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Paper laid by  
the Vice-  
Chairperson  
Hon. Fatuma  
Gedi on  
02/8/2018

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TWELFTH PARLIAMENT-SECOND SESSION

COMMITTEE ON DELEGATED LEGISLATION

REPORT ON THE ENERGY (SOLAR WATER HEATING)  
REGULATIONS, 2012

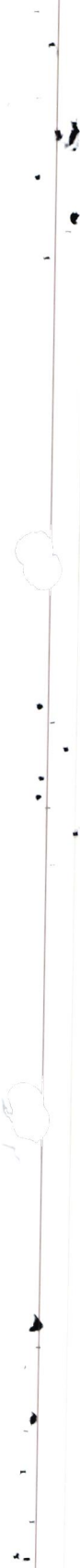
JULY 2018



*Directorate of Committee Services*  
*The National Assembly,*  
*Parliament Buildings, Continental House, Room 402*  
**NAIROBI.**

REPS 6000 10

10/10/10



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## **ABBREVIATIONS**

<b>DG</b>	Director General
<b>ERC</b>	Energy Regulatory Commission
<b>LN</b>	Legal Notice
<b>RMA</b>	Regulatory Making Authority
<b>SI Act</b>	Statutory Instruments Act
<b>SI</b>	Statutory Instruments
<b>SO</b>	Standing Order



## **CHAIRPERSON'S FOREWORD**

In exercise of the powers conferred by sections 63 and 110 of the Energy Act, 2006, the then Minister for Energy, made the Energy (Solar Water Heating) Regulations, 2012 which were published on 25th May 2012 **vide LN No.43/2012** as a subsidiary legislation under the Energy Act (No. 12 of 2006).

Pursuant to section 12(2) of the Statutory Instruments Act, which empowers the Committee to *inter alia* scrutinize statutory instruments previously published before the commencement of the Statutory Instrument Act, the Committee made the decision to recall the Energy (Solar Water Heating) Regulations 2012, for scrutiny.

In considering the said Regulations, the Committee conferred with the regulation-making authority, i.e., the Energy Regulation Commission on 29<sup>th</sup> May 2018 pursuant to Section 16 of the Statutory Instruments Act (SI Act), 2013. The Committee then proceeded to scrutinise the Regulations and resolved to annul them in entirety for the reasons advanced in section 2.0 of this Report.

The Committee was guided by the Constitution of Kenya, the Energy Act (No 12 of 2006), the Statutory Instruments Act, (No. 23 of 2013) and the Interpretation and General Provisions Act, (Chapter 2) which regulate the making, scrutiny and publication of the Regulations.

The Committee wishes to express its gratitude to the Speaker for the support accorded to the Committee in the discharge of its mandate. The Committee also wishes to record its appreciation to the Office of the Clerk of the National Assembly and the supporting Directorates for providing the necessary technical support to the Committee.

On behalf of the Members of the Select Committee on Delegated Legislation and pursuant to Standing Order 210 (4), it is my pleasure and duty to present to the House the Committee's Report on the Energy (Solar Water Heating) Regulations, 2012.

**HON. GLADYS BOSS SHOLLEI, CBS, MP**

## 1.0 PREFACE

### 1.1 Establishment and Mandate of the Committee

The Select Committee on Delegated Legislation is established pursuant to *Standing Order No. 210* and is mandated to consider statutory instruments submitted to Parliament for consideration. The Committee is expected to consider in respect of any statutory instrument, whether it is in accordance with the provisions of the Constitution, the Act pursuant to which it is made or other relevant written laws.

The Committee is mandated to consider in respect of any statutory instrument, whether it: -

- a) is in accordance with the provision of the Constitution, the Act pursuant to which it is made or other relevant written laws;
- b) infringes on fundamental rights and freedoms of the public;
- c) contains a matter which in the option of the Committee should more properly be dealt with in an Act of the Parliament;
- d) contains imposition of taxation;
- e) directly or indirectly bars the jurisdiction of the court;
- f) gives retrospective effect to any of the provision in respect to which the Constitution does not expressly give any such power;
- g) it involves expenditure from the consolidated fund or other public revenues;
- h) is defective in its drafting or for any reason form or part of the statutory instrument calls for any elucidation;
- i) appears to make some unusual or unexpected use of the power conferred by the Constitution or the Act pursuant to which it is made;
- j) appears to have had unjustifiable delay in its publication or laying before Parliament;
- k) makes rights, liberties or obligations unduly dependent upon non-renewable decisions;
- l) makes rights, liberties or obligations unduly dependent insufficiently defined administrative powers;
- m) inappropriately delegates legislative powers;
- n) imposes a fine, imprisonment or other penalty without express authority having been provided for in the enabling legislation;
- o) appears for any reason to infringe on the rule of law;

- p) inadequately subjects the exercise of legislative power to Parliamentary scrutiny; and
- q) accords to any other reason that the Committee considers fit to examine.

## **1.2 Committee Membership**

The Committee as constituted by the House in December 2017 comprises the following Members –

- |   |                            |
|---|----------------------------|
| 1. <b>Hon. Gladys Boss Shollei, CBS, MP</b> | - <b>Chairperson</b>       |
| 2. <b>Hon. Fatuma Gedi, MP</b>              | - <b>Vice- Chairperson</b> |
| 3. Hon. Isaac Waihenya Ndirangu, MP         |                            |
| 4. Hon. Alice Wahome, MP                    |                            |
| 5. Hon. Robert Mbui, MP                     |                            |
| 6. Hon. Daniel Maanzo, MP                   |                            |
| 7. Hon. Muriuki Njagagua, MP                |                            |
| 8. Hon. Timothy Wanyonyi, MP                |                            |
| 9. Hon. Alfred Bernard Wekesa Sambu, MP     |                            |
| 10. Hon. Ronald Kiprotich Tonui, MP         |                            |
| 11. Hon. William Kamoti, MP                 |                            |
| 12. Hon. Charles Gimose, MP                 |                            |
| 13. Hon. William Kamket Kassait, MP         |                            |
| 14. Hon. Martha Wangari, MP                 |                            |
| 15. Hon. (Dr.) Wilberforce Oundo, MP        |                            |
| 16. Hon. Abdi Koropu Tepo, MP               |                            |
| 17. Hon. George Gitonga Murugara, MP        |                            |
| 18. Hon. Jennifer Shamalla, MP              |                            |
| 19. Hon. Munene Wambugu, MP                 |                            |
| 20. Hon. Muturi Kigano, MP                  |                            |
| 21. Hon. Patrick Kariuki Mariru, MP         |                            |
| 22. Hon. Sammy Seroney, MP                  |                            |

## **1.3 Committee Secretariat**

The secretariat comprises of the following members of staff –

Mr. Susan Maritim	Senior Clerk Assistant (Team Leader)
Mr. Jimale Mohamed	Clerk Assistant III
Mr. Dima Dima	Principal Legal Counsel
Ms. Mugure Gituto	Legal Counsel II
Ms. Anne N. Kigoro	Research & Policy Analyst



## **2.0 CONSIDERATION OF THE INSTRUMENT**

### **2.1 Introduction and Background Information**

In exercise of the powers conferred by sections 63 and 110 of the Energy Act, 2006, the then Minister for Energy, the Energy (Solar Water Heating) Regulations, 2012 which were published on 25th May 2012 vide LN No.43/2012 as a subsidiary legislation under the Energy Act (No 12 of 2006).

Following a meeting between the Committee and the Director General of the Energy Regulatory Commission on 29<sup>th</sup> May 2018, the Committee was informed –

- (i) **THAT**, Section 3 of the Regulations 2012 requires all premises within the jurisdiction of a local authority with hot water requirements of a capacity exceeding one hundred (100) litres per day to install solar water heating systems to cater for at least sixty per cent (60 %) of the hot water demand. It was further clarified that this requirement is targeted at houses with piped water and electricity, located within a municipality.
- (ii) **THAT**, the Regulations aim to both promote energy efficiency and conservation and to encourage the wider adoption and use of renewable energy technologies, and national development priorities as set out in Vision 2030, which aims for Kenya to increase efficiency in energy consumption in its path towards a middle income industrialized country. The Regulations required all new buildings to comply at the time of publishing while existing buildings had a grace period of five (5) years to comply. The grace period expired in May 2017.
- (iii) **THAT**, the Regulations were developed following a severe drought between the years 2010 and 2012, which had adversely affected energy supply in the country. The dam levels had drastically reduced affecting power supply from hydropower plants and expensive thermal power plants had to be deployed to meet the deficit. The main objective of the Regulations was to improve the energy security in the country taking into account the huge solar resource potential and high demand for hot water.

#### **Expected Benefits of the Regulations**

The Director General informed the Committee that the expected benefits of the Regulations are –

- i) enhanced national energy security through diversification of energy supply mix and reduction in the over reliance on petroleum imports;

- ii) reduced demand for expensive fuel-fired peaking power plants resulting from grid electricity peak demand attributed to water heating;
- iii) increased environmental protection through reduction of greenhouse gases as a result of reduction in the use of petroleum fuels and biomass for water heating; and
- iv) increased employment, capacity building and income generation resulting from the expanded solar water heating industry.

## 2.2 Scrutiny of the Instrument

The Energy (Solar Water Heating) Regulations, 2012 were published on 25<sup>th</sup> May, 2012 vide Legal Notice No. 43 and were not submitted to the National Assembly at the time as the Statutory Instruments Act (No. 23 of 2013) had not been enacted. The delayed commencement of the Regulations to the year 2018, however, brought them under the ambit of all the requirements of the Statutory Instruments Act.

Following the wide press publication of the commencement of the Regulations by the Energy Regulatory Commission, the Committee on Delegated Legislation invoked section 12 of the Statutory Instruments Act, in respect to referral of statutory instruments to the committee, which provides *inter alia* that-

- (1) *Every statutory instrument issued, made or established after the commencement of this Act shall upon tabling before the respective House of Parliament stand referred to the Committee or any other committee that may be established for the purpose of reviewing and scrutinizing statutory instruments.*
- (2) *Nothing under subsection (1) may be construed as precluding the Committee from scrutinizing statutory instruments previously published before the commencement of this Act.*

The Regulations were however subject to all the Constitutional requirements having been published four years after the effective date, more particularly Articles 10 and 118 which require participation of the people in any legislative process.

The scrutiny was undertaken in conformity with the Constitution of Kenya, the Energy Act (No 12 of 2006), and the Interpretation and General Provisions Act, (Chapter 2) the Statutory Instruments Act, (No. 23 of 2013) which regulate the making, scrutiny and publication of the Regulations.

## 2.3 Committee Observations

Following comprehensive scrutiny of the Regulations, the Committee made the following observations –

1. **THAT, the Regulations were not accompanied by an explanatory memorandum as required by section 11(1) of the Statutory Instrument Act** hence it was not possible to analyse the extent of public participation or level of consultation conducted required under section 5 of the Statutory Instrument Act and the spirit of Article 10 and Article 118 of the Constitution yet the Regulations affect a better part of the population of Kenya as Households.
2. **THAT, the Regulations provide for a fine of one million shillings for contravention of the provisions thereof, which is in excess of the amounts specified in section 25(4) of the Statutory Instruments Act** which limits fines payable under statutory instruments to a maximum of twenty thousand shillings or a prison term not exceeding six months in default.
3. **THAT, contrary to section 13(n) of the Act, the Regulations also impose a fine, imprisonment or other penalty without express authority having been provided for in the enabling legislation** as the enabling section of the Energy Act, 2006 being sections 63 and 110 do not grant the authority to provide for fines through Regulations made thereunder.
4. **THAT, the Regulations require a Regulatory Impact Statement within the meaning of section 6 of the Statutory Instrument Act since they are meant to affect a considerable number of households** especially in urban areas and cities along with a number of institutions hence are likely to impose significant costs on the community or a part of the community.
5. **THAT, pursuant to section 13(q) of the Act which allows the Committee to consider any other grounds during its scrutiny of statutory instruments, it was the Committee's contention that –**
  - (i) **the implementation of the Regulations would be punitive to both landlords, tenants and persons occupying their own premises** as the installation was not a priority compared to other basic life requirements and ought not to be implemented at the cost of the public who are already overburdened with taxes.

The additional cost of the solar water heaters impacts negatively on access to affordable housing.

(ii) it is practically not possible to operationalize and monitor implementation as installing the appliances alone may not be tantamount to using the hot water, neither is the number of bedrooms in a house a reflection of the amount of cold or hot water used in the house.

6. **THAT, the Regulations make reference to the Local Government Act (Cap 265) which was repealed in 2011.** There is, therefore, need to amend the Regulations to comply with the current Constitutional framework.

### 3.0 RECOMMENDATION

The Committee recommends that pursuant to Standing Order 210 (4) (b) and section 15 (1) of the SI Act, the Energy (Solar Water Heating) Regulations, 2012 be annulled in entirety for the aforementioned reasons.

Signed.....

**HON. GLADYS BOSS SHOLLEI, CBS, MP  
CHAIRPERSON**

Date.....

31<sup>st</sup> July, 2018



## **ANNEXURES**

- (i) Committee Minutes
- (ii) Sittings
- (iii) Adoption List
- (iv) Copy of the Energy (Solar Water Heating) Regulations, 2012
- (v) Correspondence





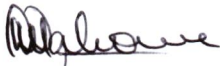
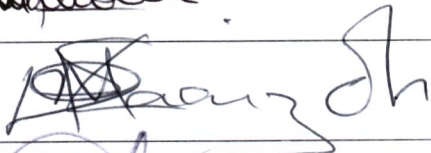
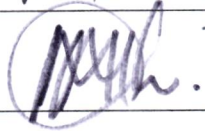
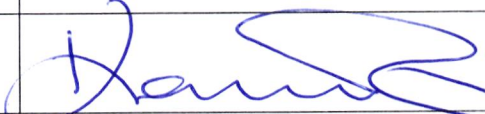
# COMMITTEE ON DELEGATED LEGISLATION

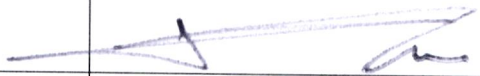



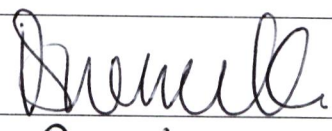
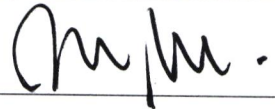
## ADOPTION LIST

### REPORT ON THE ADOPTION OF THE ENERGY (SOLAR WATER HEATING) REGULATIONS, 2012

We, the undersigned, hereby affix our signatures to this Report to affirm our approval:

DATE: 19/06/2018

	HON. MEMBER	SIGNATURE
1.	Hon. Gladys Boss-Shollei, MP(Chairperson)	
2.	Hon. Fatuma Ali Gedi, MP (Vice Chairperson)	
3.	Hon. Alfred Sambu, MP	Absent
4.	Hon. Isaac Waihenya Ndirangu, MP	
5.	Hon. Robert Mbui, MP	
6.	Hon. Alice Wahome, MP	
7.	Hon. Daniel Maanzo, MP	
8.	Hon. Muriuki Njagagua, MP	
9.	Hon. Martha Wangari, MP	
10.	Hon. Timothy Wanyonyi, MP	
11.	Hon. William Kamoti, MP	

	HON. MEMBER	SIGNATURE
12.	Hon. Patrick Kariuki Mariru, MP	
13.	Hon. Ronald Kiprotich Tonui, MP	
14.	Hon. William Kamket Kassait, MP	
15.	Hon. Munene Wambugu, MP	
16.	Hon. Charles Gimose, MP	
17.	Hon. Abdi Tepo, MP	Apologies
18.	Hon. George Gitonga Murugara, MP	
19.	Hon. Jennifer Shamalla, MP	
20.	Hon. Muturi Kigano, MP	
21.	Hon. (Dr.) Wilberforce Oundo, MP	
22.	Hon. Sammy Seroney, MP	

**MINUTES OF THE 35<sup>TH</sup> SITTING OF THE COMMITTEE ON DELEGATED LEGISLATION HELD ON TUESDAY, 29<sup>TH</sup> MAY, 2018, AT 3.00 P.M. IN THE COMMITTEE ROOM ON 2<sup>ND</sup> FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS**

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**PRESENT**

Hon. Alice Wahome, MP (Chairing)  
Hon. Timothy Wanyonyi, MP  
Hon. Daniel Maanzo, MP  
Hon. George Gitonga Murugara, MP  
Hon. (Dr.) Wilberforce Oundo, MP  
Hon. Jennifer Shamalla, MP  
Hon. Muriuki Njagagua, MP  
Hon. Sammy Seroney, MP

**ABSENT WITH APOLOGY**

**Hon. Gladys Boss Shollei, CBS, MP** - **Chairperson**  
**Hon. Fatuma Gedi, MP** - **Vice Chairperson**  
Hon. Robert Mbui, MP  
Hon. Charles Gimose, MP  
Hon. Martha Wangari, MP  
Hon. Patrick Kariuki Mariru, MP  
Hon. Munene Wambugu, MP  
Hon. William Kamoti, MP  
Hon. Isaac Waihenya Ndirangu, MP  
Hon. Ronald Kiprotich Tonui, MP  
Hon. Abdi Koropu Tepo, MP  
Hon. William Kamket Kassait, MP  
Hon. Alfred Sambu, MP  
Hon. Muturi Kigano, MP

**IN-ATTENDANCE**

**National Assembly Secretariat**

Ms. Susan Maritim - First Clerk Assistant  
Mr. Jimale Mohamed - Third Clerk Assistant  
Ms. Emma Esendi - Legal Counsel  
Mr. Anthony Wamae - Serjeant-at-Arms

**Energy Regulatory Commission**

Mr. Robert P. Oimeke - Director General  
Ms. Caroline Kimathi - Ag. Director Renewable Energy  
Mr. Robert Mahenia - Legal Manager

**MIN.NO. CDL/206/2018: PRAYER & PRELIMINARIES**

Hon. Alice Wahome, MP continued to chair the meeting, as earlier resolved by the Members present. She thereafter called the meeting to order at 3.00 p.m followed by Prayer.

**MIN.NO. CDL/207/2018: CONFIRMATION OF MINUTES OF PREVIOUS MEETING**

Confirmation of Minutes of the previous meeting was deferred to the next sitting.

**MIN.NO. CDL/208/2018: CONSIDERATION OF ENERGY (SOLAR WATER HEATING) REGULATIONS 2012**

The Chairperson welcomed Members and officials from Energy Regulatory Commission led by the Director General, Mr. Robert Oimeke to the meeting. Thereafter a round of introductions was conducted.

The Chairperson then informed the meeting that decision to recall the Energy (Solar Water Heating) Regulations 2012, was made pursuant to section 12(2) read together with section 16 of the Statutory Instruments Act, (*No 23 of 2013*) which empowers the Committee to *inter alia* scrutinize statutory instruments previously published before the commencement of the Statutory Instrument Act.

She thereafter invited the Director General to make his presentation to the Committee.

**PRESENTATION BY THE ERC**

**Background Information**

The Energy Regulatory Commission, established through the Energy Act of 2006, is a single sector regulatory agency with responsibility for economic and technical regulation of electric power, renewable energy and downstream petroleum subsectors.

The objects and functions of the Commission are:

- a) regulate among others protect the interests of consumer,
- b) investor and other stakeholder interests;
- c) maintain a list of accredited energy auditors;
- d) monitor, ensure implementation of, and the observance of the principles of fair competition in the energy sector, in coordination with other statutory authorities;
- e) collect and maintain energy data; and
- f) prepare indicative national energy plan.

In fulfilment of the requirements of Section 104, the Commission developed the Energy (Solar Water Heating) Regulations 2012, which were published in May 2012.

**Energy (Solar Water Heating) Regulations 2012**

- The Energy (Solar Water Heating) Regulations 2012 were gazetted on 25th May 2012 under Legal Notice No. 43 as a subsidiary legislation under the Energy Act (No 12 of 2006). The Regulations require that premises with a hot water demand exceeding one



hundred litres per day to install solar water heating systems to cater for at least 60% of the hot water demand.

- The Regulations aim to both promote energy efficiency and conservation and to encourage the wider adoption and use of renewable energy technologies, and national development priorities as set out in Vision 2030, which aims for Kenya to increase efficiency in energy consumption in its path towards a middle income industrialized country.
- The Regulations are a good initiative to increase the use of solar water heaters in Kenya.
- The Regulations required all new buildings to comply at the time of publishing while existing buildings had a grace period of five years to comply. The grace period expired in May 2017.
- To inform the public on the Regulations and compliance to the same, the Commission has conducted stakeholder meetings in various counties in the country, and has carried out advertisements in the print media, televisions and social media. At the time of development of the Energy (Solar Water Heating) Regulations i.e. from 2010-2012 the country was recovering from a severe drought which had adversely affected energy supply in the country. The dam levels had drastically reduced affecting power supply from hydropower plants and expensive thermal power plants had to be deployed to meet the deficit. The Energy (Solar Water Heating) Regulations 2012 were therefore developed with the main objective being to improve the energy security in the country taking into account the huge solar resource potential and high demand for hot water.

### **Expected Benefits of the Regulation**

- i) Enhanced national energy security through diversification of energy supply mix and reduction in the over reliance on petroleum imports;
- ii) Reduced demand for expensive fuel fired peaking power plants resulting from grid electricity peak demand attributed to water heating.
- iii) Increased environmental protection through reduction of greenhouse gases as a result of reduction in the use of petroleum fuels and biomass for water heating.
- iv) Increased employment, capacity building and income generation resulting from the expanded solar water heating industry.

### **Exemptions**

Premises may be exempted from installation of solar water heating systems due to the following circumstances;

- i) premises with technical limitations that are incapable of incorporating solar heating systems due to their special circumstances – this will include facilities with weak structures that cannot take the weight of solar water heating systems. The incapability of these buildings needs to be contained in a report done by a registered engineer;
- ii) premises supplied with hot water from a cogeneration plant in or proximate to the premises – this means that they do not rely on grid electricity to heat water;
- iii) premises utilizing electricity generated from renewable energy and the excess is used to heat water as a dump load - these do not use grid electricity to use water; and
- iv) such other premises as the Commission may determine based on the reasons above.

Regarding the implementation of the Regulations, the DG informed the Committee that the Commission has been implementing the Regulations to achieve the various anticipated benefits through –

- a) licensing of solar water heating technicians and contractors;
- b) awareness creation through various media and public for; and
- c) compliance inspections.

### **Compliance with Statutory Instruments Act (2013)**

On Compliance with the Statutory Instruments Act, the Director General informed the Committee that the Energy (Solar Water Heating) Regulations 2012 were gazetted on 25th of May 2012, prior to the enactment of the Statutory Instruments Act and as such the Regulations were not subjected to the requirements of the Act. Despite the absence of the Statutory Instruments Act then, the Regulations were subjected to extensive stakeholder consultation and took into account their respective input.

### **Committee Observations**

The Committee made the following observations –

- i. the Committee was informed that the Regulations apply to residential premises, educational and health institutions, as well as laundries, hotels hostels, lodges, restaurants, and cafeterias. The DG further clarified that only 3-bedroom residential houses and above, within a township/municipality and with piped water and electricity connection are required to adhere to the Regulations. Houses in rural areas are therefore exempted from the Legal Notice;
- ii. on service providers, the DG informed the Committee that ERC licences contractors for installation of the solar water systems. The Commission conducts continuous training for these contractors in collaboration with Strathmore University. Currently, there are 100 pre-qualified contractors and they are listed on the Commission's website;
- iii. on the mandate to pre-qualify contractors, the DG informed the Committee that the ERC is mandated to license and train service providers. The National Construction Authority works in collaboration with the ERC to issue licenses to contractors in the energy sector.
- iv. the DG further informed the Committee that individuals are eligible for exemption at the discretion of the Commission as provided for in Regulation 4. The Committee expressed concern over the subjectivity of exemption and warned that it may be subject to abuse;
- v. the Committee further raised concern on the level of stakeholder consultation undertaken in the development of the Regulations. ERC was instructed to submit evidence of public participation undertaken.
- vi. the Regulations are an impediment to achievement of the 'Big 4' agenda on affordable housing as the additional cost of installing solar water heaters is prohibitive to prospective home owners;



- vii. the Regulations also do not take into consideration the varying climatic conditions in the country. As such, areas with hot climatic conditions e.g. the ASAL areas, the coast strip etc. have no need for water heating;
- viii. the DG informed the Committee that apart from Kenya, South Africa is the only other jurisdiction that has similar Regulations on solar water heating. Israel implemented the mandatory regulations in 1980. Other jurisdictions are Germany, Ireland, Italy and Spain;
- ix. on the legal framework, the Committee observed that the definition of municipalities and townships are not in tandem with the current constitutional framework and the County Governments Act. The Regulations ought to be amended to comply with the Constitution. The DG informed the Committee that review of the Energy Act is ongoing and will inform review of Regulations in the energy sector; and
- x. **On 28<sup>th</sup> May 2018**, the High Court in Nakuru temporarily barred the ERC from conducting a crackdown on building owners who have not installed solar water heaters on their properties, following a conservative order sought by one Mr. Nalinkumar Shah, a property owner in Nakuru, pending the hearing of the suit.

#### **Way Forward**

The Committee having scrutinized the Energy (Solar Water Heating) Regulations 2012 that were gazetted on 25<sup>th</sup> of May 2012 prior to the enactment of the Statutory Instruments Act, 2013 be annulled in entirety having been proposed by Hon. Sammy Seroney, MP and seconded by Hon. Daniel Maanzo, MP for the following reasons: -

- i) the Regulations are inconsistent with the Statutory Instruments Act, 2013 and Constitution of Kenya;
- ii) the ERC failed to adduce evidence of public participation undertaken in development of the Regulations;
- iii) the Regulations are contrary to the government policy on affordable housing as the additional cost of installing solar water heaters is prohibitive to prospective home owners; and
- iv) Regulation 4 on exemption is defective in drafting and is subject to abuse.

**MIN.NO. CDL /204/2018:                      ADJOURNMENT**

There being no other business, the meeting was adjourned at 3.55 p.m.

Signed:.....

Date:.....

**HON. GLADYS BOSS-SHOLLEI, CBS, MP  
(CHAIPERSON)**





**MINUTES OF THE 38<sup>TH</sup> SITTING OF THE COMMITTEE ON DELEGATED LEGISLATION HELD ON TUESDAY, 19<sup>TH</sup> JUNE, 2018, AT 11.20 A.M. IN THE SMALL DINING ROOM, NEW WING, MAIN PARLIAMENT BUILDINGS**

---

**PRESENT**

<b>Hon. Gladys Boss Shollei, CBS, MP</b>	-	<b>Chairperson</b>
<b>Hon. Fatuma Gedi, MP</b>	-	<b>Vice Chairperson</b>
Hon. Alice Wahome, MP		
Hon. Daniel Maanzo, MP		
Hon. Charles Gimose, MP		
Hon. Muturi Kigano, MP		
Hon. William Kamoti, MP		
Hon. Muriuki Njagagua, MP		
Hon. Patrick Kariuki Mariru, MP		
Hon. Munene Wambugu, MP		
Hon. William Kamket Kassait, MP		
Hon. Jennifer Shamalla, MP		
Hon. Sammy Seroney, MP		

**ABSENT WITH APOLOGY**

Hon. Robert Mbui, MP	
Hon. Martha Wangari, MP	
Hon. George Gitonga Murugara, MP	
Hon. Isaac Waihenya Ndirangu, MP	
Hon. Timothy Wanyonyi, MP	
Hon. (Dr.) Wilberforce Oundo, MP	
Hon. Abdi Koropu Tepo, MP	
Hon. Ronald Kiprotich Tonui, MP	

**ABSENT**

Hon. Alfred Sambu, MP	
-----------------------	--

**IN-ATTENDANCE**

**National Assembly Secretariat**

Ms. Susan Maritim	-	First Clerk Assistant
Mr. Mohammed Jimale	-	Third Clerk Assistant
Mr. Dima Dima	-	Senior Legal Counsel
Ms. Anne Kigoro	-	Research & Fiscal Analyst
Mr. Anthony Wamae	-	Sergeant-at-Arms

**MIN.NO. /NA/CDL/2018/215      PRAYER & PRELIMINARIES**

The meeting was called to order at twenty minutes past eleven o'clock followed by Prayer and preliminary remarks by the Chairperson.

**MIN.NO. /NA/CDL/2018/216      CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**

Minutes of the 36<sup>th</sup> sitting were read and confirmed as a true record of the proceedings having been proposed and seconded by Hon. Patrick Mariru, MP and Hon. Muriuki Njagagua, MP respectively.

Minutes of the 37<sup>th</sup> sitting were read and confirmed as a true record of the proceedings having been proposed and seconded by Hon. Alice Wahome, MP and Hon. William Kamoti, MP respectively.

**MIN.NO. /NA/CDL/2018/217      CONSIDERATION AND ADOPTION OF THE REPORT ON ENERGY (SOLAR WATER HEATING) REGULATIONS, 2012**

The Committee unanimously adopted the Report on the annulment of the Energy (Solar Water Heating) Regulations 2012 having being proposed by Hon. Munene Wambugu, MP and seconded by Hon. William Kamoti, MP.

The secretariat was tasked to incorporate all the observations by the Committee and process the Report for tabling.

**MIN.NO. /NA/CDL/2018/218      ANY OTHER BUSINESS**

**1. Traffic (Driving Schools, Driving Instructors & Driving Licences) Rules, 2018**

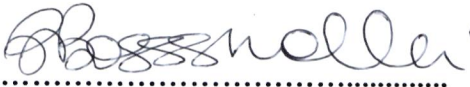
The Committee was informed that the Traffic (Driving Schools, Driving Instructors & Driving Licences) Rules, 2018 were committed to the Committee for consideration on 13<sup>th</sup> June, 2018. The Committee observed with concern that the said Instrument is a subject of a court matter and a petition presented to the National Assembly. The secretariat was instructed to a prepare a brief for consideration on Tuesday, 26 June, 2018.

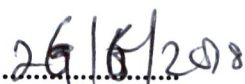
**2. Foreign Visits**

The secretariat was tasked to coordinate and follow up on foreign visits to be undertaken in the next financial year including International Trademark Association events, drone-related visits to Israel, USA & China.

**MIN.NO. /NA/CDL/2018/219      ADJOURNMENT**

There being no other business, the meeting was adjourned at half past midday.

Signed:.....

Date:.....

**HON. GLADYS BOSS-SHOLLEI, CBS, MP  
(CHAIPERSON)**

25th May, 2012

LEGAL NOTICE NO. 43

THE ENERGY ACT  
(No. 12 of 2006)

IN EXERCISE of the powers conferred by sections 63 and 110 of the Energy Act, 2006, the Minister for Energy makes the following Regulations:—

**THE ENERGY (SOLAR WATER HEATING) REGULATIONS, 2012**

**Citation.**

1. These Regulations may be cited as the Energy (Solar Water Heating) Regulations, 2012.

**Interpretation. Cap. 496, Cap 265.**

2. In these Regulations, unless the context otherwise requires—

“active solar water heating system” means a solar water heating system that employs a pump to circulate water through a solar collector to a storage tank or to the point of use;

“carbon finance” means a mechanism that facilitates the financial reward through carbon credits for the reduction of greenhouse gas emissions by emitters in developing countries;

“Clean Development Mechanism” means a mechanism that allows emission-reduction projects in developing countries to earn certified emission reduction (CER) credits each equivalent to one tonne of carbon dioxide, which can be traded or sold, or used by industrialized countries to meet a part of their emission reduction targets under the Kyoto Protocol;

“cogeneration” means the production of electricity and heat in one single process for dual output streams;

“direct solar water-heating system” means a solar water heating system in which water is heated directly in the collector;

“indirect solar water-heating system” means a solar water heating system in which a heat transfer fluid in the collector transfers heat to the water through a heat exchanger;

“Kenya Standard” means the specification or code of practice declared by the National Standards Council under section 9 of the Standards Act;

“licensee” means the holder of a licence issued under these Regulations;

“Minister” means the Minister for the time being responsible for matters relating to



energy;

“passive solar water heating system” means a solar water heating system that employs natural convection to circulate water through a solar collector to a storage tank or to the point of use;

“premises” means existing, new or alterations and extensions to existing residential or commercial buildings or structures, including-

(a) small domestic houses as defined in the building code made under the Local Government Act;

(b) all domestic dwellings or residential houses;

(c) commercial buildings including hotels, lodges, clubs, restaurants, cafeterias, laundries, eating places and similar premises;

(d) health institutions including hospitals, health centres and clinics and similar medical facilities;

(e) educational institutions including universities, colleges, boarding schools and similar institutions;

“renewable energy” means all non-fossil sources including, biomass, geothermal, small hydro-power, solar, wind, sewage treatment and plant gas;

“solar collectors” include evacuated tube collectors, and glazed and unglazed flat plate collectors;

“solar water heating system” means a device or system that uses sunlight to heat water and comprises of solar collectors, storage tanks, controls, installation hardware and fittings.

### **Installation and use of solar water heating systems.**

3. (1) All premises within the jurisdiction of a local authority with hot water requirements of a capacity exceeding one hundred litres per day shall install and use solar heating systems.

(2) Within a period of five years from the date of coming into force of these Regulations, all existing premises with hot water requirements of a capacity exceeding one hundred litres per day shall install and use solar heating systems.

(3) A person who contravenes the provisions of this regulation commits an offence and shall, on conviction, be liable to a fine not exceeding one million shillings, or to imprisonment for a term not exceeding one year, or to both.

### **Exemptions.**

4. (1) The Commission may exempt from these Regulations—

- (a) premises with technical limitations;
- (b) premises incapable of incorporating solar heating systems due to their special circumstances;
- (c) premises supplied with hot water from a cogeneration plant in or proximate to the premises;
- (d) premises utilising electricity generated from renewable energy and the excess is used to heat water as a dump load; or
- (e) such other premises as the Commission may determine.

(2) An application for an exemption under sub-regulation (1) shall be made to the Commission, in Form 1 set out in the First Schedule, before the submission of the building plans for approval to the relevant local authority.

(3) The Commission shall process an application for an exemption within forty five days of receipt thereof, and inform the applicant and the relevant local authority of its decision, in writing.

(4) The Commission shall, where it refuses to grant an exemption, give the applicant reasons for the refusal.

### **Demand calculation and minimum hot water demand.**

5. (1) All premises shall have a minimum annual solar contribution of sixty per cent to the premises' hot water demand.

(2) The daily hot water demand shall be calculated using the specific hot water demand values specified in Part A of the Second Schedule.

### **Responsibility for compliance.**

6. (1) A developer of a housing estate, a promoter of the construction, an owner of the premises or an Architect or an Engineer engaged in the design or construction of premises shall comply with these Regulations.

(2) An owner of premises, Architect and an Engineer engaged in the design, construction, extension or alteration of premises shall incorporate solar water heating systems in all new premises designs and extensions or alterations to existing premises.

(3) An owner or occupier of premises that has a solar water heating system shall use and carry out the necessary operational maintenance and repairs required to keep the installation in good and efficient working condition.

(4) An electric power distributor or supplier shall not provide electricity supply to premises where a solar water heating system has not been installed in accordance with these Regulations.

(5) An owner or occupier to whom these Regulations apply may investigate the inclusion of the relevant solar water heating system into a project to be registered under any carbon finance mechanism that may be established from time to time including the Clean Development Mechanism (CDM).

(6) A person who contravenes the provisions of this regulation commits an offence and shall be liable, on conviction, to a fine not exceeding one million shillings, or imprisonment for a term not exceeding one year, or to both.

### **Powers of inspection**

7. (1) The Commission or its agent may inspect premises, to investigate matters relating to the installation of solar water heating systems in premises, in accordance with section 24 of the Act.

(2) The Commission shall issue a compliance certificate, upon request, where a solar water heating system has been installed in compliance with these Regulations.

(3) Where the Commission finds that the provisions of these Regulations have been contravened by the owner or an occupier of the premises or that a condition that may lead to the contravention of these Regulations has arisen, the Commission or its agent may issue a compliance notice to the owner or occupier of the premises.

(4) A notice issued under this Regulation shall specify-

(a) the regulation that have been contravened;

(b) the measures that should be undertaken to rectify the contravention; and

(c) the period within which the notice shall be complied with.

(5) A person who does not comply with a notice issued under paragraph (4) within the specified period commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand shillings for residential premises and thirty thousand shillings for all other premises for each day or part thereof that the contravention continues.

### **Standardisation.**

8. (1) A person shall not use or employ for the purposes of or in connection with a solar heating system, any mode, material or apparatus other than that which complies with the Kenya Standard.

(2) A Solar collector shall, for the purposes of these Regulations, be of the unglazed flat



plate, glazed flat plate or evacuated tube collector technologies or any other type that meets the Kenya Standards for solar collectors.

(3) A glazed, evacuated tube collector or any other type that meets the Kenya Standards for collectors shall be used in all installations except in installations for heating swimming pools where unglazed collectors may be used.

(4) Solar collector panels shall be insulated to improve their thermal efficiency performance.

(5) The storage capacity of a solar water heating system shall not be less than one and a half times the daily hot water demand of the installation.

(6) The hot water storage tanks shall be insulated.

(7) All components selected for use in the installation of a solar water heating system shall be corrosion resistant.

(8) Selection of components for plumbing works in a Solar Water Heating System shall be in accordance with the planning and building code made under the Local Government Act, Cap. 265.

#### **Conventional Backup Water Heating System.**

9. (1) The backup water heater systems that utilize traditional fuels, including electricity, gas, or similar fuels, may be separately installed in buildings or be integrated into the solar heating system to ensure that there is an adequate supply of hot water at all times.

(2) The conventional back-up system shall be designed to supplement a solar water heating system by operating when absolutely necessary to supply the energy deficit from solar collectors due to adverse weather conditions or a solar water heating system defects.

#### **Design, Installation, Repair and Maintenance.**

10. (1) The design, installation, repair and maintenance of a Solar Water Heating System shall be in accordance with the Code of Practice – Solar Water Heating For Domestic Hot Water; Kenya Standard KS 1860:2008.

(2) The design, installation, repair and maintenance of a solar water heating system shall also be in accordance with the building code made under the Local Government Act, Cap. 265.

(3) Solar collectors shall be installed in accordance with the solar water heating system installation standards set out in Part B of the Second Schedule.

(4) A solar water heating system technician or contractor shall, upon commissioning a

solar heating system, issue an installation certificate, the date of installation, capacity of the solar water heating system, details of the installer and warranty, for the premises.

**Licensing of Solar Water Heating System installation work.**

**11.** (1) A person shall not undertake any solar water heating system installation work unless the person is licensed by the Commission as a solar water heating system technician or a contractor.

(2) The Commission shall not license a person as a solar water heating system technician unless the person has-

(a) qualifications and experience specified in Part C of the Second Schedule ; and

(b) certification recognized by the Commission.

(3) The Commission shall not license a person to be a solar water heating system contractor, unless the person has in his or her employment, a licensed solar water heating system technician.

(4) A person who wishes to be licensed as a solar water heating system technician or a contractor shall make an application in Form 3A or 3B, set out in the Third Schedule.

(5) The Commission may require and cause such applicant, for the purpose of ascertaining his ability to undertake, engage in or perform any work that is related to solar water heating system installation, to be examined, in such manner as it may determine, upon any matter or thing in connection with his application.

(6) The Commission shall process all applications within ninety days from the date of receipt of the application.

(7) The Commission may, after considering an application made under paragraph (4)-

(a) grant the licence applied for unconditionally or with such conditions as it may consider fit; or

(b) refuse to grant the licence applied for, giving reasons thereof.

(8) A licence issued under this regulation shall be valid for a period of two years from the date of issue.

**Renewal of licence.**

**12.** (1) An application for renewal of a licence shall be made at least thirty days before the expiry date of the current licence.

(2) Where, upon application, it is shown to the satisfaction of the Commission that a licence has been lost, destroyed or defaced, the Commission may issue a duplicate



licence.

**Keeping of registers and records.**

**13.** (1) The Commission shall maintain a register of all licensed solar water heating system technicians and contractors licensed under these Regulations.

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

(3) All solar water heating system technicians and contractors registered by the Commission shall maintain records of all solar water heating systems installed, specifying the location, capacity and type.

(4) All registered solar water heating system technicians and contractors shall, within the first quarter of every succeeding year, submit an annual return by the end of the first quarter of the following year of all the solar water heating systems installed in the immediately preceding year, specifying the location, capacity and type.

(5) All solar water heating system technicians and contractors shall keep and maintain a record of the reports required under these Regulations for a minimum period of five years.

(6) A person who contravenes paragraph (3) commits an offence and is liable, on conviction, to a fine not exceeding one million shillings, or to a term of imprisonment of one year, or to both.

**Compliance with other technical, legal and regulatory requirements.**

**14.** The incorporation of a solar water heating system in premises shall comply with all other relevant technical, legal and regulatory requirements applicable in Kenya.

FIRST SCHEDULE (r. 4 (2))

FORM I

APPLICATION FOR EXEMPTION

APPLICATION FOR EXEMPTION FROM THE SOLAR WATER HEATING  
REGULATIONS UNDER THE ENERGY ACT, 2006

"This form must be accompanied with a technical report signed by an expert (Registered Engineer, Architect, or Technician) explaining why it is not technically viable to have Solar Water Heating System in the premises".

GENERAL PARTICULARS

State

(1) Name and address of applicant in full; in the case of a partnership or other joint venture (other than a body corporate), give the names and addresses of each party concerned

.....  
.....

(2) Name, address and telephone number of person to whom correspondence or enquiries concerning the application should be directed.....

.....  
.....

(3) State whether the applicant is a public limited company, private limited company, overseas company, other body corporate, partnership, unincorporated association, sole trader or other entity (and in the last case give particulars of the legal status).....

.....  
.....  
.....

(2) If the applicant is a body corporate, state—

(a) the jurisdiction under which it is incorporated.....

.....  
.....

(b) if applicable, its registered number.....

.....  
.....

(Attach copies of Certificate of Registration, Certificate of Incorporation, Memorandum and/or Articles of Association where applicable)

(c) the full names and addresses of its current directors .....

.....  
.....

(d) the name and registered office of any holding company (within the meaning of Section 154 of Cap 486) of the applicant

.....  
.....

(3) If the applicant is neither a body corporate nor a sole trader, give the name(s) and address(es) of the person or persons in whom effective control of the applicant rests.

.....  
.....

..... (4) Where

(4) Where any person (other than a person whose name is given at paragraph 2(2)(d) or paragraph 2(3) above) holds 20 per cent or more of any class of the shares of the applicant, give the name and address of each such person, specifying in each case the number of shares so held and the percentage of the aggregate number of shares of that class represented thereby.....

(5) Give the Land Reference Number and name and address of the local authority where the premises are situated.

3. The grounds on which the applicant seeks exemption-

4. (1) Name(s) and designation(s) of person(s) signing the application:

(2) Date of application:

any person (other than a person whose name is given at paragraph 2(2)(d) or paragraph 2(3) above) holds 20 per cent or more of any class of the shares of the applicant, give the name and address of each such person, specifying in each case the number of shares so held and the percentage of the aggregate number of shares of that class represented thereby.....

(5) Give the Land Reference Number and name and address of the local authority where the premises are situated.

3. The grounds on which the applicant seeks exemption-

4. (1) Name(s) and designation(s) of person(s) signing the application:

(2) Date of application:



## PART A

### HOT WATER DEMAND CALCULATIONS

Type of Building Premises	Specific Daily Hot Water Demand  (DHWD) in litres per day at 60 °C
Domestic residential houses	30 per person
Educational institutions such as colleges and boarding schools	5 per student
Health institutions such as Hospitals, Health Centres, clinics and similar medical facilities	50 per bed
Hotels, Hostels, Lodges and similar premises providing boarding services	40 per bed
Restaurants, Cafeterias and similar eating places	5 per meal
Laundries	5 per kilo of clothes

(a) Hot Water Demand calculations at other temperatures (T) shall be adjusted for the 60 °C reference temperature. For the purposes of making the adjustment, the following equation shall be used—

The equation assumes that the cold water temperature (inlet water temperature) is 15 °C and a linear relationship. 45 °C is the difference between 60 °C and 15 °C.

(b) For buildings with seasonal variations in hot water demand such as Hotels, game Lodges. and similar premises, the demand may be adjusted by an annual occupancy rate of factor of not less than 70%

(c) In calculating demand, it shall be assumed that the daily hot water demand is constant, throughout the year.

(d) In calculating demand for domestic residential houses, the number of persons shall be taken to be equal to the number of bedrooms x 1.5.

(e) In calculating the heat load of solar water heating system, heat losses in the hot water distribution system shall be taken into account.

## PART B

### INSTALLATION STANDARDS FOR SOLAR WATER HEATING SYSTEM

(r.10)

Solar collectors shall be installed at an angle between 10° and 20 ° from horizontal plane and/or facing the equator:

Provided that the solar collector area shall be increased by 10% for tilt angles of up to 30 ° and 20% for tilt angles of up to 40 ° for technical or aesthetic reasons and/or increased by 10% if the deviation from the direction of the equator is above 25 °.

## PART C

### QUALIFICATIONS AND EXPERIENCE FOR LICENSING

(r. 11)

Solar Water Heating System Technicians—Minimum Education (Academic) qualifications and Professional (Job) experience

	<i>Education (Academic)</i>	<i>Professional (Job)</i>
1	A graduate Engineer	Over 2 years experience involving plumbing works
2	Higher National Diploma Engineer or Equivalent	2years experience involving plumbing Works
3	Government Trade Test Grade1	Over 3 years experience of work experience involving plumbing works
4	Government Trade Test Grade2	Over 6 years experience of work experience involving plumbing works

THIRD SCHEDULE

(r. 11(4))

FORM 3A

APPLICATION FOR LICENCE OF SOLAR WATER HEATING SYSTEM TECHNICIAN

)) Purpose of Application: New Application \_ Renewal \_ (Please indicate with a tick(

Name in full.....  
(Block capitals, surname first)

Postal Address.....

Date of Birth..... Nationality.....

Name and address of present employer, if any .....

Name of present job.....

Academic qualification:.....

(a).....

(b).....

Professional Qualification:.....

(a).....

(b).....

Details of apprenticeship (if any): .....

.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....

Subsequent experience in the work of a plumber (Trade Test Certificate, if any)

.....  
.....  
.....

Knowledge of occupational safety and health regulations

No Yes

Details of Solar Water Heating System installation licence held (if any)

Licence No.....

Issued on.....

Issued by.....

For the licence applied for I was at first interviewed on.....

I declare that the particulars given by me are true and correct.

Date:.....Signature of Applicant:.....

#### REFEREES

(The following details to be completed by two independent referees who must have known the applicant's ability very well, preferably in the trade)

1st Referee

I declare that the particulars given by the applicant in this form are true and correct to the best of my knowledge.

Full Name: .....

(Block letters, surname first)

Occupation: .....

Postal address: .....

Solar Water Heating System installation licence No. (if any) .....

I have known the above person for ..... years.

Position held at present.....

Date.....Signature of 1st referee.....

I declare that the particulars given by the applicant in this form are true and correct to the best of my knowledge.

Full Name: .....

(Block letters, surname first)

Occupation: .....

Postal address: .....

Solar Water Heating System installation licence No. (if any) .....

I have known the above person for ..... years.



Position held at present.....  
Date..... Signature of 2nd referee.....

FORM 3B

(r. 11 (4))

APPLICATION FOR LICENCE OF SOLAR WATER HEATING SYSTEM  
CONTRACTOR

)) Purpose of Application: New Application! Renewal ! (Please indicate with a tick(

1. Name of contractor .....

2. Details of Contractor:

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

(b) Postal Address:.....

(c) Location of business premises:

Plot No.....Building Name.....

Street/Market:.....

Town/District:.....

3. Give full details of proprietors or partners owning business or directors/shareholders of the company, as the case may be.

Name	Nationality
.....	.....
.....	.....
.....	.....

(any additional information should be submitted on a separate sheet of paper)

4. Certified copies of the following documents should be submitted with the application for a licence-

(a) If the applicant is a Kenyan, a copy of both sides of ID card or if a non-Kenyan current work permit together with copies of pages 1 and 5 of the passport;

(b) Relevant entry permits(s) for non-citizens;

(c) Copy of Business name Registration Certificate or Certificate of Incorporation and Memorandum and Articles of Association in case of a company (whichever is applicable).

(d) Lease agreement or letter from landlord confirming tenancy.



(e) PIN and VAT certificates.

(i) Valid Tax compliance certificate

(ii) Any other document that may be required by the Commission from time to time

NB: An applicant for renewal of a licence shall submit only a photocopy of the current Licence.

List of Licensed Solar Water Heating System technicians

Full name	Licence No.
.....	.....
.....	.....
.....	.....
.....	.....
.....	.....

Areas where the business will operate.....  
.....  
.....  
.....

Previous Solar Water Heating System project or work experience .....  
.....  
.....  
.....  
.....

Name and address of bank(s) or financial institution(s) where the business account(s) is/are maintained.....  
.....  
.....  
.....  
.....  
.....  
.....

I/We hereby apply for registration as a Solar Water Heating System Contractor. We commit to carry out all installations in accordance with the Energy (Solar Water Heating) Regulations, 2011.

I/We hereby, declare that the information I/we have provided in the application is true and correct.

Signature of Applicant ..... Date .....  
Signature of Applicant ..... Date .....  
Signature of Applicant ..... Date .....

**REFEREES**

(The following details to be completed by two different and independent referees, who would vouch your competence to operate a business of contractor if registered, your technical ability having already been established. Persons who may not understand what is involved in running a business cannot be accepted as referees).

**1st Referee**

I certify that the information given in this form is true and correct to the best of my knowledge

Full name.....  
(Block letters, surname first)

Occupation.....  
Postal address.....

Date..... Signature of 1st referee.....

**2nd Referee**

I certify that the information given in this form is true and correct to the best of my knowledge

Full name.....  
(Block letters, surname first)

Occupation.....  
Postal address.....

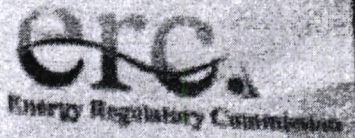
Date..... Signature of 2nd referee.....

Made on the 4th April, 2012.

**KIRAITU MURUNGI,**  
*Minister for Energy.*



# PUBLIC NOTICE SOLAR WATER HEATING REGULATIONS



## THE ENERGY (SOLAR WATER HEATING) REGULATIONS 2012 LEGAL NOTICE NO. 43 OF 25<sup>TH</sup> MAY 2012

The Energy Regulatory Commission (the Commission) wishes to notify all owners and occupiers of domestic residential premises, educational and health institutions, laundries, hotels, hostels, lodges, restaurants, cafeterias and other similar facilities that the compliance deadline for all the above mentioned facilities built before the gazette of the regulations was 25<sup>th</sup> May 2017. The regulations require all premises with a hot water demand exceeding one hundred litres per day to install and use solar water heating systems. The minimum hot water demand threshold for compliance is outlined below:

### SN Type of Building Premises

SN	Type of Building Premises	Minimum Daily Demand Threshold (at 60°C)
1.	Domestic residential houses	3 bedrooms
2.	Educational institutions such as colleges and boarding schools	20 students
3.	Health institutions such as Hospitals, Health Centers, clinics and similar medical facilities	2 Beds
4.	Hotels, Hostels, Lodges and similar premises providing boarding services	4 beds
5.	Restaurants, Cafeterias and similar eating places	20 meals
6.	Laundries	20 Kilograms of clothes

Following the lapse of the deadline, the Commission is currently carrying out surveillance visits on buildings under construction and random spot checks on existing premises to ensure compliance with the regulations.

We have received information that fraudsters masquerading as ERC officers are inspecting buildings in relation to these regulations.

The Commission wishes to notify the public that all ERC officers inspecting facilities have official identification badges and premise owners should request to see the badges. **THE ERC OFFICERS WILL USE OFFICIAL ERC BRANDED VEHICLES WITH BLUE NUMBER PLATES.** The authenticity of ERC staff can be verified by sending the text message: "staff <space> ID no. of the person inspecting" to 0707667623.

Individuals found inspecting buildings posing as ERC officers should be reported to the police

Director General  
Energy Regulatory Commission  
2<sup>nd</sup> Floor, Eagle Africa Centre, Longonot Road, Upper Hill  
P.O. Box 42681 - 00100 GPO, Nairobi, Kenya  
Telephone: +254-20-2847000/200  
Enforcement Hotline: 0708444000  
Email: info@erc.go.ke  
Website: <http://www.erc.go.ke>



