

GOVERNMENT NOTICE NO.891 published on 13/12/2019

THE WATER SUPPLY AND SANITATION ACT, 2019
(NO. 5 of 2019)

REGULATIONS

(Made under section 55(5))

THE NATIONAL WATER FUND REGULATIONS, 2019

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THE NATIONAL WATER FUND REGULATIONS, 2019

PART I
PRELIMINARY PROVISIONS

- Citation 1. These Regulations may be cited as the National Water Fund Regulations, 2019.
- Implementation of objectives of Fund 2. In attaining the objectives of the Fund as prescribed in the Act, the Fund shall issue financial support 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:
- Act No. 5 of 2019 “Act” means the Water Supply and Sanitation Act;
“Board” means the Board of the Fund established under section 58 of the Act;
“eligible water projects” means water projects which have met the criteria for selection to receive funds from the Fund;
“Fund” means the National Water Fund established under section 55 of the Act;
“implementing agency” means RUWASA, water authority, community organisation, Basin Water Board or any entity which receives funds from the Fund for implementation of water project;
“Minister” means the Minister responsible for Water;
“water authority” means the water supply and sanitation

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authority established under section 9 of the Act;
“water project” means a project for the construction, expansion or rehabilitation of water supply and sanitation infrastructure as well as development, protection and conservation of water resources.

PART II
UTILIZATION OF FUND

Utilisation of funds

4.-(1) Subject to section 57 of the Act, the monies deposited in the Fund shall be utilized in financing the eligible water projects.

(2) Without prejudice to subregulation (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 operational costs and administration of water development 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) Sixty percent of the percentage of funds for operational costs and administration of water development under subregulation (2)(b) shall be deposited into the account of the Ministry in every disbursement.

(4) Forty percent of the percentage of funds for operational costs and administration of water development under subregulation (2)(b) shall be deposited into the account of RUWASA in every disbursement.

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

Execution of water projects

5. Without prejudice to regulation 4, 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

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(c) construction, rehabilitation and expansion of water supply and sanitation infrastructure.

Selection of water projects to be financed by Fund

6.-(1) The Ministry shall, during preparation of annual budget, submit for appropriation by Parliament water projects which are eligible for funding by the Fund.

(2) The Board shall scrutinize the list of proposed water projects and submit its recommendation to the Minister.

(3) The Minister shall consider the list of the proposed water projects and upon being satisfied, approve-

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

(b) utilisation of funds for water development related administrative and operational costs under regulation 4(2)(b).

Payment procedures

7.-(1) During implementation of the approved water projects, the respective implementing agency shall submit verified payment claim to the Fund.

(2) The Fund shall, upon receipt of the verified payment claim, scrutinize the claim and upon being satisfied, process payment of the respective claims and notify the respective implementing agency and the Ministry.

PART III

IMPLEMENTATION OF FUNCTIONS OF FUND

Powers of Board

8. The Board shall in implementing its functions under the Act and functions of the Fund, exercise the following powers to-

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

(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.

Duties of Board

9. The Board shall undertake the following duties-

(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

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- used to achieve the objectives of the Fund;
- (c) disburse funds from the Fund to implementing the agencies for implementation of approved water projects;
- (d) ensure that the operations of the Fund are exercised in an economical and efficient manner;
- (e) recommend to the relevant authority taking of appropriate measures against misuse of funds by implementing agencies;
- (f) approve annual estimates of income and expenditure and adhere to any such estimates;
- (g) execute annual performance agreement with implementing agencies receiving funds for execution of water projects;
- (h) approve a list of all funded projects for each quarter and submit it to the Minister for information;
- (i) advise the Minister on the use and management of the funds; and
- (j) 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 Fund

10. In administering the Fund, the Board shall-
- (a) establish a separate bank account which all monies received by the Fund shall be paid into; and
 - (b) ensure books of account and proper records of its operation are maintained in accordance with the international accounting standards.
- (2) Disbursements and utilization of funds from the Fund shall not be done without prior approval of the Board.

Funding of projects

11. In allocation of funds for water projects, the Fund shall finance water projects approved-
- (a) by the Minister based on the availability of funds; and
 - (b) in the annual budget.

Funding criteria

- 12.-(1) An implementing agency shall, during preparation of the budget and list of water projects to be funded by the Fund, comply with the sector and national policy objectives.
- (2) Without prejudice to subregulation (1), an

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implementing agency shall 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 operate and maintain the project after completion.

Performance agreement

13.-(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 projects in every financial year.

(2) The performance agreement referred to under subregulation (1) shall be entered 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 relevant national policies as the Minister may deem appropriate.

Submission of reports

14.-(1) For the purpose of monitoring and evaluation, an implementing agency which has received funds shall submit to the Fund the following reports with respect to the status of water projects:

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

(2) Upon receipt of the reports under subregulation (1), the Fund shall prepare and submit to the Minister quarterly and semi-annual progress reports.

(3) The format for the formulation of reports under his regulation shall be as provided in the operational guidelines of the Fund.

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PART IV
GENERAL PROVISIONS

Monitoring and
evaluation of
utilization of funds

15.-(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 subregulation (1), the Fund may appoint a public servant or a government institution 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 information

16.-(1) Implementing agency shall keep and maintain the following information at all time during the implementation of water project:

- (a) copy of a 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 information under subregulation (1), shall be made available to the Fund during the project monitoring and evaluation exercise.

Issuance of loan

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

(2) The Fund to be issued under this regulation shall be based on the following criteria:

- (a) possession of a business plan approved by a regulatory Authority;
- (b) the proposed project is technically feasible;
- (c) the water authority or implementing agency obtained approval from the Minister and relevant authority to apply for such loan;
- (d) proposed project will improve services, increase revenues or reduce operating costs for the water authority or implementing agency;
- (e) existence of reliable cash flows capable of servicing the loan;

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- (f) existence of effective financial control system;
- (g) proposed project or component of the project under which fund is requested is not double financed; and
- (h) readiness of water authority or implementing agency to comply with loan repayment conditions.

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

Powers of Minister

18. Where the Minister is of the opinion that the members of the Board are not carrying out their functions in a proper manner, he may give directions in writing to ensure that the Board carries out its functions in proper and reputable manner or he may take such other appropriate measures.

Revocation
GN. No.
253 of 2018

19. The National Water Investment Fund Regulations are hereby revoked.

Dodoma,
2nd December, 2019

MAKAME M. MBARAWA
Minister for Water