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LAND TRANSPORT REGULATORY AUTHORITY ACT,

(CAP. 413)

REGULATIONS

(Made under section 45)

THE LAND TRANSPORT REGULATORY AUTHORITY (TARIFF) REGULATIONS, 2020

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(CAP. 413)

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(Made under section 45)

THE LAND TRANSPORT REGULATORY AUTHORITY (TARIFF) REGULATIONS, 2020

PART I
PRELIMINARY PROVISIONS

- Citation 1. These Regulations may be cited as the Land Transport Regulatory Authority (Tariff) Regulations, 2020.
- Application 2. These Regulations shall apply to service providers of regulated services.
- Interpretation 3. In these Regulations unless the context otherwise requires:
- Cap.413 “Act” means the Land Transport Regulatory Authority Act;
- Cap.413 “Authority” means Land Transport Regulatory Authority established under section 4 of the Land Transport Regulatory Authority Act;
- “consumer” means a person who uses regulated services;
- “discount scheme” means a systematic arrangement for tariff reduction;
- “dominant service provider” means a service provider who acting alone, may profitably and materially restrain or reduce competition in the market for a significant period of

time and whose share of the market exceeds thirty five per cent;
“land transport” includes rail, road and cable transport;
“prospective service provider” means a person intending to supply regulated services;
“pupil” means a scholar of nursery, primary or secondary school while in uniform or carrying school identity card;
“registered consumer” includes LATRA Consumer Consultative Council or duly registered consumers’ association;
“rate table” means a schedule of approved tariff in a format of a table;
“rate of return” means a ratio of money gained or lost (realized or unrealized) on an investment relative to the amount of money invested over a specific period of time;
“regulated services” means any services supplied or offered for supply in regulated sector and includes services which the Authority declares to be such services under the Act;
“regulated sector” means land transport, rail transport, commercial road transport, commercial underground and cable transport;
“service provider” means a person licensed to provide or engage in regulated services;
“tariff” means a charge raised by a service provider for the supply of service;
“tariff book” means a book prepared by a service provider prescribing approved tariff; and
“transport carrying unit” means a train coach and wagon, bus, truck, motorcycle or a tricycle.

PART II
REGULATED SERVICES

Services
subjected to
tariff regulation

4.-(1) A service provider shall not set up or charge tariff which is not approved by the Authority.
(2) The Authority shall regulate tariffs of the

following services:

- (a) rail passenger transport services;
 - (b) rail freight transport services;
 - (c) road public transport services;
 - (d) cable transport services;
 - (e) road freight transport services; and
 - (f) any other services that may be declared by the Authority as regulated services.
- (3) Notwithstanding sub-regulations (1) and (2), where there is apparent effective competition among service providers, the Authority may not regulate tariffs of the regulated services.

PART III
APPROVAL OF TARIFF THROUGH COMPETITIVE
BIDDING

Tariff through
competitive
bidding

5.-(1) Where a tariff for regulated service is obtained through competitive bidding by a party other than the Authority, the Authority shall regard such tariff as being the approved tariff for the contracted service.

(2) Subject to subregulation (1), a tariff shall be considered to be obtained through a competitive bidding if-

- (a) a party intending to engage a service provider shall through competitive bidding submit the bidding documents to the Authority for approval prior to inviting bidders;
- (b) prior to awarding the tender to the successful bidder, the procuring entity submits a proposed contract for the prospective service provider to the Authority in order for the Authority to satisfy itself that regulatory requirements are adequately provided for; and
- (c) the proposed contract for the prospective

service provider provide for-

- (i) need to adhere to regulatory process of reviewing tariff in accordance with these Regulations in case of tariff change during the contract period;
- (ii) performance criteria which are commensurate with proposed tariff; and
- (iii) need for the service provider to comply with other regulatory requirements.

Approval of tariff through competitive bidding

6.-(1) Where the Authority finds that competitive bidding is the most efficient way of obtaining a service provider for a regulated service, the Authority shall require the relevant authority to initiate the bidding process, and a bidding price of a successful bidder shall be regarded as the approved tariff.

(2) The prospective service provider shall adhere to-

- (a) regulatory process of reviewing tariff in case of tariff change during a contract period;
- (b) proposed performance criteria which are commensurate with proposed tariff; and
- (c) any other regulatory requirements.

Limitations

7. Where tariff has been approved in accordance with these Regulations, such tariff shall apply to respective contract only.

PART IV
APPLICATION AND REVIEW OF TARIFF

Application for
tariff

8.-(1) Any person who intends to provide regulated service shall submit a tariff application to the Authority for determination and approval.

(2) A tariff application shall be made in accordance with the prescribed form set out in the First Schedule to these Regulations supported with the following documents-

- (a) valid operator's license or proof of application for a licence;
- (b) current business bank statement;
- (c) business plan;
- (d) proposed tariff;
- (e) worksheet of calculations made to arrive at the proposed tariff;
- (f) proposed special tariff for pupils; and
- (g) any other supporting document that may be required by the Authority.

Application for
review of tariff

9.-(1) A service provider applying for review of tariff shall submit an application to the Authority in a prescribed form set out in the Second Schedule to these Regulations supported with the following-

- (a) valid operator's licence;
- (b) proposed tariff;
- (c) reasons and justifications for tariff review including how the consumers will benefit from such review;
- (d) worksheet of the calculations made to arrive at the proposed tariff;
- (e) audited accounts for the immediate preceding three consecutive years

or less depending on the age of the entity;

- (f) performance report including detailed technical operational and financial analysis for the past five years or less depending on the age of the entity; and
- (g) any other supporting document as may be required by the Authority.

(2) A service provider may apply for a tariff review after a period of at least three years from the last review.

(3) Notwithstanding sub-regulation (2), where the return on investment is below 10% or above 25%, an application for review of road passenger fare may be made annually.

(4) Notwithstanding regulations 8 and 9, a service provider may submit tariff application on behalf of other similar service providers.

Submissions of tariff review by consumers

10.-(1) A registered consumer may initiate tariff review by making submissions to the Authority.

(2) Notwithstanding sub-regulation (1), a consumer of regulated services through a registered consumer may initiate tariff review by making submissions to the Authority.

(3) Submissions made under this regulation shall be accompanied with:

- (a) proposed tariff;
- (b) reasons and justifications for tariff review including how the consumers will benefit from such review;
- (c) worksheet of the calculations made to arrive at the proposed tariff; and
- (d) any other supporting document as

may be required by the Authority.

(4) Upon receipt of the submissions, the Authority shall examine the submissions in order to determine the need for carrying out tariff review process for.

(5) Where the submissions do not provide justification for tariff review, the Authority shall within fourteen days from the date of receipt of the submission, inform the registered consumer accordingly stating reasons for non-continuation of the tariff review process.

Withdrawal of application

11. Any applicant for tariff approval or review may withdraw his application at any time before a decision is made.

Compliance

12. A service provider shall comply with a decision made by the Authority on the proposed tariff.

Initiation of review of tariff by Authority

13.- (1) The Authority may on its own motion initiate an inquiry to review a tariff of any service provider where-

- (a) there are changes in the circumstances that require tariff adjustment;
- (b) tariff charged by a service provider was not approved by the Authority;
- (c) the applicable assumptions used to calculate the tariff have significantly changed; or
- (d) the service provider has failed to submit tariff review application to the Authority within the prescribed time.

(2) The Authority may when exercising its power to review tariff on its own motion under subregulation (1), require the service provider to submit any necessary information within a specified time.

(3) Where a service provider fails without reasonable cause to submit the requested information

within the time specified the Authority shall terminate the tariff review process.

PART V
DETERMINATION OF TARIFF

Procedure for determination of Tariff

14. Subject to Section 19 of the Act and any other factors the Authority considers relevant, the Authority shall, within ninety days from the date of receipt of a tariff application, carry out the review and determine the tariff.

(1) The Authority shall notify the public of the tariff application through widely circulating newspaper to call for stakeholders' written submissions within fourteen days from the date of publication of notice.

(2) Where the Authority is satisfied that all relevant information has been provided, it shall-

- (a) approve or vary the tariff application and attach conditions thereof; or
- (b) reject the tariff application and give reasons for its decision.

Tariff determination

15. The Authority shall determine tariff for regulated services based on the following:

- (a) costs of efficiently making, producing and supplying the goods or services;
- (b) desire to promote competitive rates and attract the market;
- (c) any relevant benchmarks including international benchmarks for prices, costs and return on assets in comparable industries
- (d) financial implications of the determination;
- (e) consumer and investors interest;
- (f) fair return on assets in the regulated sector;
- (g) need to induce efficiency on consumption of regulated services;
- (h) need to attain price stability; and
- (i) any other factors the Authority considers

relevant.

PART VI
OFFENCES AND PENALTIES

Offences

- 16.-(1) Any person who-
- (a) fails to issue a ticket or receipt for services rendered;
 - (b) applies non-approved tariff;
 - (c) fails to display approved tariff in a manner prescribed under these Regulations;
 - (d) fails to submit tariff book or rate table to the Authority ;
 - (e) furnishes to the Authority documents, information, statements, which are false or incorrect; or
 - (f) hinders or obstructs an officer of the Authority or an inspector in the performance of his duty under these regulations;

commits an offence and shall be liable to a fine of not less than one million shillings and not exceeding three million shillings or imprisonment for a term not exceeding two years or to both,

Provided that, where an offence is committed by a body corporate, it shall be liable to a fine not exceeding five million shillings.

(2) Any person who without lawful excuse refuses or fails to comply with Authority's requirement to submit information, commits an offence and on conviction, shall be liable to a fine of not exceeding three hundred thousand shillings or to imprisonment for a term not exceeding fifteen months or both,

Provided that, where the offence is committed by a body corporate it shall be liable to a fine not exceeding five hundred thousand shillings.

General
penalty

17. Any person who breaches any provisions of these Regulations for which no specific penalty is prescribed shall be liable to a fine not exceeding five

hundred thousand shillings or prescribed fine in the applicable sector, legislation whichever is greater.

PART VII
GENERAL PROVISIONS

Information about tariff 18. A service provider shall provide accurate and adequate information of the approved tariff to consumers.

Publication of approved tariff 19. The service provider shall, before effecting the approved tariff, issue a fourteen days' notice on the implementation of new approved tariff to the public in any widely circulating newspaper or radio or television with wide coverage.

Display of approved tariff 20. A service provider shall display the approved tariff on the following areas-
(a) at the point of sale;
(b) at customer service centre;
(c) relevant transport carrying unit; and
(d) on service provider's notice board or website where available.

Tariff book and rate tables 21.-(1) A service provider shall prepare or review a tariff book or a rate table, as the case may be, to incorporate the approved tariff and submit a copy to the Authority.

(2) The service provider shall submit a prepared or reviewed tariff book or a rate table, as the case may be, to the Authority within one month from the date of issuance of the approved tariff by the Authority.

Issuance of receipt for service rendered 22.-(1) A service provider shall issue a receipt to a consumer as evidence of payment made for services rendered.

(2) The receipt may be inspected by the Authority to ensure conformity with the approved

tariff and conditions of carriage.

Tariff
discount
scheme

23.-(1) Any service provider may offer a discount scheme on tariff and shall inform the Authority of any scheme available to customers prior to its application.

(2) A service provider shall ensure that all discount schemes-

- (a) provide the terms and conditions and the details of the discount scheme;
- (b) provide clear information to its customers on the terms and conditions of the discount scheme through publication in widely circulating local newspapers and where applicable, in accessible electronic media, sign language or any other method acceptable by the Authority;
- (c) indicate and publish where the discount scheme requires the customers to pay the applicable rate;
- (d) obtain the necessary approvals from relevant authorities where the discount scheme involves services other than those regulated by the Authority; and
- (e) are not anti-competitive.

(3) The Authority may discontinue a discount scheme that does not comply with this regulation and state the reasons for doing so.

Preventive
tariff

24. A dominant service provider shall not prevent market entry or distant competition by applying a tariff below the cost of providing a service.

Review of
Authority's
decision

25.- A party aggrieved by the decision of the Authority on the approved tariff made under these Regulations may, within fourteen days from the date of issuance of the approved tariff, apply to the Authority for review on the following grounds-

- (a) there is a mistake or error apparent on the face of the records; or

- (b) there is a discovery of new and important matter or evidence which after the exercise of due diligence was not within the applicant's knowledge or could not be produced by him at the time when the order was made.

Review

26. A person aggrieved by the decision of the Authority under these Regulations may, within fourteen days from the date of the decision, apply to the Authority for review, as prescribed in the Rules.

Revocation

G.N. No. 92 of
2009

27. The Surface and Marine Transport Regulatory Authority (Tariff) Regulations are hereby revoked.

FIRST SCHEDULE

(Made Under Regulation 8)

APPLICATION FOR NEW TARIFF

A. PARTICULARS OF AN APPLICANT

Applicant Name in full

.....
.....

(Name/Company/Partners - in BLOCK LETTERS)

Company Incorporation Number (if it is a company)

.....

Postal Address

.....

.....

Office Mobile Phone: Applicant's Mobile
..... Phone

E-mail:

.....

.....

Physical Address:

Street: Plot Number: Office
..... Number:.....

.....
Name:

.....

Qualification:

.....

.....

Mobile Phone:.....

.....
Brief description of the new:
.....
.....
.....
.....
.....
.....
.....

B. DOCUMENTS TO BE PROVIDED DURING APPLICATION

Applicant shall submit the following:

- (a) valid operator’s license or proof of application for a licence;
- (b) current business bank statement;
- (c) business plan;
- (d) proposed tariff;
- (e) worksheet of the calculations made to arrive at the proposed tariff;
- (f) proposed special tariff for pupils;
- (g) Any other supporting document that may be required by the authority.

The Authority may require more information and documents at any time.

I hereby declare that to the best of my knowledge and belief all the information provided in this application is true.

Full name: Signature:.....
.....

Designation: Date:.....
.....

FOR OFFICIAL USE ONLY

Designation:

.....

Official Stamp:

.....

Date:

.....

CAUTION:

- (a) Initial each page.
- (b) Knowingly making a false statement for the purpose of obtaining the tariff is an offence and is punishable by fine or imprisonment.
- (c) Any change of particulars provided in this form must be communicated to the LATRA otherwise you will be committing an offence under these regulations.

SECOND SCHEDULE

(Made Under Regulation 9)

APPLICATION FOR REVIEW OF TARIFF

A. PARTICULARS OF AN APPLICANT

Applicant Name in full

(Name/Company/Partners - in BLOCK LETTERS)

Company Incorporation Number (if it is a Company)

Postal Address

Office Mobile Phone: Applicant's Mobile Phone:

E-mail:

Physical Address:

Street: Plot Number: Office Number:

Name:

Qualification:

Mobile

Phone:

Brief description of the review:

B. DOCUMENTS TO BE PROVIDED DURING APPLICATION

Applicant shall submit the following:

- (a) valid operator's licence;
(b) proposed tariff;
(c) reasons and justifications for tariff review including how consumers will benefit from such a review;
(d) worksheet of the calculations made to arrive at the proposed tariff;
(e) audited accounts for the immediate preceding three consecutive years or less depending on the age of the entity;
(f) performance report including detailed technical operational and financial

- analysis for the past five years or less depending on the age of the entity;
 - (g) Any other supporting document as may be required by the Authority.
- The Authority may require more information and documents at any time.

I hereby declare that to the best of my knowledge and belief all the information provided in this application is true.

Full Name: Signature:.....

Designation: Date:.....

FOR OFFICIAL USE ONLY

Received Date: Official Stamp

CAUTION:

- (d) Initial each page.
- (e) Knowingly making a false statement for the purpose of obtaining the tariff is an offence under and is punishable by fine or imprisonment.
- (f) Any change of particulars provided in this Form must be communicated to the LATRA otherwise you will be committing an offence under these Regulations.

Dodoma,
28th January, 2020

ISACK ALOYCE KAMWELWE
*Minister for Works, Transport and
Communications*