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THE COPYRIGHT AND NEIGHBOURING RIGHTS ACT,
(CAP. 218)

REGULATIONS

(Made under section 54G)

THE COPYRIGHT AND NEIGHBOURING RIGHTS (ROYALTY COLLECTION AND
DISTRIBUTION) (COLLECTIVE MANAGEMENT ORGANISATIONS) REGULATIONS, 2023

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THE COPYRIGHT AND NEIGHBOURING RIGHTS ACT,
(CAP. 218)

REGULATIONS

(Made under section 54G)

THE COPYRIGHT AND NEIGHBOURING RIGHTS (COLLECTIVE MANAGEMENT
ORGANISATIONS) REGULATIONS, 2023

PART I
PRELIMINARY PROVISIONS

- Citation 1. These Regulations may be cited as The Copyright and Neighbouring Rights (Collective Management Organisations) Regulations, 2023.
- Interpretation
on
Cap. 218 2. In these Regulations, unless the context otherwise requires-
- “Act” means the Copyright and Neighboring Rights Act;
 - “Board” means the governing board of the Office established as such under the Act;
 - “bundle of rights” means all rights provided for in the Act;
 - “category of works” means the works referred to under section 5(2) of the Act;
 - “collective management organisation” has the meaning ascribed to its under section 4 of the Act;
 - “Copyright Administrator” means the head of the Office appointed as such in terms of the Act;
 - “general meeting” means the annual general meeting or the special general meeting through which members of a collective management organisation participate and exercise their membership rights;
 - “Office” means the Copyright Office of Tanzania established under section 46 of the Act;
 - “management fees” means the amounts charged, deducted or offset by a collective management organisation from

revenue generated from rights or from any income from the investment of revenue generated from rights to cover the costs of the management of copyright or related rights;

“Minister” means the Minister for the time being responsible for copyright and neighbouring rights;

“member” means a right holder or an entity representing right holders, including other collective management organisations and associations of right holders;

“representation agreement” means an agreement between collective management organisations whereby one collective management organisation mandates another collective management organisation to manage the rights it represents;

"rights revenue" means income collected by a collective management organisation on behalf of right holders, whether deriving from an exclusive right, a right to remuneration or a right to compensation;

"royalty" means payment of an agreed rate to a right holder for the use of a copyright work; and

"user" means a person carrying out acts subject to the authorization of right holders, remuneration of right holders or payment of compensation to right holders.

PART II

LICENSING OF COLLECTIVE MANAGEMENT ORGANISATION

Restrictions
to operate
collective
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3.-(1) A person shall not operate as collective management organisation unless with a licence issued in accordance with these Regulations.

(2) Subject to the conditions as specified in section 52C of the Act, an organisation shall not be eligible to apply for a license unless-

(a) the chairman of the Board of the organisation is a person appointed outside the representative of the members of the organisation; and

(b) the Board and management of the organisation consists of persons who are citizens of Tanzania and ordinarily resident in Tanzania.

Application
for license

4.-(1) A company that intends to operate a collective management organisation shall apply to the Office in FORM CM0 01 as prescribed in the Schedule to these Regulations and pay an application fee of five million shillings.

(2) A company applying for licence to operate as a collective management organisation shall furnish to the Office the following:

- (a) memorandum of association of the company;
- (b) a statement indicating the class of right or category of right owners and category of works in which the society owns rights or intends to represent or act for;
- (c) membership list of not less than thirty right owners representing the class of right to which the company or organisation is seeking a license to operate as a collective management organisation, which shall indicate the signed consent of such persons to belong to the organisation, or where the organisation has been in existence, that they are members of the society;
- (d) undertakings by at least two directors or representatives of an organisation including the chairman of the board of the organisation that the organisation shall comply with provisions of the Act and these Regulations in respect of the operations of the organisation;
- (e) certified copy of a membership agreement used by the organisation;
- (f) certificate of incorporation;
- (g) tax clearance certificate;
- (h) business license;
- (i) the articles of association of the organisation makes provision for attendance of representative of the Office at the Board and other general meetings of the organisation as an observer;
- (j) proof of the existence of an operating website; and
- (k) such other document or information as may be required by the Office.

(3) Memorandum of association of the organisation shall provide administration of the collective management of copyright as the main function of the organisation to be.

Determinati
on of
application

5.-(1) The Office shall approve an application where it complies with the requirements provided under regulation 4.

(2) Where the Office rejects an application for a license under these Regulations, it shall provide the applicant, in writing, the grounds for its decision.

Issuance of
license

6.-(1) For any approved application, the Office shall issue the applicant a license to operate as a collective management organisation in the prescribed Form CMO 2 as set out in the Schedule to these Regulations.

(2) Subject to the conditions for which a license is issued under these Regulations, a license shall be valid for one year and may be renewed every year in accordance with these Regulations.

Action
where there
is no
collective
managemen
t in certain
category

7.-(1) Where a collective management organisation has not been established in respect of any category of works, or the license for a collective management organisation in a category has been revoked, the Office shall, by notice in a newspaper of wide circulation, invite new applications for the license of a collective management organisation with respect to that category.

(2) Where more than one organisation applies for the same category of works, the Office shall evaluate each application separately and issue license to the organisation that best represents the interests of the right holders with respect to that category of works.

Waiver of
requirement
s for license
Collective
managemen
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organisatio
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8. Where there is a single applicant for a collective management organisation license in respect of a category of works and the application does not fulfil any of the requirements for issuance of license under the Act and these Regulations, the Office may waive the requirement if it determines that the non-issuance of a license will adversely

impact the effectiveness of the organisation for which a category of works relates:

Provided that, the Office shall, within a specified period of the license, require the collective management organisation to comply with the requirements for obtaining a license.

Application
for renewal
of license

9.-(1) Subject to the provisions of section 52C of the Act, a collective management organisation shall within three months before the lapse of the validity period of a licence, apply to the Office for renewal of a license using the prescribed Form CMO 3 as set out in the Schedule to these Regulations.

(2) The application under this regulation shall be accompanied by-

- (a) a statement of changes made to the memorandum and articles of association during the year preceding the application;
- (b) certified copies of the organisation's audited accounts for the year preceding application;
- (c) the organisational structure of the organisation and names and qualifications of its senior management;
- (d) a statement of changes in senior management and reasons thereof;
- (e) a detailed report of operations of the organisation during the year preceding the application;
- (f) an up-to-date list of members of the organisation; and
- (g) the current repertoire administered by the organisation indicating the title of each work and right owner; and
- (h) proof of payment of renewal fee of one million shillings.

Determinati
on of
application
for renewal
of license

10.-(1) The Office shall determine an application for renewal of license having regards to the conduct of the collective management organisation and the capacity of the collective management organisation to collect and distribute royalties.

(2) The Office may reject an application for renewal of a license if it is of the opinion that the collective management organisation no longer meets the requirement for grant of license.

(3) The Office shall, in determining the requirements in subregulation (1), consider the following factors:

- (a) whether the organisation demonstrates integrity, transparency and accountability in the collection and distribution of royalties;
- (b) whether the organisation adheres to the principles of good governance;
- (c) the particulars of the directors and their antecedents;
- (d) whether the membership of the organisation is a true representation of the holders of the category of works that the organisation claims to represent;
- (e) whether the administrative costs of the organisation exceeds thirty percent of the royalties collected by the organisation;
- (f) whether the royalties are distributed timely and appropriately using approved distribution rules;
- (g) the particulars of the senior management of the organisation, their academic and professional qualifications;
- (h) the strategies and systems of the organisation for ensuring royalties are collected and distributed efficiently;
- (i) the audited accounts of the organisation;
- (j) whether the organisation has submitted annual report; and
- (k) any other information or clarification that may be useful in determining the application for renewal of license.

(4) Where the information required under subregulation (1) is not available, the Board shall appoint an auditor to conduct a systems' forensic or financial audit of the organisation as may be necessary.

Issuance of
renewal
license

11. The Office shall, using the prescribed Form CMO 04 as set out in the Schedule to these Regulations, issue a

renewed license to a successful applicant, and the license shall be valid for a period of one year.

Suspension
and
revocation
of license

12.-(1) Where an organisation fails to carry out any action within the time as may it may be directed to do so by the Office in accordance with these Regulations, the license of the collective management organisation may be suspended pending its compliance, and if the collective management organisation fails to comply within three months of such suspension, the Office may revoke its license.

(2) The Office may, on its own motion or on application by any interested person, revoke the license of a collective management organisation where:

- (a) in the opinion of the Office, the collective management organisation contravenes or fails to comply with any provision of the Act or these Regulations;
- (b) the collective management organisation no longer acts for, or represents the copyright owners of any category of works in respect of which the license was granted;
- (c) the collective management organisation failed to disclose material facts that, if known at the time of considering its application for a license, would have constituted cause for refusal of the said application;
- (d) the Office becomes aware of facts unknown to it at the time of considering the application for grant of license or at such later period, which, if the Office had an opportunity to consider, it would constituted a ground for refusal of the application for grant of license; or
- (e) for any other matter, the Office finds it sufficient and reasonably justifiable to refuse application for grant of license to operate as a collective management:

Provided that, the Office shall, prior to revoking a license, notify in writing the collective management organisation of its intention to revoke the license on the premise of this regulation, and require the collective

management organisation, within three months from the date of the notification, to redress or remedy the matter.

Register
and public
notice

13.-(1) The Office shall, in such a manner it deems appropriate, establish and maintain a register of all collective management organisation licensed in accordance with the Act and these Regulations.

(2) The Office shall, immediately upon the issuance of a license, cause to be published a general notice in the *Gazette* or newspaper of wide circulation, licensed collective management organisations for each category of works to which a license applies.

PART III

CONDUCT OF COLLECTIVE MANAGEMENT ORGANISATIONS

General
conduct of
organisations

14.-(1) Save as otherwise provided in these Regulations, a collective management organisation shall make available to the public-

- (a) certificate of registration as a collective management organisation;
- (b) basic documents of governance such as memorandum of association, articles of association, constitution or charter;
- (c) list of all members of the management;
- (d) name and address of chairman, other members of the management and other officers of the organisation;
- (e) right or set of rights in the specific categories of works for which a license is issued;
- (f) all rules made by the organisations;
- (g) annual report and audited accounts as approved by the annual general meeting;
- (h) licence agreement formats;
- (i) details of all existing licenses other than those details of the license having commercial sensitivity;
- (j) foreign organisation with whom there are agreements to collect royalties and the details of

the agreement other than those clauses having commercial sensitivity; and

(k) details of the complaint or grievances filed.

(2) A collective management organisation shall ensure that members are-

(a) treated in non-discriminatory manner and its dealings with them are done in a transparent manner;

(b) at the time of joining the organisation or at any time upon request of the member, provided with a copy of the organisation's documents of governance including memorandum of association, articles of association, constitution, charter, tariff rules and royalty distribution rules;

(c) provided with a copy of the document enumerating the powers and responsibilities of each members of the management organisation; and

(d) are informed of, or provided with knowledge on-

(i) the basis for calculating royalties to be paid to the members;

(ii) the manner and frequency of payments to members; and

(iii) the general nature of deduction out of total income before distribution.

(3) Every staff of the organisation shall-

(a) perform his duties without favor, bias or prejudice;

(b) not to do or cause to be done anything that constitutes an act of dishonesty, fraud or illegal conduct against the organisation and its members;

(c) represent the organisation resolutely, honorably and within the limits of the law;

(d) exhibit and promote high standards of the organisations conduct in order to reinforce public confidence in the organisation;

(e) advice and encourage dispute settlement rather than commence or continue legal proceedings where the case can be settled timely, fairly and reasonably.

PART IV

MEMBERSHIP AND MANAGEMENT OF COLLECTIVE
MANAGEMENT ORGANISATIONS

Membershi
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15.-(1) Membership to a collective management organisation shall be made open to all copyright owners, whether local or foreign based, from which the category of works or class of rights the organisation seeks a license or is licensed to operate in terms of these Regulations.

(2) A collective management organisation shall not impose a condition requiring a member to constitute the organisation as the sole collecting agent or as agent for any other purpose otherwise than for the purpose of managing the rights of the member within the scope of the organisation's license under these Regulations.

(3) A collective management organisation shall not make a mandatory requirement for a member to assign to the organisation the right to collect royalties from equivalent foreign collective administration schemes.

(4) The Office may, where it is satisfied that an organisation is in contravention of this regulation, issue a caution in writing or require the organisation or any of its officers to rectify the breach within a specified time.

Member
ship rules
of
collective
manage
ment
organisatio
ns

16.-(1) A collective management organisation shall accept as its members -

(a) local and foreign based rights holders, as the case may be;

(b) entities representing rights holders including other collective management organisations or associations of rights holders,

upon fulfilment of the membership requirements specified in the articles and memorandum of association.

(2) Where the collective management organisation refuses to accept an application for membership, it shall provide reasons for its refusal in writing to the rights holder.

(3) A collective management organisation shall ensure that its membership requirements are-

(a) objective, transparent and non-discriminatory;

(b) included in its memorandum and articles of association; and

(c) made publicly available.

(4) A collective management organisation may impose a subscription fee on its members:

Provided that, the subscription fee shall be agreed upon at a general meeting of the members and approved by the Office.

Withdrawal
of member
ship

17. A member shall, upon reasonable notice of his intention to do so, have the right to withdraw his membership of a collective management organisation or the rights assigned to the organisation in respect of any of his works:

Provided that, a collective management organisation whose membership falls below thirty members as a result of withdraw shall within seven days notify the Office, and register the required number of members within fourteen days after the notification.

Members
participa
tion

18. A collective management organisation shall-

- (a) ensure that its memorandum and articles of association provide for appropriate and effective mechanisms for the participation of its members in decision-making;
- (b) ensure that the representation of the different categories of members in decision-making process is fair and balanced;
- (c) allow its members, and rights holders who are not members but who have a direct legal relationship with the right holder by law, license or other contractual arrangement, to communicate with the right holder for the purposes of exercising members' rights; and
- (d) keep and maintain records of its members and regularly update those records.

Meetings of
collective
manage
ment
organisa
tions

19.-(1) Subject to these regulation and other laws governing companies in Tanzania, a collective management organisation shall convene a general meeting of its members at least twice a year.

(2) The general meeting of the collective management organisation shall decide-

- (a) on any amendments to the memorandum and articles of association of the organisation, and the membership terms of the collective management organisation;
- (b) decide the appointment and dismissal of the organisation's officials, review the officials' performance and approve their remuneration and other benefits;
- (c) rules on the distribution of amounts due to members and right holders;
- (d) rules on the use of non-distributable amounts;
- (e) investment rules on rights revenue and any income arising from the investment of rights revenue;
- (f) rules on deductions from rights revenue and any income arising from the investment of rights revenue;
- (g) risk management policy;
- (h) approval of any acquisition of, sale of or charge on immovable property; and
- (i) approval of mergers and alliances with other similar organisations.

(3) The Chairman of the Collective Management Organization or, as the case may be, at least two third of the members of the Organization may call or cause to be convened a general meeting.

Voting
right

20. A member at a general meeting shall have a voting right on the basis of the following criteria-

- (a) number of works registered; or
- (b) amounts received or due to a member:

Provided that, the criteria shall be determined and applied in a manner that is fair and proportionate to the value of their rights managed by the collective management organisation.

Report of
meetings

21. Every Organisation licensed under these Regulations to function as a collective management organisation shall cause a report containing the minute and decisions taken at every meeting of the general assembly and Board of the organisation to be entered in a special register

kept for that purpose, and a certified copy of such report shall be submitted to the Office where the Office so requires.

Accounts,
annual
report and
audit

22.-(1) Every collective management organisation shall keep proper accounts consistent with ordinary accounting standard.

(2) The Office may, if it considers it necessary, at any time, appoint an auditor to audit the accounts of a collective management organisation and the cost of such auditing shall be borne by the organisation.

(3) Where as a result of an examination of any account or audit of any account it appears to the Office that any offence under any enactment has been committed by the collective management organisation or by any of its officers, the Office may cause to be initiated a criminal proceeding against the collective management organisation or officers of the organisation identified with the commission of the offence.

(4) Where an officer has been indicted for the commission of an offence as provided in subregulation (3), the Office shall require the organisation to suspend such officer from further performing the functions he held immediately preceding such indictment.

Form and
contents of
annual
report

23.-(1) Subject to section 53D of the Act, every collective management organisation shall, within three months after the end of the financial year, submit to the Office, an annual report for that year accompanied by a copy of the organisation's audited accounts in respect of that year.

(2) The annual report referred to in subregulation (1) shall contain-

- (a) a comprehensive report of the organisation's activities during that year;
- (b) a list of the organisation's members at the end of the financial year;
- (c) the total amount of royalties collected by the organisation;
- (d) the amount of royalties paid to each member by the organisation;

- (e) the amount of money spent by the organisation on administration and operations;
- (f) the name, postal and physical address of the auditors of the organisation;
- (g) the amount of money used for the social activities;
- (h) non-distributed royalties and reasons for the non-distribution;
- (i) the names, addresses and occupations of current officials of the organisation; and
- (j) any other relevant information as the Office may require.

Holding
Account

24.-(1) A collective management organisation shall establish a holding account after all reasonable efforts in identifying the right holders of the respective works which shall be used, *inter alia*, to hold any share of the distributable amount, which cannot be allocated or distributed for the following reasons:

- (a) the organisation has lost contact with the member concerned;
- (b) the qualified person entitled is not currently a member;
- (c) where the member or his agent is not available or easily ascertainable, the relevant copyright owner or agent entitled to the amount cannot be ascertained;
- (d) there is a dispute as to entitlement;
- (e) a portion of funds collected cannot be allocated immediately due to inadequate data for apportionment.

(2) Where funds in the holding account are to be distributed, the organisation shall distribute the fund based on the best available data prior to expiration of that holding period.

Retention
period of
funds in
holding
account

25.-(1) Where any sum of money remains undistributed for a period of three years, the organisation shall distribute such moneys pro-rata to all parties receiving royalties during the organisation's preceding three years' distributions.

(2) Amounts which remain in the holding account at the expiration of the holding period would fall into general revenue for distribution in respect of the then current accounting period or the period just terminated if that happens to coincide with the expiration of the holding period.

Duty of
collective
manage-
ment
organisatio-
ns to report

26.-(1) A collective management organisation shall within fourteen days of its coming into operation, notify and furnish the Office with information in respect of-

- (a) alteration to the memorandum or articles of association or any internal rules;
- (b) adoption of tariffs and any alteration thereof;
- (c) reciprocal representation agreements with foreign collecting societies;
- (d) any alteration to the standard membership agreement;
- (e) any decisions in judicial or official proceedings to which the organisation is a party, where the Office so requires; and
- (f) any documentation, report or information which the Office may require.

(2) A collective management organisation shall, not later than the 1st day of July in each year, prepare and submit to the Office the following documents in respect of its operation for the preceding year-

- (a) a general report of its activities; and
- (b) annual audited financial report which, among others, shall prescribe-
 - (i) the total revenue during the period of the report;
 - (ii) the total sum and general nature of expenses; and
 - (iii) payment of royalties to members in accordance with the organisation's distribution policy.

Duty to
provide
information
to users of

27.-(1) A collective management organisation shall provide users of copyright works, or any member of the public, upon a written request, reasonable information on their services.

copyright
works

(2) Information under subregulation (1) shall include-

- (a) the description of the rights or class of rights it administers;
- (b) current licensing arrangements of the copyright management organisation including tariff, terms and conditions of license for all categories of users; and
- (c) such other relevant information that may be necessary.

(2) Where a collective management organisation intends to change tariff rates for any category of users, it shall inform such users through a medium that could be accessed publicly by them.

(3) Where the Office is satisfied that a collective management organisation is in breach of any of the provisions of subregulations (1) to (2), the organisation and its officers may be liable to a written caution and be required to rectify the breach within a specified time.

(4) A collective management organisation that fails to rectify the breach within a specified period shall be liable to a fine of two million shillings payable from the organisation's administration cost.

Administrat
ion costs of
organisa
tion

28.-(1) A collective management organisation may withhold from the amount collected or received by it such deductions necessary to cover any expenditure incurred in the fulfillment of its functions, and the deduction withheld shall be within the limits to be decided by the board of the organisation subject to a maximum limit of 30 percent of the total royalties and fees collected during the year in which the deductions are made.

(2) Without prejudice to subregulation (1), the Minister may, upon a written application from a collective management organisation, approve the deduction of more than 30 percent of the total revenue of the organisation to cover the collective management organisation's expenditure.

(3) Where an organisation exceeds its authorized expenditure limit as provided in subregulation (1) and (2), the collective management organisation and any of its officers responsible for such breach shall be liable to a caution or

written admonition, and includes the requirement to rectify the breach within a time specified by the Office.

(4) The Office may suspend or revoke the license of a collective management organisation that fails to rectify the breach as required under subregulation (3).

Manage
ment of
business
and conflict
of interest

29.-(1) A collective management organisation shall ensure that any person who manages its business does so in a prudent manner, using acceptable administrative procedures, accounting procedures and internal control mechanisms.

(2) A collective management organisation shall establish and apply procedures-

(a) for avoiding conflicts of interest; and

(b) where conflicts of interest cannot be avoided, to identify, manage, monitor and disclose actual or potential conflicts of interest in such a way as to prevent them from adversely affecting the collecting interests of rights holders represented by the organisation.

(3) The procedures referred to in subregulation (2) shall include an annual statement by the person referred to subregulation (1) to the general meeting, stating-

(a) any interests in the collective management organisation;

(b) any remuneration received in the preceding financial year from the collective management organisation including benefits in kind and other types of benefits;

(c) any amount received in the preceding financial year as a rights holder from the collective management organisation; and

(d) a declaration concerning any actual or potential conflict between-

(i) any personal interests and those of the collective management organisation; and

(ii) any obligations owed to the collective management organisation and any duty owed to any other person.

(4) A collective management organisation shall ensure that its training procedures for employees, agents and

representatives include appropriate training on conduct that complies with its obligations under these Regulations.

PART V
LICENSING, COLLECTION AND DISTRIBUTION OF ROYALTIES

Licensing
and fee
setting

30.-(1) Every Organisation shall treat licensees fairly, honestly, impartially and courteously and ensure that its dealings with licensees are more transparent.

(2) Every collective management organisation shall observe the following when setting the tariff scheme:

- (a) license fee to be fair and reasonable;
- (b) take note of the value of the rights of the works;
- (c) the purpose and manner in which the rights are to be exploited; and
- (d) any relevant decisions of a court or tribunal.

(3) A collective management organisation and user shall -

- (a) negotiate the licensing of rights in good faith; and
- (b) negotiate in good faith the tariffs for exclusive rights and rights to remuneration in relation to-
 - (i) the economic value of the use of the rights in trade taking into account the nature and scope of the use of the work and any other relevant matter;
 - (ii) the economic value of the service provided by the collective management organisation; and
 - (iii) the value added by any service providers and individuals; and
- (c) notify the user in writing of the criteria used for the setting of the tariffs specified in paragraph (b) of subregulation (1).

(4) A collective management organisation shall-

- (a) respond promptly to requests from users indicating, among other things, the information needed in order for the collective management organisation to offer a license;
- (b) upon receipt of all relevant information-
 - (i) offer a license; or

- (ii) deny the user a license and notify the user in writing of the reason for the refusal;
- (c) allow users to communicate with it by any means, including the purpose of reporting on the use of the license; and
- (d) after giving a user a license, treat that user in good faith.

(5) Where more than one collective management organisation operates in one sector, the collective management organisation shall enter into a recognition agreement for joint negotiations of licensing and the joint collection of royalties.

Collection
and use of
rights
revenue

31.-(1) A collective management organisation shall ensure that-

- (a) it is diligent in the collection and management of rights revenue;
- (b) that it keeps separate in its accounts concerning-
 - (i) rights revenue and any income arising from the investment of rights revenue;
 - (ii) any own assets it may have and income arising from such assets, from management fees, subscription fees or from other activities; and
 - (iii) administration and distribution amounts;
- (c) that it does not use rights revenue or any income arising from the investment of rights revenue for purposes other than distribution to rights holders, except where it is allowed-
 - (i) to deduct or offset management fees in accordance with the Act or these Regulations; or
 - (ii) to use rights revenue or income arising from the investment of rights revenue in accordance with the Act or these Regulations; and
- (d) that where it invests rights revenue, or income arising from the investment of rights revenue, it does so-

- (i) in the best interests of the rights holders whose rights it represents; and
- (ii) in accordance with the general investment and risk management policy of the organisation.

(2) The board of a collective management organisation shall seek the approval of distribution rules from the general meeting of its members.

(3) Any income sought to be retained by the collective management organisation shall be with the approval of the members in a general meeting and be expended for the purpose members have resolved.

Distribu
tions of
amounts to
rights
holders

32.-(1) Every collective management organisation shall distribute payments to its rights holders in accordance with its collection and distribution rules.

(2) A collective management organisation shall distribute, to the extent economically reasonable, the collected revenues as close as possible to the actual use of the works or recordings under their management and that users have an obligation to provide usage information in accordance with regulation 31.

(3) A collective management organisation shall distribute and pay the amounts due to right holders promptly, but in any event not later than the beginning of the period which starts nine months from the end of the financial year in which the rights revenue was collected.

(4) Notwithstanding subregulation (2), a collective management organisation may distribute or pay the amounts due to rights holders out of time if there are objective reasons for not distributing or paying the amounts including reasons relating to-

- (a) reporting by users;
- (b) identification of rights or right holders; or
- (c) matching of information on works and other matters with rights holders.

(5) A collective management organisation shall ensure that amounts due to right holders are kept separate in the accounts of the organisation where:

- (a) those amounts cannot be distributed within the specified time; and
- (b) subregulation (3) does not apply.
- (6) A collective management organisation shall take all necessary measures to identify and locate rights holders for the purposes of distribution and payments of amounts due to the rights holders including-
 - (a) making available, not later than three months after the beginning of the period specified in subregulation (2), information on works and other matters for which a right holder has not been identified or located to-
 - (i) the rights holders represented by the collective management organisation or entities which are its members and which represent rights holders; and
 - (ii) the collective management organisation with which it has concluded representation agreements;
 - (b) verifying the relevant records relating to a rights holder for the purposes of distribution or payment of due amounts; and
 - (c) where rights holders remain unidentified or not located, making the information referred to in paragraph (b) available to the public not later than one year after the period referred to in paragraph (a).
- (7) The information referred to in subregulation (5) shall include, where available-
 - (a) the title of the work or other matter;
 - (b) the name of the rights holder;
 - (c) the name of the publisher or producer of the work or other matter; and
 - (d) any other relevant information which could assist in the identification of the rights holder.
- (8) Amounts due to right holders shall be non-distributable for the purposes of these Regulations where-
 - (a) they cannot be distributed before the end of the period of three years from the end of the financial year in which the collection of the rights revenue occurred; and

(b) the collective management organisation has taken all necessary measures to identify and locate the right holders.

(9) A collective management organisation shall provide its members with statements of the royalties paid within a given period.

Payment of royalties in representation agreement

33.-(1) A collective management organisation shall regularly, diligently and accurately distribute or pay amounts due to other collective management organisations.

(2) A collective management organisation shall distribute or pay amounts due under subregulation (1) promptly, and in any event, not later than the beginning of the period commencing nine months from the end of the financial year in which the rights revenue was collected.

(3) Notwithstanding subregulation (2), a collective management organisation may not distribute or pay out amounts due in terms of subregulation (2) if there are objective reasons for not doing so, including reasons relating to-

- (a) reporting by users;
- (b) identification of rights or right holders; or
- (c) matching of information on works and other subject matter with right holders.

(4) Where the other collective management organisation referred to in subregulation (1) receives amounts or where such organisation has a member which is an entity representing rights holders, the collective management organisation or member shall ensure that it distributes or pays the amount due to rights holders promptly, and in any event, not later than the beginning of the period commencing six months from the receipt of the amount, save where circumstances under subregulation (3) applies.

Deduction

34.-(1) A collective management organisation having authorization of its rights holder to manage the rights holder's rights shall ensure it provides the rights holder with information on-

- (a) management fees; and

(b) any other deductions from the rights revenue and any income arising from the investment of the rights revenue before obtaining the right holder's consent to manage the right holder's rights.

(2) A collective management organisation shall ensure that-

(a) deductions are reasonable in relation to the services provided by the collective management organisation to right holders;

(b) deductions are established on the basis of objective criteria;

(c) deductions permitted are those to cover actual operating costs, and with the express consent of right holder members; and

(d) any deductions approved are applied in a fair and non-discriminatory manner, and not applied to revenue collected for right holders that are non-members.

(3) A collective management organisation shall ensure that management fees do not exceed justified and documented costs incurred by the organisation.

(4) A collective management organisation that provides social, cultural or educational services out of deductions from rights revenue or income arising from the investment of rights revenue shall ensure it provides the services fairly.

(5) A collective management organisation shall not make deductions, including deductions of management fees-

(a) from the rights revenue derived from the rights it manages on the basis of a representation agreement; or

(b) from income arising from the investment of rights revenue, unless the other collective management organisation that is party to the representation agreement expressly consents to the deductions.

Treatment
of rights
managed
under

35.-(1) A collective management organisation shall not discriminate against any rights holder whose rights it manages under a representation agreement.

representa
tion
agreements

(2) Notwithstanding subregulation (1), a collective management organisation shall not discriminate against a rights holder whose rights it manages under a representation agreement with respect to-

- (a) applicable tariffs;
- (b) management fees; and
- (c) the conditions for-
 - (i) the collection of rights revenues; and
 - (ii) the distribution of amounts due to right holders.

User's
obligations

36.-(1) A user and a collective management organisation shall enter into a written agreement on the information that the user shall provide the information described to the Collective management organisation within an agreed or pre-established time-

- (a) the collection of rights revenues; and
- (b) the distribution and payment of amounts due to rights holders.

(2) The collective management organisation and user shall ensure that they take into account, as far as practicable, voluntary industry standards on the format for the information referred to in subregulation (1).

Information
provided to
other
collective
manage
ment
organisa
tions

37.-(1) A collective management organisation shall make available to the other collective management organisations on whose behalf it manages rights under a representation agreement the information specified in subregulation (2) at least once in each year for the period to which the information relates.

(2) The information required to be made available under subregulation (1) shall include-

- (a) the rights revenue attributed for the rights managed under a representation agreement;
- (b) the amounts paid by the collective management organisation-
 - (i) for each category of rights managed under the representation agreement; and
 - (ii) for each type of use for the rights managed under the representation agreement;

- (c) rights revenue attributed which is outstanding for any period;
- (d) deductions made in respect of management fees;
- (e) deductions made for a purpose other than in respect of management fees;
- (f) any licenses granted or denied with regards to works and other matters covered by the representation agreement; and
- (g) resolutions adopted by the general meeting insofar as the resolutions are relevant to the management of the rights under the representation agreement.

Disclosure
of
information
to public

38. A collective management organisation shall publish and keep up to date on its website the following information:

- (a) the collective management organisation's memorandum and articles of association;
- (b) the list of officials of the collective management organisation;
- (c) the collective management organisation's rules on the distribution of amounts due to right holders;
- (d) the collective management organisation's rules on management fees;
- (e) the collective management organisation's rules on deductions, other than in respect of management fees, from-
 - (i) rights revenue;
 - (ii) income arising from the investment of rights revenue including deductions for the purposes of social, cultural and educational services; and
 - (iii) the complaint handling and dispute resolution procedures available or the collective management organisation; and
- (f) the collective management organisation's annual reports and audited accounts.

PART VI COMPLAINTS HANDLING AND DISPUTE SETTLEMENT

Complaints
handling

39.-(1) Subject to subregulation (3), the following persons may lodge a complaint with the collective management organisation-

- (a) a member of a collective management organisation;
- (b) a rights holder who is not a member of a collective management organisation but who has a legal relationship with it by law, assignment, license or other contractual arrangement;
- (c) a collective management organisation on whose behalf it manages rights under representation agreement; or
- (d) a user.

(2) A collective management organisation shall set out effective and timely procedures for dealing with complaints.

(3) A complaint that may be lodged and which shall form part of the procedures to be set out by the collective management organisation shall be-

- (a) the authorization to manage rights;
- (b) the termination or withdrawal of rights;
- (c) membership terms;
- (d) the collection of amounts due to right holders;
- (e) deductions and distributions;
- (f) the service provided; and
- (g) the conduct of staff of the organisation to members during licensing.

(4) A collective management organisation that receives a complaint shall respond in writing to the complainant, and give reasons where it rejects a complaint.

(5) A collective management organisation shall, in the interest of fair hearing, determine whether the complaint to which subregulation (2) applies suffices to be submitted to an independent and impartial alternative dispute resolution procedure:

Provided that, the option to submit a complaint to an independent and impartial alternative dispute resolution procedure shall be based on the parties consent.

Dispute
settlement

40.-(1) A person aggrieved by the decision or act of the collective management organisation may, within thirty

days from the date of decision or act, lodge a notice of dispute with the Office in Form CMO 05 as set out in the Schedule to these Regulations, and upon payment of the prescribed fee.

(2) The notice of dispute referred to under subregulation (1) shall be accompanied by-

- (a) statement of facts setting out the grounds on which relief is sought, and facts relied on by the applicant;
- (b) copy of decision of the collective management organisation, if any;
- (c) copies of any supporting documents to be relied on at the hearing.

(3) The Office shall upon receipt of the notice of dispute, issue or cause to be issued a notice requiring parties to the dispute to appear at the Office for hearing on the date set out in the notice, which shall not be later than thirty days from the date of filing of the notice.

Disputes
committee

41.-(1) There shall be dispute committee of the Office which shall determine disputes lodged in terms of regulation 40.

(2) The disputes committee shall be composed of a chairperson who shall be the Copyright Administrator or a person by the Copyright Administrator and not less than three but not more than five members appointed by the Copyright Administrator.

(3) A sitting of the committee shall be presided over by the chairperson or a person authorized for that purpose.

(4) A meeting of the disputes committee in any proceeding shall be duly constituted if it comprises of at least half of the members.

Decision of
disputes
committee

42.-(1) The decision of the disputes committee shall be the decision of the Office which shall be in writing, determined by the majority of the members within thirty days from the date of the close of the hearing, and read out in open.

(2) The decision shall contain-

- (a) the nature of the complaint;
- (b) the names of the parties;
- (c) the order or decision and the reasons thereof;

(d) the relief or remedy to which a party is entitled.

(3) The members of the panel, with the exception of any dissenting member, shall sign the decision.

Appeals
against
decision on
dispute

43.-(1) A person who is aggrieved by the decision concerning a dispute of the Office may within thirty days after the decision was made, appeal to the Minister.

(2) The appeal shall be in a written form containing grounds for the appeal.

(3) The Minister after hearing both sides in person or upon receipt of written submission from the parties, issue his decision.

PART VII COMPLIANCE REQUIREMENTS

Call for
information

44.-(1) The Office may, by notice in writing, requiring-

(a) a collective management organisation or a member;

(b) a right holder or a body representing the interests of right holders; or

(c) a user or body representing the interests of users, to supply the information or document required in the notice at a time and a place and in a form and manner specified in the notice.

(2) Nothing in this regulation gives the Office any power to require a person to supply any information or document which the person would be entitled to refuse to supply-

(a) on the grounds of advocate-client privilege,

(b) on the grounds of confidentiality of communications, such as confidential business information; or

(c) any information the disclosure of which is protected or otherwise restricted by law.

Non-
compliance
notice

45.-(1) The Office may issue a non-compliance notice to a collective management organisation that fails to comply with its obligations under the Act and these Regulations.

- (2) A non-compliance notice shall be in writing and shall-
- (a) state the collective management organisation that has not complied with a provision of the Act or these Regulations;
 - (b) specifying the provision in question and state the acts or omissions which contravene that provision; and
 - (c) require the collective management organisation to comply within such time as the notice may specify and to provide evidence that the non-compliance has ended.
- (3) The Office may, where it considers it appropriate-
- (a) require the collective management organisation to provide a written undertaking that non-compliance with the provision shall not be repeated;
 - (b) caution the collective management organisation that if the organisation does not comply with the compliance notice, or if the organisation fails to comply with a written undertaking provided in respect of the compliance notice, further action may be taken in accordance with the Act or these Regulations.
- (4) The Office may withdraw a compliance notice and in doing so shall give the collective management organisation notice of the withdrawal.
- (5) Where a compliance notice has been given, no action to impose a penalty under these Regulations may be taken in relation to that failure unless the collective management organisation to whom it has been given-
- (a) has failed to comply with the compliance notice; or
 - (b) has failed to comply with a written undertaking provided in respect of a compliance notice.

Financial
penalty for
non-
compliance

46.-(1) Subject to regulation 45(5), the Office may impose a financial penalty on a collective management organisation if the Office is satisfied that the collective management organisation has failed to comply with its obligations under the Act or these Regulations.

(2) Imposition under subregulation (1) may also be on a director, manager or officer of the collective management organisation.

(3) The amount of the financial penalty shall be such amount as the Office considers appropriate.

(4) In deciding what amount is appropriate, the Office shall have regard to the nature of the failure of compliance.

(5) A financial penalty may comprise of either-

(a) a sum of not less than two million shillings; or

(b) a sum not less than two million shillings together with a sum not exceeding one hundred thousand shillings for each day that the person referred to in subregulation (2) continues to fail to comply with its obligations.

(6) A financial penalty shall be payable to the Office.

Procedures
for issuance
of financial
penalty

47.-(1) A financial penalty under regulation 45 shall be through a notice issued by the Office to a collective management organisation stating-

(a) that the Office has imposed a penalty;

(b) the amount of the penalty;

(c) the acts or omissions which the Office considers contravene the Act or these Regulations;

(d) the provisions of the Act or these Regulations which the Office considers are contravened;

(e) any other facts which the Office considers justify the imposition of a penalty; and

(f) the period, which shall be not less than twenty eight days from the date the notice is received by the person, within which the penalty is to be paid.

(2) The Board may rescind a penalty which has been imposed on a collective management organisation and give the collective management organisation written notice of the rescission.

Appeal
against
imposition
of financial
penalty

48.-(1) Where a collective management organisation or a person to whom a penalty has been imposed is aggrieved by the imposition of the penalty or the amount of the penalty, the organisation may within twenty eight days after imposition of the penalty, appeal to the Minister.

(2) The appeal shall be in a writing containing grounds for the appeal.

(3) The Minister after hearing both sides being in person or in writings may determine the matter and issue his decision.

Non-payment of penalty pending appeal

49. Where an appeal or a court action is made against the decision of the office, the party filing the appeal is not under an obligation to pay the penalty pending the hearing and determination of the appeal and such non-payment shall not be paid during period the appeal is pending.

PART VIII MISCELLANEOUS PROVISIONS

Compensation for unutilized license

50. Every collective management organisation shall provide for compensation refund or other arrangements which may apply in the event a user is unable to utilize the license issued to it by the collective management organisation, which situation arose as a result of the negligence, misrepresentation or other such fault traceable to or caused by the collective management organisation.

Action against officers of collective management scheme

51.-(1) Where a collective management organisation is found to be in breach of any part of these Regulations or the Act or has been directed to take any step or action, or where sanction has been imposed on it by the Office, and the collective management organisation fails to so act or serve the sanction within the time specified by the Office, the management of the organisation may be liable to a written caution.

(2) Any officer of an organisation who has been cautioned more than once may be disqualified by the Office from holding any management position in any collective management organisation unless he satisfies the Office with justifiable reasons of not to be disqualified or that the disqualification suffices to be lifted.

Rules on welfare of members

52. An Organisation may make rules for welfare of its members and keep not more than five per cent of its total

royalty collected for implementing the rules effectively, and the amount shall not be distributed on account of non-accessibility of the members concerned subject to regulation 31.

Revocation
and
transitional
provisions
GN. No.
137 of 2022

53.-(1) The Copyright and Neighbouring Rights (Licensing and Rights to Benefit from Re-Sale) Regulations, 2022 is hereby revoked.

(2) Notwithstanding subregulation (1), the provisions governing right to benefit from re-sale under the revoked regulations shall continue to have effect until upon the publication of a general notice in terms of regulation 13(2) of these Regulations.

Copyright and Neighbouring Rights (Royalty Collection and Distribution)
(Collective Management Organisations)

GN. No. 211 (Linaendelea.)

FORM CM0 01

SCHEDULE

THE COPYRIGHT AND NEIGHBOURING RIGHTS ACT, 1999

THE COPYRIGHT OFFICE OF TANZANIA

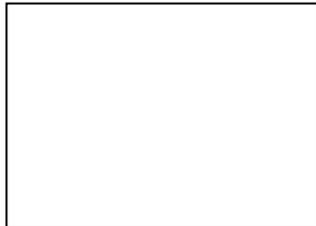
APPLICATION FOR LICENSE TO OPERATE AS A COLLECTIVE MANAGEMENT
ORGANISATION

(Made under regulation 4(1))

Name of the Collective management organisation	
Postal address	
Email	
Physical Address	
Name of Agent (if any)	
Date of Registration	
Registration number	
Number of Members	
Class of right owners presented	
Number of directors	

We attach herewith all the documents referred to in regulation 4(2) in support of our application.

Dated at this..... day of
.....20.....



Seal of
the Collective management organisation

.....

Signature(s)

Copyright and Neighbouring Rights (Royalty Collection and Distribution)
(Collective Management Organisations)

GN. No. 211 (Linaendelea.)

FORM CMO 02

THE COPYRIGHT AND NEIGHBOURING RIGHTS ACT, 1999

THE COPYRIGHT OFFICE OF TANZANIA

LICENSE TO OPERATE AS A COLLECTIVE MANAGEMENT ORGANISATION

(Made under regulation 6(1))

It is hereby certified that

.....

has been Licensed as a collective management organisation under section
52A of the Act under registration number
for the

category of owners of copyright or related rights.

Dated at..... this day of,
20....

.....

Copyright Administrator

.....

Seal of the Office

FORM CMO 3

Copyright and Neighbouring Rights (Royalty Collection and Distribution)
(Collective Management Organisations)

GN. NO. 211 (Linaendelea.)

THE COPYRIGHT AND NEIGHBOURING RIGHTS ACT, 1999

THE COPYRIGHT OFFICE OF TANZANIA

APPLICATION FOR RENEWAL OF LICENSE TO OPERATE AS COLLECTIVE
MANAGEMENT ORGANISATION

(Made under regulation 9(1))

Name of the Collective management organisation	
Postal Address	
Email	
Physical Address	
Name of Agent (if any)	
Date of Registration	
Registration number	
Number of members	
Class of Right Owners Presented	
Number of Directors	
Application Number	
Any change which occurred during the past year (uses separate sheet if necessary)	

We hereby apply for renewal of the registration of the Organisation as a collective management organisation for the period

We attach hereto a certified copy of our audited accounts for the year 20

Dated at this..... day of

.....20.....

.....

.....

Signature(s)

Seal of the Collective management organisation

FORM CMO 4

THE COPYRIGHT AND NEIGHBOURING RIGHTS ACT, 1999
THE COPYRIGHT OFFICE OF TANZANIA

Copyright and Neighbouring Rights (Royalty Collection and Distribution)
(Collective Management Organisations)

GN. NO. 211 (Linaendelea.)

CERTIFICATE OF RENEWAL OF LICENSE TO OPERATE AS A COLLECTIVE
MANAGEMENT ORGANISATION
(Made under regulation 11)

This is to certify that the License of
for the..... class of owners of copyright and related rights

(Delete as appropriate) owners of

.....
with

registration numberhas been renewed.

The renewed registration will commence on.....day of.....expire on the

..... day of 20

Dated at..... this day of 20

.....
Copyright Administrator

.....

Seal of the Office

*Copyright and Neighbouring Rights (Royalty Collection and Distribution)
(Collective Management Organisations)*

GN. No. 211 (Linaendelea.)

FORM CMO 5

THE COPYRIGHT AND NEIGHBOURING RIGHTS ACT, 1999

THE COPYRIGHT OFFICE OF TANZANIA

NOTICE OF DISPUTE

(Made under regulation 40)

TAKE NOTICE that, being dissatisfied with the
Decision/ Action of
Dated20...

I/WE..... do hereby appeal to the Office upon the
grounds set out in paragraph 2 and the statement accompanying this notice and will at the hearing
of the appeal seek the relief (s) set out in paragraph 3.

1. The Appellant further states that the particulars of the Decision/ action appealed against are set
out in paragraph 4. The names and addresses of persons directlyaffected by appeal are set out in
paragraph 5.

2. Grounds of Appeal:

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

(Attach a copy of the grounds)

3. Relief (s) Sought from the Office :

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

(Attach a copy if necessary)

4. Name of Appellant:

5. Address of Appellant:

6. Annexure to be filed with Notice of Dispute:

Dodoma,
6th March, 2023

PINDI H. CHANA,
*Minister for Culture,
Arts and Sports*