

(Legislative Supplement No. 63)

LEGAL NOTICE NO. 149

THE ENVIRONMENTAL MANAGEMENT AND CO-
ORDINATION ACT

(No. 8 of 1999)

IN EXERCISE of the powers conferred by section 147 of the Environmental Management and Coordination Act, 1999, the Cabinet Secretary for Environment, Natural Resources and Regional Development Authorities makes the following Regulations—

THE ENVIRONMENTAL (IMPACT ASSESSMENT AND AUDIT)
(AMENDMENT) REGULATIONS, 2016

1. These Regulations may be cited as the Environment (Impact Assessment and Audit) (Amendment) Regulations, 2016. Citation.

2. Regulation 9 of the Environmental (Impact Assessment and Audit) Regulations, 2003, in these Regulations referred to as the “principal Regulations” is amended— Sub-leg.

(a) in sub-regulation (1)—

(i) by deleting the word “seven” and substituting therefor the word “five” ;

(ii) by deleting the words “twenty one” and substituting therefor the word “fourteen” in paragraph (c);

(b) in sub-regulation (2) by deleting the words “thirty” and substituting therefor the word “fourteen”.

3. Regulation 10 (1) of the principal Regulations is amended by deleting the words “forty-five” and substituting therefor the word “thirty”.

4. The principal Regulations are amended by deleting the Fifth Schedule and substituting therefor the following new Schedule—

FIFTH SCHEDULE

FEES

1. Application for registration as an Environmental Impact Assessment/Audit expert

Category	Citizen (KSh.)	Non-Citizen (KSh.)
(a) Associate expert	4,000	12,000
(b) Lead expert	6,000	18,000
(c) Firm of experts	10,000	30,000

2. Annual licence to practice as an Environmental Impact Assessment Expert

	<i>Category</i>	<i>Citizen (Ksh)</i>	<i>Non-Citizen (Ksh)</i>
(a)	Associate expert	6,000	18,000
(b)	Lead expert	10,000	30,000
(c)	Firm of experts	40,000	120,000

3. Environmental Impact Assessment License for low risk projects.....0.1% of the total cost of the project subject to a minimum of Kenya Shillings Ten Thousand (10,000) and a maximum of Kenya Shillings Three Million (KSh. 3,000,000).

4. Environmental Impact Assessment License for medium risk projects.....0.1% of the total cost of the project subject to a minimum of Kenya Shillings Twenty Thousand (KSh. 20,000) and a maximum of Kenya Shillings Ten Million (KSh. 10,000,000).

5. Environmental Impact Assessment License for high risk projects.....0.1% of the total cost of the project subject to a minimum of Kenya Shillings Fifty Thousand (KSh. 50,000) and a maximum of Kenya Shillings Forty Million (KSh. 40,000,000).

6. Surrender, transfer or variation of Environmental Impact Assessment licence.....Kenya Shillings Ten Thousand (KSh. 10,000)

Dated the 18th May, 2016.

JUDI W. WAKHUNGU,
*Cabinet Secretary for Environment, Natural Resources
and Regional Development Authorities.*

LEGAL NOTICE NO. 150

THE ENVIRONMENTAL MANAGEMENT AND CO-
ORDINATION ACT

(No. 8 of 1999)

REPLACEMENT OF THE SECOND SCHEDULE

IN EXERCISE of the powers conferred by section 58(4) of the Environmental Management and Coordination Act, 1999, the Cabinet Secretary for Environment, Natural Resources and Regional Development Authorities deletes the Second Schedule to the Act and substitutes therefor the following Schedule—

SECOND SCHEDULE *(s 58 (1))*

PROJECTS TO UNDERGO ENVIRONMENTAL IMPACT
ASSESSMENT

1. Low Risk Projects.

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- (a) establishment of places of worship including churches, mosques and temples;
 - (b) community based and social projects including sport facilities, stadia, social halls;
 - (c) community water projects including boreholes, water pans, sand dams and sub-surface dams;
 - (d) dispensaries, health centers and clinics;
 - (e) livestock holding grounds and cattle dips;
 - (f) expansion or rehabilitation of markets;
 - (g) car and bus parks;
 - (h) local roads and facility access roads;
 - (i) business premises including shops, stores, urban market sheds;
 - (j) cottage industry, jua kali sector and garages;
 - (k) small scale rehabilitation, maintenance and modernization of projects; and
 - (l) schools and related infrastructure for learners not exceeding one hundred.
2. Medium Risk Projects.
- (1) Urban Development including—
 - (a) establishment of multi-dwelling housing developments in not exceeding one hundred units;
 - (b) tourism and related infrastructure;
 - (c) hotels with bed capacity not exceeding one hundred and fifty; and
 - (d) shopping centers, commercial centers and complexes, business premises, shops and stores not exceeding ten thousand square meters.
 - (2) Transportation including—
 - (a) construction and rehabilitation of roads including collectors and access roads;
 - (b) construction of a light rail transit;
 - (c) construction of jetties, marinas, piers and pontoons;
 - (d) rehabilitation works of airport and airstrips;
 - (e) helipads;
 - (f) parking facilities; and
 - (g) construction of bridges.

- (3) Water resources and infrastructure including—
 - (a) drilling for purposes of utilizing ground water resources and related infrastructure;
 - (b) water abstraction works; and
 - (c) water supply and distribution infrastructures.
- (4) Artisanal mining including quarrying of—
 - (a) precious metals and gemstones;
 - (b) limestone and dolomite;
 - (c) harvesting of aggregate, sand, gravel, soil, clay, stone and slate;
 - (d) gypsum;
 - (e) pozzolana;
 - (f) carbon dioxide; and
 - (g) ferrous and non-ferrous ores.
- (5) Forestry related activities including—
 - (a) timber harvesting in plantation forests;
 - (b) reforestation and afforestation; and
 - (c) wood preservation or treatment facilities.
- (6) Agriculture and related activities including—
 - (a) medium-scale agriculture not exceeding one hundred hectares;
 - (b) medium size grain storage;
 - (c) medium size agricultural and livestock produce storage facilities;
 - (d) aquaculture not exceeding one hectares; and
 - (e) medium scale irrigation projects.
- (7) Medium scale processing and manufacturing industries including—
 - (a) brick and earth-ware manufacture;
 - (b) abattoirs and meat-processing plants;
 - (c) fish-processing plants;
 - (d) plants for the construction or repair of aircrafts or railway equipment;
 - (e) plants for the manufacture of tanks, reservoirs and sheet-metal containers;
 - (f) plants for manufacturing or recycling of plastics or paper;
 - (g) plants for manufacturing pharmaceuticals;

- (h) plants for the manufacture of coal briquettes;
 - (i) distilleries;
 - (j) any other food-processing plants or agro-based processing plants; and
 - (k) go-downs for storage and warehouses.
- (8) Power and infrastructure projects including—
- (a) hydropower development not exceeding ten megawatts;
 - (b) electrical sub-stations;
 - (c) pumped-storage schemes;
 - (d) cogeneration of power;
 - (e) low voltage power transmission lines; and
 - (f) solar power farms or plants.
- (9) Hydrocarbons projects including—
- (a) service stations;
 - (b) LPG filling plant; and
 - (c) lubricant blending facilities.
- (10) Waste disposal including—
- (a) waste transfer stations or storage facilities;
 - (b) composting sites or plants;
 - (c) removal and onsite disposal of asbestos.
- (11) Packaged treatment plants or onsite waste water treatment plants.
- (12) Biofuels processing plants.
- (13) Telecommunication infrastructures.
- (14) Expansion of tertiary institutions and related infrastructures.

2. The following projects shall require submission of environmental impact assessment study reports under section 58(2) of the Environmental Management and Co-ordination Act, 1999—

High Risk Projects—

- (1) General —
- (a) an activity out of character with its surrounding; and
 - (b) any structure of a scale not in keeping with its surrounding.
- (2) Changes in land use including—
- (a) major changes in land use; and
 - (b) large scale resettlement schemes.

- (3) Urban Development including—
 - (a) designation of new townships;
 - (b) establishment or expansion of industrial estates;
 - (c) establishment or expansion of recreational areas in National Parks, National reserves, forests, nature reserves and any areas designated as environmentally sensitive;
 - (d) establishment of shopping centers, commercial centers and complexes;
 - (e) establishment of hospitals;
 - (f) hotels with a bed capacity exceeding one hundred and fifty;
 - (g) establishment of new housing estate developments exceeding one hundred housing units;
 - (h) establishment of schools and other learning institutions exceeding one hundred learners; and
 - (i) other related urban developments.
- (4) Transportation and related infrastructure projects including—
 - (a) all new major roads including trunk roads;
 - (b) railway lines;
 - (c) airports and airfields;
 - (d) oil and gas pipelines;
 - (e) harbors and ports;
 - (f) construction of tunnels and channels;
 - (g) metro transport facilities; and
 - (h) underground transport works.
- (5) Water resources and related infrastructure including—
 - (a) storage dams and barrages;
 - (b) river diversions and water transfer between catchments;
 - (c) flood control schemes;
 - (d) sea walls; and
 - (e) water abstraction works.
- (6) Mining and other related activities including—
 - (a) precious metals;
 - (b) salt firms;
 - (c) gemstones;
 - (d) ferrous and non-ferrous ores;
 - (e) coal;

- (f) phosphates;
 - (g) limestone and dolomite;
 - (h) quarrying of stone and slate;
 - (i) harvesting of aggregate, sand, gravel, soil and clay; and
 - (j) exploration for the production of petroleum and minerals in any form.
- (7) Forestry related activities including—
- (a) clearance of forest areas;
 - (b) reforestation and afforestation with alien species;
 - (c) introduction of alien species;
 - (d) excisions of gazette forests;
 - (e) conversion of forests for whatever purposes; and
 - (f) any projects located within forest reserves such as construction of dams or other control structures that flood large areas.
- (8) Agriculture including—
- (a) aerial spraying;
 - (b) large-scale agriculture exceeding one hundred hectares;
 - (c) introduction of new crops and animals;
 - (d) large scale irrigation exceeding one hundred hectares;
 - (e) major developments in biotechnology including the introduction and testing of genetically modified organisms; and
 - (f) biofuel plantations.
- (9) Processing and manufacturing industries including—
- (a) mineral or ores refining and processing;
 - (b) large scale brick and earth-ware manufacture;
 - (c) cement manufacturing plants and lime processing;
 - (d) glass works;
 - (e) fertilizer manufacture or processing;
 - (f) explosive plants;
 - (g) tanneries;
 - (h) abattoirs handling more than one hundred animals per day and meat-processing plants;
 - (i) brewing and malting;
 - (j) bulk grain processing and storage plants;

- (k) large scale fish-processing plants;
 - (l) pulp and paper mills;
 - (m) heavy manufacturing plants;
 - (n) lead smelting and processing plants;
 - (o) edible oil plants;
 - (p) steel mills;
 - (q) sugar factories; and
 - (r) any other chemical works and processing plants.
- (10) Power and infrastructure projects—
- (a) thermal and hydropower development exceeding ten megawatts;
 - (b) geothermal development;
 - (c) wind farms;
 - (d) nuclear reactors and nuclear plants; and
 - (e) high voltage electrical transmission lines.
- (11) Hydrocarbon projects including—
- (a) depots and refinery facilities for hydrocarbons;
 - (b) depots for natural gas;
 - (c) oil and gas fields development; and
 - (d) oil refineries and petro-chemical works.
- (12) Waste disposal including—
- (a) sewerage works and waste water treatment plants;
 - (b) installation for disposal of industrial wastes;
 - (c) installation of incinerators;
 - (d) sanitary landfill sites;
 - (e) hazardous wastes treatments or disposal facilities;
 - (f) facilities involved in solid or liquid hazardous waste;
 - (g) sludge treatment facility;
 - (h) recycling of e-waste;
 - (i) waste oil recycling facilities;
 - (j) waste tyre processing and recycling facilities; and
 - (k) commercial asbestos disposal site.
- (13) Activities in natural conservation areas including—
- (a) establishment of protected areas, buffer zones and wilderness areas;

- (b) actions likely to affect endangered species of flora and fauna;
 - (c) formulation or modification of water catchment management projects;
 - (d) projects for the management of ecosystems especially by manipulating fire and water;
 - (e) commercial exploitation of natural fauna and flora;
 - (f) introduction of alien species of fauna and flora into ecosystems;
 - (g) wetlands reclamation or any projects likely to affect wetlands;
 - (h) projects located in indigenous forest including those outside of gazetted forests; and
 - (i) any project on environmentally sensitive area.
- (14) Marine resource exploitation and reclamation including—
- (a) mineral exploitation of resources in the marine areas;
 - (b) reclamation of marine areas; and
 - (c) mariculture.
- (15) Any other project which poses high environmental risks.

Dated the 16th June, 2016.

JUDI W. WAKHUNGU,
*Cabinet Secretary for Environment, Natural Resources and
Regional Development Authorities.*

LEGAL NOTICE NO. 151

THE COMPETITION ACT, 2010

(No. 12 of 2010)

EXCLUSION

PROPOSED ACQUISITION OF 74% OF THE ISSUED SHARE
CAPITAL OF LAW AFRICA PUBLISHING LTD BY LONGHORN
PUBLISHERS LIMITED

IN EXERCISE of the powers conferred by section 42(1) of the Competition Act, 2010, the Competition Authority of Kenya excludes the proposed acquisition of 74% of the issued share capital of Law Africa Publishing Ltd by Longhorn Publishers Limited from Part IV of the Act due to the following reasons—

- (a) the merger will not affect competition negatively; and
- (b) the acquirer's turnover for the preceding year, 2015, was KES 848, 377,000 while the target turnover was KES 93,006,091. Therefore, the combined turnover of KES 941,383,091 does not meet the required merger threshold for mandatory notification as provided in the Merger Threshold Guidelines.

Dated the 27th July, 2016.

WANG'OMBE KARIUKI,
Director-General.

LEGAL NOTICE NO. 152

THE COMPETITION ACT, 2010

(No. 12 of 2010)

EXCLUSION

PROPOSED ACQUISITION OF ASSETS BELONGING TO KIP
MELAMINE COMPANY BY TAIFA TAPES LIMITED

IN EXERCISE of the powers conferred by section 42(1) of the Competition Act, 2010, the Competition Authority of Kenya excludes the proposed acquisition of assets belonging to Kip Melamine Company by Taifa Tapes Limited from Part IV of the Act due to the following reasons—

- (a) the merger will not affect competition negatively; and
- (b) the acquirer is a newly incorporated company and therefore has no turnover;
- (c) the target's turnover was KES 78,159,222 for the preceding year, 2014, and therefore is below the required merger threshold for mandatory notification as provided in the Merger Threshold Guidelines.

Dated the 27th July, 2016.

WANG'OMBE KARIUKI,
Director-General.

LEGAL NOTICE NO. 153

THE COMPETITION ACT, 2010

(No. 12 of 2010)

EXCLUSION

SALE OF SHARES IN STEENSTRUP CONSULTING SERVICES
LIMITED BY BARBARA ROBIN STEENSTRUP TO WINWA
DEVELOPMENT LIMITED

IN EXERCISE of the powers conferred by section 42(1) of the Competition Act, 2010, the Competition Authority of Kenya excludes the proposed sale of shares in Steenstrup Consulting Services Limited by Barbara Robin Steenstrup to Winwa Development Limited from Part IV of the Act due to the following reasons—

- (a) the merger will not affect competition negatively; and
- (b) the acquirer's turnover for the preceding year, 2015, was NIL while the target turnover was KES 2,024,285. Therefore, the turnover of KES 2,024,285 does not meet the merger threshold required for mandatory notification as provided in the Merger Threshold Guidelines.

Dated the 27th July, 2016.

WANG'OMBE KARIUKI,
Director-General.

LEGAL NOTICE NO. 154

THE COMPETITION ACT, 2010

(No. 12 of 2010)

EXCLUSION

PROPOSED TRANSFER OF 100% ISSUED ORDINARY SHARES
IN CROSSKEY INVESTMENTS LIMITED TO SUNSET RIDGE
PROPERTIES LIMITED (99%) AND HUMPHREY KARIUKI
NDEGWA (1%)

IN EXERCISE of the powers conferred by section 42(1) of the Competition Act, 2010, the Competition Authority of Kenya excludes the proposed transfer of 100% issued ordinary shares in Crosskey Investments Limited to Sunset Ridge Properties Limited (99%) and Humphrey Kariuki Ndegwa (1%) from Part IV of the Act due to the following reasons—

- (a) the merger will not affect competition negatively; and
- (b) the Acquirer's had no relevant turnover in Kenya while the target's assets for the preceding year 2015 were KES 62,311,912. Therefore, the turnover of KES 62,311,912 does not meet the required merger threshold for mandatory notification as provided in the Merger Threshold Guidelines.

Dated the 11th August, 2016.

WANG'OMBE KARIUKI,
Director-General.

LEGAL NOTICE NO. 155

THE COMPETITION ACT, 2010

(No. 12 of 2010)

EXCLUSION

PROPOSED ACQUISITION OF SHARES AND CERTAIN VETO
RIGHTS IN SILAFRICA PLASTICS AND PACKAGING
INTERNATIONAL LIMITED BY AFRICINVEST III LLC

IN EXERCISE of the powers conferred by section 42 (1) of the Competition Act, 2010, the Competition Authority of Kenya excludes the proposed acquisition of shares and certain veto rights in Silafrica Plastics and Packaging International Limited by Africinvest III LLC from Part IV of the Act due to the following reasons—

- (a) the merger will not affect competition negatively; and
- (b) the acquirer's turnover for the preceding year, 2015 was NIL while the target's turnover was KES. 949,195,000. Therefore, the turnover of KES. 949,195,000 does not meet the required merger threshold for mandatory notification as provided in the Merger Threshold Guidelines.

Dated the 11th August, 2016.

WANG'OMBE KARIUKI,
Director-General.