide recommendations about policies, strategies and legislative initiatives for safety and health within the energy sector. This includes the promotion of safety in work places, stakeholders and community to raise awareness of the potential risks and ways to improve safety;
- b.) Evaluate past incidents/accidents, classify them based on their root causes and provide recommendations for each identified root cause to prevent the recurrence of accidents under similar circumstances;
- c.) Review and analyze the incident/accident data for trends and make recommendations for improvement;
- d.) Provide technical support in incident/accident investigations in the energy sector;
- e.) Provide strategies for promoting progressive and strong safety practices and culture in the energy sector;
- f.) Evaluate the efficacy of the public sensitization programs conducted by Licensees and make proposals on the content of awareness programs and modes of publicizing the same to ensure wide public and stakeholder awareness;
- g.) Promote an emergency response mechanism for energy sector related hazards that pose an imminent danger to the public and other utilities or environment;
- h.) Identify and work with key stakeholders in the energy sector to improve overall safety including electrical and operational safety in Kenya;
- i.) Review compensation policies on incidents and accidents used by various Licensees and propose a harmonized policy that is in line with the Energy Act 2019 and other Government statutes;
- j.) Provide recommendations for energy sector safety training requirements within licensed utilities;
- k.) May visit, carry out inspections and fact-finding missions with a view to improving safety practices within the sector.
- l.) Develop capacity to deal with Environment, Health and Safety risks associated with emerging technologies such as coal, nuclear, solar, wind, off-shore generation and others.
- m.) Establish and implement hazard monitoring systems in collaboration with other statutory Authorities and Agencies for disaster prevention and mitigation.
- n.) Any other function that may be assigned by the Authority or Cabinet Secretary.

Conduct of Business by the committee

The Committee shall establish and comply at all times with its own rules and procedures governing the conduct of its business as approved by the Authority. The Members shall elect a Chairperson amongst themselves who shall serve for a term of one year that is renewable once.