

# **Utilities Regulatory Authority (Amendment) Act 2016**

**REPUBLIC OF VANUATU**

**UTILITIES REGULATORY AUTHORITY (AMENDMENT) ACT NO. 19 OF  
2016**

**Arrangement of Sections**

**REPUBLIC OF VANUATU**

**Assent: 20/12/2016**

**Commencement: 24/01/2017**

**UTILITIES REGULATORY AUTHORITY (AMENDMENT) ACT NO. 19 OF  
2016**

An Act to amend the Utilities Regulatory Authority Act No. 11 of 2007.

Be it enacted by the President and Parliament as follows-

**1. Amendment**

The Utilities Regulatory Authority Act No. 11 of 2007 is amended as set out in the Schedule.

**2. Commencement**

This Act commences on the day on which it is published in the Gazette.

**SCHEDULE**

**AMENDMENTS OF THE UTILITIES REGULATORY AUTHORITY ACT  
NO. 11 OF 2007**

**1. Subsection 1(1)**

Insert in their correct alphabetical positions:

“**fees** means fees assessed on utilities by the Authority, or any other fees, expenses or cost charged by the Authority under section 29B;

**trust money** means money that is deemed to be trust money under paragraph 46(1)(f) of the [Public Finance and Economic Management Act](#) [CAP 244];”

## **2 Section 3**

Repeal the section, substitute

### **“3 Application of this Act**

Subject to subsection 29B(7), this Act applies to a regulated service to the extent that is not inconsistent with a provision in any concession agreement under the [Electricity Supply Act](#) [CAP 65] existing on or before the commencement of this Act or a provision of any other Act.”

#### **3. Subsection 21(8)**

Delete “section”, substitute “Act”

#### **4. Subsection 25(1)**

Delete “Part other than subsections 21(4) and (5)”, substitute “Act”.

#### **5. Subsection 25(4)**

Repeal the subsection, substitute

“(4) Despite paragraph (3)(e), if the penalty specified in the infringement notice is not paid within the time required, the penalty in the infringement notice is to be 3 times the amount due plus payment of 1% calculated daily on the amount due for each day until the amount due is fully paid.

(4A) If the penalty imposed under subsection (4) is not paid in the time required it is deemed for the purpose of any proceedings brought under section 24 to be prima facie evidence of any facts described in it.”

#### **6. After subsection 26(1)**

Insert

“(1A) Despite subsection (1), penalties paid in respect of an offence under section 29C must be deposited into the bank account of the Authority under subsection (2).”

7. **After subsection 26(2)**

Add

“(3) The Authority may prescribe rules for the use of penalties paid under subsection (1A).

(4) The prescribed rules are to be approved by the Minister of Finance and Economic Management.”

8. **Paragraph 29(b)**

After “costs”, insert “and penalties”

9. **Paragraph 29(c)**

Repeal the paragraph, substitute

“(c) trust money; and

(d) fees charged by the Authority in accordance with section 29B.”

10. **After section 29A**

Insert

**“29B Fees**

(1) The Authority may assess fees on utilities in accordance with this section and may prescribe the rules to assess the fees. A person must comply with the rules prescribed by the Authority.

(2) The prescribed rules are to be approved by the Minister of Finance and Economic Management.

(3) The fees assessed on a utility by the Authority under subsection (1) must not exceed 2% of that utility’s annual revenue for the previous calendar year from the regulated service.

(4) The fees assessed on a utility by the Authority pursuant to subsection (1) is to be included as a component of that utility's cost when determining maximum price pursuant to section 18.

(5) The penalty paid by a utility pursuant to subsection 29C, paragraph 25(3)(e) or subsection 25(4) must not be included in that utility's cost when determining the maximum price.

(6) The Authority may prescribe such other reasonable fees, expenses or costs to relevant parties when performing its functions or providing any service under this Act.

(7) If a provision of a concession agreement conflicts with a provision under this section, the provisions of this section prevail.

### **29C Payment of fees**

(1) A person must make payments of the fees assessed under section 29B, within the time required by the Authority.

(2) The Authority may impose a penalty on a person who fails to comply with subsection (1).

(3) The penalty imposed under subsection (2) is 3 times the amount due plus payment of 1% calculated daily on the amount due for each day until the amount due is fully paid.

(4) The amount of penalty imposed under this section is a debt owed to the Authority and is recoverable by action in a court of law.”

### **11. After subsection 30(1)**

Insert

“(1A) The Authority must provide a copy of its approved annual budget to the Minister of Finance and Economic Management within 15 working days after the approval of the annual budget by the Commissioners.

(1B) The Authority is to prescribe rules for the use of funds appropriated to it by the Government and trust money.

(1C) The prescribed rules are to be approved by the Minister of Finance and Economic Management”

12. **Subsection 30(2)**

Delete “subsection 39(4)”, substitute “section 34C”

13. **Subsection 30(3)**

After “funds” (first occurring), insert “received under paragraph 29(a) and”

14. **After subsection 30(3)**

Insert

“(4) The Authority may prescribe rules for the surplus funds comprising of fees to be dealt with by the Authority.

(5) The prescribed rules are to be approved by the Minister of Finance and Economic Management.”