

THE ENERGY ACT, 2006

(No. 12 of 2006)

IN EXERCISE of the powers conferred by section 104 (2) (a) of the Energy Act, 2006, the Cabinet Secretary for Energy and Petroleum makes the following Regulations—

THE ENERGY (APPLIANCES' ENERGY PERFORMANCE AND LABELLING) REGULATIONS, 2016

1. These Regulations may be cited as the Energy (Appliances' Energy Performance and Labelling) Regulations, 2016. Citation.
2. These Regulations shall apply to appliances manufactured, imported, distributed or sold for use in Kenya as listed in the First Schedule. Application.
3. In these Regulations, unless the context otherwise requires — Interpretation.
“accredited laboratory” means a laboratory for testing appliances as per the Kenya Standards and approved by the Kenya Accreditation Service;
“Act” means the Energy Act, 2006; No. 12 of 2006

“appliance” means an electrical equipment defined by the relevant standard;

“Commission” has the meaning assigned to it under the Act;

“distributor” means a person who is involved in sourcing appliances from manufacturers or importers for resale;

“importer” means a person who is involved in sourcing appliances from other countries into Kenya for use or commercial purposes;

“label” means an illustration determined by the Commission to be affixed on an appliance or printed on the packaging of an appliance which provides information on the appliance’s energy performance based on the relevant standard;

“manufacturer” means a person who makes or assembles appliances for commercial purposes;

“model” means a specific design of an appliance as assigned by the manufacturer;

“retailer” means a person involved in selling appliances to end users;

“standard” means the relevant Kenya’s Minimum Energy Performance Standards (MEPS);

“supplier” means manufacturer, manufacturers’ local agent, importer or distributor involved in appliance model delivery chain;

“test certificate” means a document issued by an accredited laboratory after the evaluation of energy performance of an appliance as per the relevant standard;

“testing” means the assessment of an appliance by an accredited laboratory to determine its energy performance in accordance with the relevant standard; and

“registration certificate” means a certificate issued by the Commission to a manufacturer or importer, to confirm that the appliance indicated in the certificate has met the relevant standard.

4. (1) A person intending to manufacture or import any appliance listed in the First Schedule shall submit a sample of the appliance to an accredited laboratory for testing.

Testing of appliance by accredited laboratory.

(2) The laboratory referred to in paragraph (1) shall conduct a test and if satisfied shall issue a test report and test certificate.

5. (1) A person intending to manufacture or import any appliance referred to in regulation 4 shall apply to the Commission for the registration of the appliance model.

Registration of appliance model.

(2) An application for registration shall be made in accordance with the registration categories specified in the Second Schedule.

(3) A person applying for the registration of an appliance model shall—

- (a) submit the test report and test certificate referred to in regulation 4;

- (b) submit a duly completed application form as provided in the Third Schedule; and
- (c) pay the application fees as provided in the Second Schedule.

(4) Where an appliance model has already been registered, an applicant shall not submit another test report and test certificate for the appliance or apply for registration unless the applicant is the manufacturer.

6. (1) Every importer shall affix the applicable energy label approved by the Commission on every appliance that has been registered under these Regulations.

Labels.

(2) The label referred to in paragraph (1) shall be in the form provided in the Fifth Schedule and shall bear the respective star rating as provided in the Sixth Schedule.

(3) The label shall be affixed in a clearly visible position in the manner stipulated in the Fifth Schedule.

(4) The Commission may from time to time vary the labels referred to in this regulation.

7. (1) The Commission or its agents may carry out an inspection on any premises where appliances are kept or are suspected to be kept to ensure that the appliances conform to these Regulations.

Enforcement
powers of the
Commission.

(2) Where on inspection, the Commission establishes that the provisions of these regulations have been contravened, the Commission may in writing direct the importer or manufacturer of that appliance model to cause such appliance to be re-tested at an accredited laboratory.

(3) Where a re-test is ordered in accordance with paragraph (2), the manufacturer or importer shall—

- (a) submit the appliance for a re-test within thirty days of receipt of the Commission's directions;
- (b) submit a test report and test certificate to the Commission within the period stipulated in the order; and
- (c) bear all the costs connected with the directives of the Commission.

(4) Where a manufacturer or importer fails to submit a test report and test certificate within the period stipulated by the Commission, such an importer or manufacturer shall be liable on conviction to a fine of one hundred thousand shillings for each month or part thereof that the test report and test certificate is not submitted.

(5) The Commission may, at its own cost, re-test, inspect or re-inspect appliances where necessary.

(6) Where pursuant to paragraphs (1), (2) and (5) an appliance model is found to contravene these Regulations, the Commission shall issue a non-compliance notice which shall state —

- (a) the specific provisions which have been or are likely to be contravened;
- (b) the measures which should be taken to rectify the contravention; and
- (c) the period within which the notice shall be complied with.

8. (1) Any dispute between a manufacturer, importer, distributor, retailer or a user of an appliance in relation to these regulations may be referred to the Commission for resolution.

Conflict
Resolution.

(2) The Commission shall conduct an inquiry into the matter in accordance with such procedures as it may determine and in accordance with the rules of natural justice.

(3) Within twenty one days of receiving the complaint, the Commission shall make a decision and give reasons for the decision.

9. (1) All manufacturers and importers of the appliances listed in the First Schedule shall be required to submit an annual record of all appliances sold every year in the manner indicated in the Fourth Schedule within six months after the end of the calendar year.

Submission of
data.

(2) A person, whose appliance is registered and who fails to submit the records referred to in paragraph (1), shall pay a fine of one hundred thousand shillings for each month or part thereof that the data is not submitted.

10. (1) The Commission may suspend or revoke the certificate of registration if an importer or manufacturer contravenes the provisions of these regulations.

Suspension or
Revocation of the
Registration
Certificate.

(2) Where the Commission intends to undertake the action referred to in paragraph (1), the Commission shall give the importer or manufacturer seven days of the intended action.

(3) The notice referred to in paragraph (2) shall be in writing and shall set out the reasons for the suspension or revocation.

(4) Where a certificate is suspended or revoked, the Commission shall remove the appliance model from the register.

(5) The manufacturer or importer of an appliance model whose registration certificate has been suspended or revoked shall—

- (a) immediately stop the distribution of that model; and
- (b) recall all appliances of that model from distribution or retail outlets within six months of the notice.

(6) A manufacturer, importer, distributor or retailer who fails to comply with paragraph (5) shall be liable to a fine of one million shillings and thereafter one million shillings for each six months period that the appliances are not recalled.

(7) The Commission shall issue a registration certificate if the appliance model is retested and meets the requirements of the relevant standard.

(8) Subject to paragraph (1), an appliance model registration certificate shall remain in force and is not transferable until the relevant standard is revised.

11. Where, upon application, it is proved to the satisfaction of the Commission that an appliance model registration certificate has been lost, destroyed or defaced, the Commission may issue a duplicate certificate.

Replacement of
Registration
Certificates.

12. (1) The Commission shall maintain a register of all appliance models registered under these Regulations.

Register of
Appliance
Models.

(2) The register shall be made available to the public for inspection.

13. (1) Where a standard is revised, the importer or manufacturer shall be required to apply for a fresh registration of the appliance model.

Revision of
Kenya standard.

(2) Where a relevant standard or label is revised it shall be applicable to appliances—

(a) imported or manufactured one year after the revision; or

(b) retailed two years after the revision.

14. Any person who hinders the Commission or its agent from inspecting any premises where such appliances are stored or displayed commits an offence.

Obstructing the
work of
inspectors.

15. (1) Any person who by self, servant, or agent contravenes any of the provisions of these Regulations for which no specific penalty is provided, shall be liable on conviction to a fine not exceeding one million shillings, or to imprisonment for a term not exceeding one year or both such fine and imprisonment.

General penalty.

(2) The procedure in the Seventh Schedule shall apply to any person who contravenes these Regulations.

16. (1) These regulations shall apply to all appliances—

Transitional
Provisions.

(a) listed in the First Schedule, manufactured or imported one year after the date of gazettelement.

(b) listed in the Second Schedule, retailed two years after the date of gazettelement.

FIRST SCHEDULE

(r. 2, 4(1), 9(1), 16(1) (a))

List of Appliances

<i>Appliance</i>	<i>Standard</i>
Self Ballasted Lamps	KS 2446-1: 2013 KS 2446-2: 2013
Double Capped Fluorescent Lamps	KS 2448-1: 2013
Ballasts for Fluorescent Lamps	KS 2447-1: 2013 KS 2447-1: 2013
Refrigerating Appliances	KS 2464-1: 2013 KS 2464-2: 2013
Non-Ducted Air Conditioners	KS: 2463: 2013
Three-Phase Cage Induction Motors	KS 2449-1: 2013 KS 2449-2: 2013

SECOND SCHEDULE

(r.5(2), 5(3)(c),16(1)(b))

Registration Categories and Application Fees

<i>Appliance</i>	<i>Category</i>	<i>Application Fee (Kshs)</i>
Self Ballasted Lamps	CFL	150,000
Double Capped Fluorescent Lamps	FL	150,000
Ballasts for Fluorescent Lamps	BFL	150,000
Refrigerating Appliances	R	250,000
Non-Ducted Air Conditioners	AC	500,000
Three-Phase Cage Induction Motors	M	500,000

THIRD SCHEDULE

(r. 5(3) (b))

Appliances' Models Application Form

(This form is to be used for application for registration of appliance model by Manufacturers and Importers.)

The Director General
Energy Regulatory Commission
P.O. Box 42681, 00100 GPO
NAIROBI

I/Wehereby
apply for registration of:-

(Please tick (✓) as appropriate)

- ☐ Class CFL: Self Ballasted Lamps
- ☐ Class FL: Double Capped Fluorescent Lamps
- ☐ Class BFL: Ballasts for Fluorescent Lamps
- ☐ Class R: Refrigerating Appliances
- ☐ Class AC: Non-Ducted Air Conditioners

☐ Class M: Three-Phase Cage Induction Motors for the purpose *Manufacturer* and *Importer* in accordance with the Energy (Appliances' Energy Performance & Labelling) Regulations, 2014.

1. Purpose of Application: New Application ☐ Replacement ☐ (Please tick (✓) as appropriate)

2. Model ☐ Family/Range of Models ☐ (Please tick (✓) as appropriate)

For family of models give more information on models' variations.

.....

3. Model Description

a. Name

b. Number.....

4. Name of applicant (*Applicable to both Individuals and Business Organisations*)

.....

5. Details of applicant :

a. Income Tax Personal Identification Number:.....

b. Postal Address:.....

c. Email Address:.....

d. Telephone number(s):.....

e. LR/ Plot No.....

f. Building Name.....

g. Street/:.....

h. Town/County:.....

6. Location of business premise(s)

a.

b.

c.

(Insert additional lines as appropriate)

7. Give full details of proprietors or partners owning business or directors/shareholders of the company, as applicable.

Name.....

Nationality

(Insert additional lines as appropriate)

8. State if you are or any of your partners/directors is an un-discharged bankrupt. (If so indicate the names).

a.
 b.
 c.

(Insert additional lines as appropriate)

9. For new applications, certified copies of the following documents should be submitted with the application for registration:

- a) Test report
- b) Test Certificate
- c) If Kenyan, a copy of ID card or passport, or if non-Kenyan a copy of current work permit, where applicable, together with copies of relevant pages of the passport; (*Applicable ONLY to Individual Persons*)
- d) Relevant entry permits(s) for non-citizens; (*Applicable ONLY to Individual Persons*)
- e) Copy of Business name Registration Certificate or Certificate of Incorporation and a recent CR12 from the registrar of companies (whichever is applicable).
- f) Lease Agreement or letter from landlord confirming tenancy.
- g) PIN and VAT certificates.
- h) Valid Tax compliance certificate
- i) Any other document that may be required by the Commission from time to time

(Insert additional lines as appropriate)

(Insert additional lines as appropriate)

10. Have you applied for registration in the past? Yes ☐ No ☐ If yes,

i. Registration Certificate No.....
 ii. Issued on.....
 iii. Issued by.....

11. Has any previous application for a registration been rejected under these regulations? Yes ☐ No ☐ (If Yes, give details)

.....

12. Has any previous registration been cancelled under these regulations? Yes ☐ No ☐ (If Yes, give details)

.....

DECLARATION

I/We hereby, declare that the information provided in this application is true and accurate. I/We understand that it is an offence, under the Energy Act 2006/any other Laws of Kenya to give false information in an application for this certificate

I/We commit to abide by the Energy (Appliances' Energy Performance and Labelling) Regulations, 2014 and any rules and by-laws for the time being in force there under.

Signature of Applicant

Date

FOURTH SCHEDULE

(r. 9(1))

Data Submission Format**1. Manufacturers**

<i>Name of Applicant</i>	<i>Class</i>	<i>Model Number</i>	<i>No. of Appliances Made</i>	<i>No. of Appliances Sold.</i>

2. Importers

<i>Name of Applicant</i>	<i>Class</i>	<i>Model Number</i>	<i>No. of Appliances Imported</i>	<i>No. of Appliances Sold.</i>

Note: All the items declared shall meet Minimum Energy Performance Standards set in the relevant Kenya Standards.

FIFTH SCHEDULE

(r. 6(2), 6(3))

Approved Labels for Appliances and Recommended Appliance Locations for Affixing the Labels.

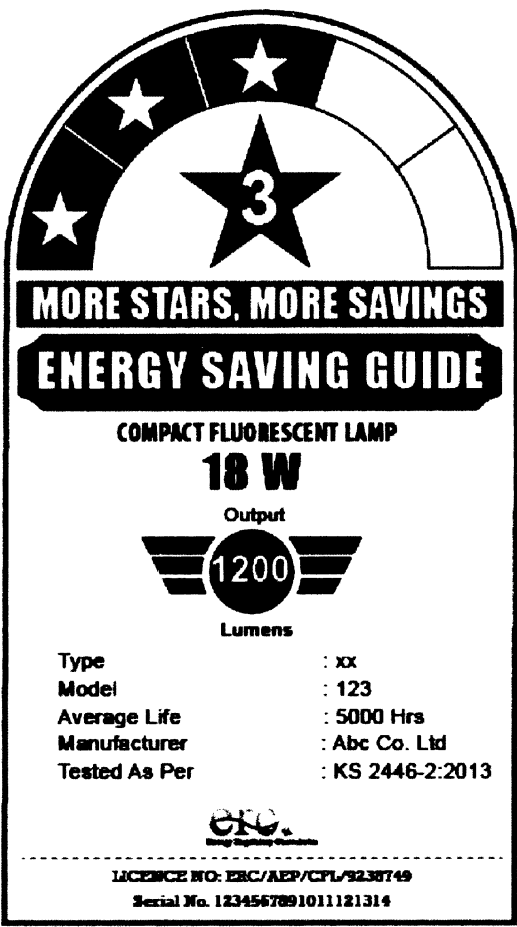
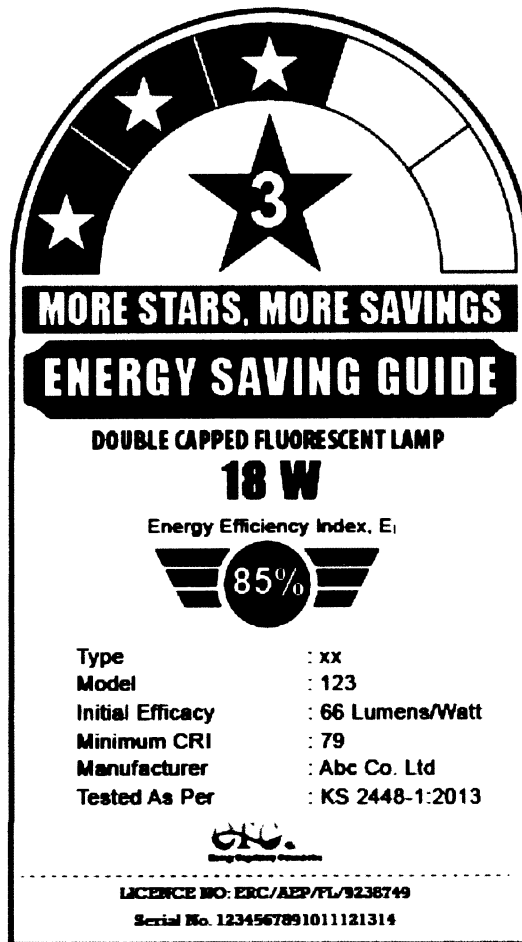


Figure 1: Self Ballasted Lamps

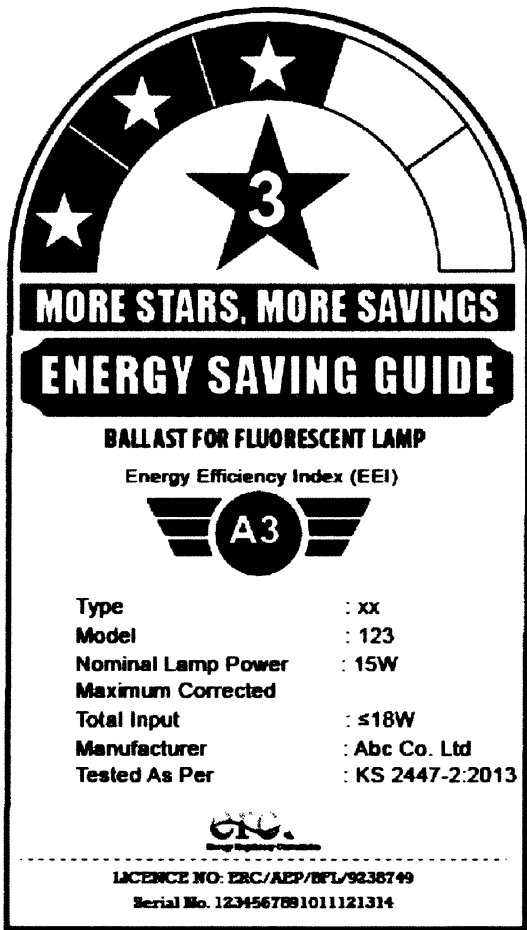
Location: To be affixed on one of the long sides of the lamp packaging.

Figure 2 : Double Capped Fluorescent Lamps



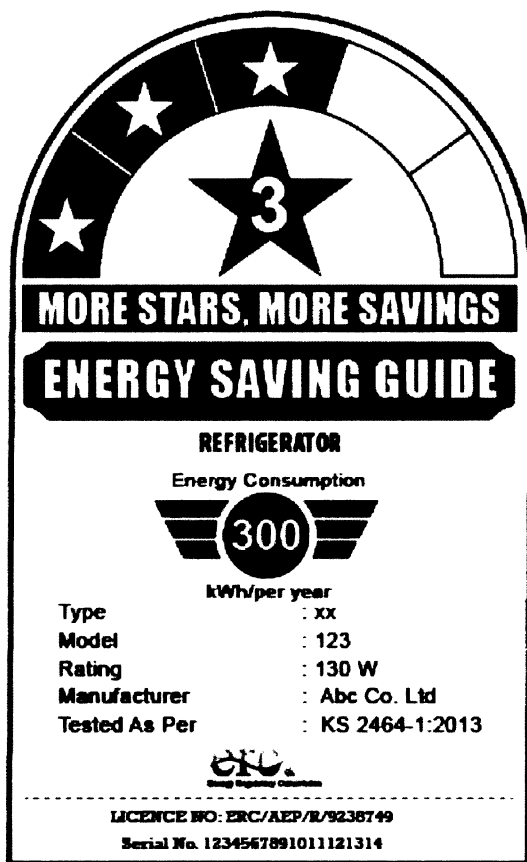
Location: To be affixed on one of the long sides of the lamp packaging.

Figure 3 : Ballasts for Fluorescent Lamps



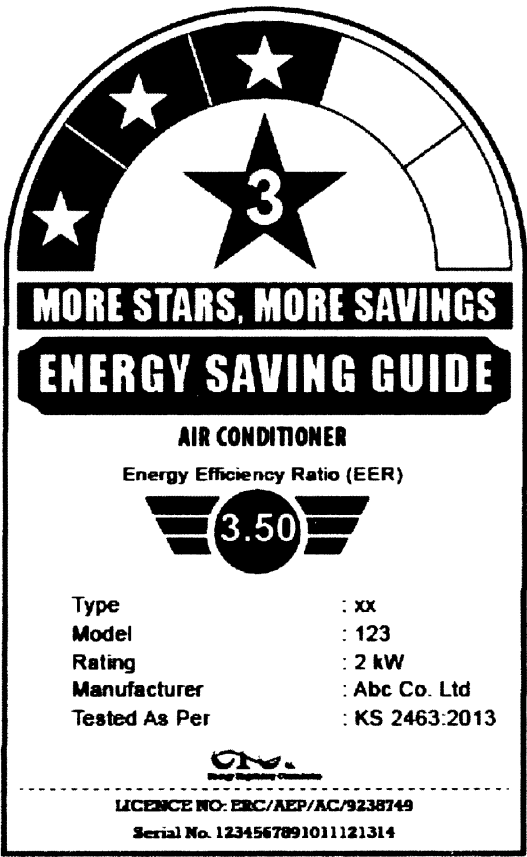
Location: To be affixed on the top side of the ballast .

Figure 4 : Refrigerating Appliances



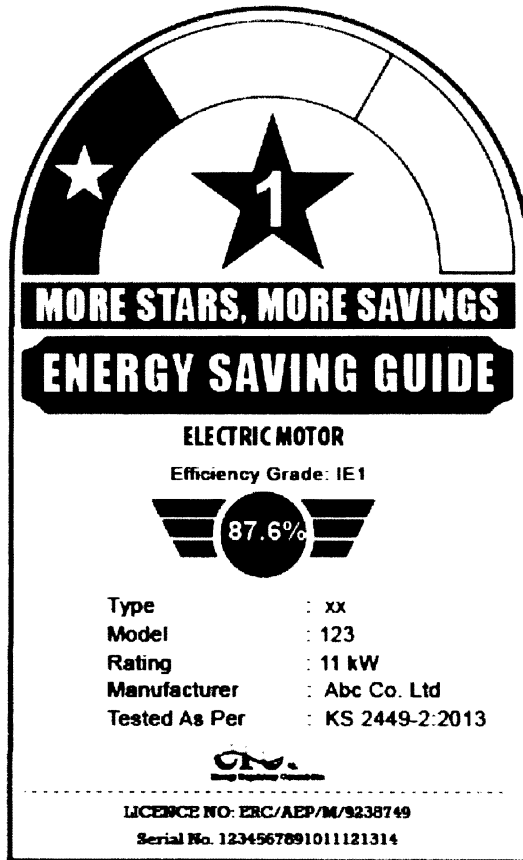
Location: To be affixed on the top right hand corner of the refrigerator door.

Figure 5 : Non-Ducted Air Conditioners



Location: To be affixed on the top right hand corner of the front facing side of the air conditioner.

Figure 6 : Three-Phase Cage Induction Motors



Location: To be affixed on the top side of the motor.

SIXTH SCHEDULE

(r. 6(2))

Star Rating of Appliance Models

1. BALLASTS FOR FLOURESCENT LAMPS

Energy Efficiency Index (EEI) CLASSIFICATION	STAR EQUIVALENT
A1	5
A2	4
A3	3
B1	2
B2	1

For actual values of energy consumption refer to TABLES 1 and 2 of KS 2447-1

2. DOUBLE CAPPED FLOURESCENT LAMPS

Energy Efficiency Index (E_l) CLASSIFICATION	STAR EQUIVALENT
<60%	5
$60\% \leq E_l < 80\%$	4
$80\% \leq E_l < 95\%$	3
$95\% \leq E_l < 110\%$	2
$110\% \leq E_l < 130\%$	1

For the definition of E_l refer to ANNEX C KS 2448-1

3. NON BALLASTED LAMPS

Energy Efficiency Class	Energy Consumption Relative to a Standard GLS/Incandescent lamps	Star Rating
A	< 18% to 25%	5
B	<60%	4
C	< 80%	3
D	<95%	2
E	<130%	1

For actual values of energy consumption refer to TABLES 1 and 2 of KS 2446-1

4. NON DUCTED AIR CONDITIONERS

EER	STAR EQUIVALENT
Above 4.00	5
3.75 to 3.70	4
3.15 to 3.40	3
2.8 to 3.10	2
Below 2.00	1

For Energy Ratios and Star Rating see TABLE 11 ANNEX of KS 2463

5. REFRIGERATORS

SRI	STAR EQUIVALENT
≥ 8.5	5
$6.5 \geq \text{SRI} < 8.5$	4
$4.5 \geq \text{SRI} < 6.5$	3
$2.5 \geq \text{SRI} < 4.5$	2
$2.5 > \text{SRI}$	1

6. MOTORS

Energy Efficiency Class (IE) CLASSIFICATION	Description	STAR EQUIVALENT
IE3	Premium Efficiency	3
IE2	High Efficiency	2
IE1	Standard Efficiency	1

SEVENTH SCHEDULE

(r 15(2))

Procedure of Enforcement of Regulations

The following procedure shall apply to a person who fails to comply with these regulations-

1. The Commission shall send to such person a notice to show cause which shall contain the—

- (a) details of the alleged breach;
- (b) applicable penalty; and
- (c) period of time provided within which to show cause in writing or request to be heard in person.

2. The person shall be afforded a reasonable period of time of not less than fourteen days from the date of receipt, to respond to the notice in writing or request to be heard in person.

3. (1) Where a person requests to be heard in person, the Commission shall arrange for the hearing and keep a record of the proceedings at the hearing.

(2) A person may appear personally or through a duly appointed representative.

4. Upon submission of the response to the notice to show cause or upon the hearing, the Commission shall decide the matter and communicate its decision to the person with fourteen days of receipt of the response or of the date of the hearing. This communication shall include—

- (a) a copy of the record of the proceedings in the case of the hearing;
- (b) a brief statement on the reasons that led the Commission to make its findings;
- (c) the penalty imposed for the breach of the regulations;
- (d) the time within which the penalty (in the case of monetary fines) shall be paid; and

- (e) a statement informing the person of his right to appeal the decision at the Energy Tribunal within the prescribed period.

Dated 17th June, 2016.

CHARLES KETER,
Cabinet Secretary for Energy and Petroleum.