

GOVERNMENT NOTICE NO. 826 published on 8/11/2019

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

REGULATIONS

(Made under section 73(1)(c))

THE WATER SUPPLY AND SANITATION (CLUSTERING OF WATER
AUTHORITIES) REGULATIONS, 2019

PART I
PRELIMINARY PROVISIONS

1. Citation.
2. Interpretation.

PART II
POWERS TO CLUSTER WATER AUTHORITIES

3. Power to cluster.
4. Criteria in clustering water supply and sanitation authorities.
5. Application for clustering.

PART III
ESTABLISHMENT OF CLUSTERED WATER AUTHORITY

6. Clustering Appraisal.
7. Name of clustered water authority.
8. Board of Directors and management of clustered water authority.
9. Clustering models.

PART IV
GENERAL PROVISIONS

10. Minister to supplement procedures.
11. Transfer of employees to the Clustered Water Authority.

12. vesting of assets and liabilities.
13. Pending legal proceedings.
14. Clustering guidelines.

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PART I
PRELIMINARY PROVISIONS

Citation	1. These Regulations may be cited as the Water Supply and Sanitation (Clustering of Water Authorities) Regulations, 2019.
Interpretation	2. In these Regulations unless the context requires otherwise-
Act No. 5 of 2019	“Act” means the Water Supply and Sanitation Act;
	“Board” means the Board of Directors of the Clustered Water Authority;
	“commercial viability” means the ability of Clustered Water Authority to cover or meet all its operation and maintenance cost;
Act No. 5 of 2019	“Clustered Water Authority” means a Clustered Water Supply and Sanitation Authority established pursuant to section 9 of the Act;
	“clustering” means merging of two or more water authorities into one water authority to achieve commercial viability, efficiency and economies of scale of water supply and sanitation services;
Cap. 287	“district authorities” has the meaning ascribed to it under the Local Government (District Authorities) Act;

- Cap. 414 “EWURA” has the meaning ascribed to it under the Energy and Water Utilities Regulatory Authority Act;
“Minister” means the Minister responsible for water;
“Regulator” means relevant regulatory authority responsible for regulation of water supply and sanitation services;
“town” means an area over which a town council is established or deemed to have been established under the local government laws;
- Cap.287 “township” has the meaning ascribed to it under the Local Government (District Authorities Act); and
“water authority” means a water supply and sanitation authority established under section 9 of the Act.

PART II POWERS TO CLUSTER WATER AUTHORITIES

Power to cluster

3.-

(1) The Minister may, in consultation with the Minister responsible for local government authorities and by Notice published in the *Gazette*, cluster water authorities in order to achieve commercial viability of water supply and sanitation services.

(2) The notice under sub regulation (1) shall be in a manner prescribed in the First Schedule to these Regulations.

(3) The clustering of water authorities may be according to model one or model two and any other model as may be prescribed by the Minister in the Notice.

Criteria in clustering water supply and sanitation authorities

4.

In clustering water supply and sanitation authorities the Minister-

(a) shall consider the potential of the clustered water authority to attain commercial viability;

(b) may consider the following-

(i) population of a cluster;

(ii) access and use of common water sources;

- (iii) social and cultural factors;
- (iv) geographical proximity;
- (v) existing level of staffing; and
- (vi) any other criteria as the Minister may determine.

Application for
clustering

5.-

- (1) Without prejudice to the provisions of regulations 4-
- (a) water authorities may apply to the Minister to be clustered; or
 - (b) the Regulator may recommend to the Minister for clustering of water authorities based on the annual performance analysis report.
- (2) Upon receipt of clustering application under sub regulation (1), the Minister shall determine the application in a manner prescribed under regulation 6.

PART III ESTABLISHMENT OF CLUSTERED WATER AUTHORITY

Clustering
appraisal

6.-(1) Where there is a need or a proposal to cluster a water authority, there shall be undertaken:

- (a) consultation with stakeholders;
- (b) assessment of existing infrastructures;
- (c) management audit;
- (d) review of relevant documents and literature; and
- (e) data analysis and providing recommendation;
- (f) any other undertaking necessary for fulfillment of clustering objective.

(2) Pursuant to subregulation (1), a report on the viability of establishing a cluster for water authority shall be prepared and submitted to the Minister for determination.

(3) Upon receipt of the report under sub-regulation (4), the Minister may proceed to establish the Clustered Water Authority.

(4) Subject to section 75 of the Act, upon establishment of a clustered water authority, the managements and boards of directors of the respective

water authorities shall cease to exist.

Name and headquarters of clustered water authority

7. The name of the Clustered Water Authority shall be decided by the Minister.

(2)

The headquarters of a Clustered Authority shall be decided by the Minister but shall be located at a suitable town or place for efficient and effective operation.

Board of Directors and management of clustered water authority

8. The procedures for appointment of the members of the Board, recruitment of management and other matters relating to water authorities provided in the Act shall apply *mutatis mutandis* to the clustered water authority.

Clustering models

9.-(1) Clustering of water authorities under these regulations shall be in the following models-

(a) clustering model one which will involve clustering of water authorities in district towns and townships inter se;

(b) clustering model two which will involve clustering of water authorities at regional headquarters town with water authorities at district towns and townships.

(2) Without prejudice to the foregoing provisions, the Minister shall retain the power to dissolve a water authority and expand the service area of a water authority to include a service area of a dissolved water authority.

PART IV

GENERAL PROVISIONS

Minister to supplement procedures

10. Where procedures are not provided for in these Regulations, the Minister may do whatever is necessary and permitted by applicable laws to enable effective implementation of these Regulations.

Transfer of employees to the Clustered

11.-

(1) Every person who immediately before the commencement of

Water Authority these Regulations was employed by the previous water authority, to which the water authority becomes the clustered water authority, shall automatically be transferred to the Clustered Water Authority.

(2) Existing staff of water authorities under cluster who are employees of the ministry, regional administration or local government authorities may be transferred to the clustered water authority.

(3) After a person becomes an employee of the Clustered Water Authority by virtue of subregulation (1) and (2) the terms and conditions of his employment shall not be less favourable than those offered by the previous employer.

(4) The Clustered Water Authority shall prepare a scheme of service to be approved by the Board.

Vesting of assets and liabilities

12. All assets and liabilities of the water authorities clustered pursuant to these Regulations, shall vest to the Clustered Water Authority.

Pending legal proceedings

13. Any legal proceedings pending before any court or other tribunal which were commenced immediately before establishment of the Clustered Water Authority shall be continued by or against such Clustered Water Authority.

Clustering guidelines

14. The Minister may make guidelines to provide for various matters relating to clustering of water authorities under these Regulations.

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SCHEDULE
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(Made under regulation 3(2))

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NOTICE OF DECLARATION OF A CLUSTERED WATER SUPPLY AND
SANITATION AUTHORITY

IN EXERCISE of the powers conferred upon me by section 9 of the Water Supply and Sanitation Act, I..... Minister responsible for Water do hereby cluster the following water authorities :

- (a) Water Supply and Sanitation Authority;
- (b) Water Supply and Sanitation Authority; and
- (c) Water Supply and Sanitation Authority

The name of the clustered water authority shall be and its service area shall be

Dodoma,
18th October, 2019

MAKAME MBARAWA
Minister for Water