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RURAL ELECTRIFICATION ACT

Arrangement of Sections

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AN ACT

to establish the Rural Electrification Authority and to define its functions; to establish the Rural Electrification Fund; and to provide for matters connected with or incidental to the foregoing.

[12th December, 2003]

Act 20 of 2003.

PART I PRELIMINARY

1. Short title

This Act may be cited as the Rural Electrification Act.

2. Interpretation

(1) in this Act, unless the context otherwise requires—

“**Authority**” means the Rural Electrification Authority established by section 3;

“**Chairperson**” means the person appointed as Chairperson of the Authority under section 6;

“**Committee**” means a committee of the Authority established under section 10;

“**Director**” means the person appointed as Director under section 16;

“**Fund**” means the Rural Electrification Fund established by section 8;

“**Member**” means a member of the Authority or a committee of the Authority;

“**rural area**” means—

(a) any area which is not an area declared or deemed to have been declared a city or municipality under the Local Government Act; or

(b) such other area as the Minister may, by statutory order and in consultation with the Minister responsible for local government, declare a rural area;

“**Secretariat**” means the Secretariat of the Authority constituted under section 15.



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PART II

THE RURAL ELECTRIFICATION AUTHORITY

3. Establishment of Authority

There is hereby established the Rural Electrification Authority which shall be a body corporate with perpetual succession and a common seal, capable of suing and of being sued in its corporate name, and with power, subject to the provisions of this Act, to do all such acts and things as a body corporate may by law do or perform.

4. Functions of Authority

(1) The functions of the Authority shall be to—

(a) administer and manage the Rural Electrification Fund;

(b) develop, implement and update rural electrification master plans for the systematic electrification of rural areas;

(c) promote the utilization of available rural electrification technological options to enhance the contribution of energy to the development of agriculture, industry, mining and other economic activities in rural areas;

(d) mobilise funds from within and outside Zambia in support of rural electrification;

(e) offer, on a competitive basis, the construction of rural electrification projects and periodically publish information on programmes being carried out;

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(f) design and offer, on a competitive basis, to developers or operators, smart subsidies for capital costs on projects that are designed to supply energy for development of rural areas;

(g) in conjunction with stakeholders, develop mechanisms for the operation of grid extension networks for rural electrification and other rural energy supply systems;

(h) finance project preparation studies for rural electrification projects in accordance with guidelines developed and approved by the Authority,

(i) recommend to Government policies for the enhancement of access to electricity by the rural populations; and

(j) undertake such other activities as are conducive or incidental to the performance of its functions under the Act;

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(2) Notwithstanding sub-section (1), the Authority may, by direction in writing and subject to such conditions as it considers fit, delegate to any member, Committee or the Director any of its functions under this Act.

5. Authority not to be subject to direction control of other person

Except as otherwise provided in this Act, the Authority shall not, in the performance of its functions, be subject to the direction of any person or authority.

6. Composition of Authority

(1) The Authority shall consist of seven part-time members appointed by the Minister, as follows—

- (a) the Permanent Secretary to the Ministry responsible for energy;
- (b) the Permanent Secretary to the Ministry responsible for finance;
- (c) the Permanent Secretary to the ministry responsible for local government;
- (d) a representative of the Economics Association of Zambia;
- (e) a representative of the financial sector nominated by the Banker's Association of Zambia;
- (f) a representative of a non-governmental organisation engaged in rural development projects;

and

- (g) a representative of the Engineering Institution of Zambia:

Provided that two of the Members appointed under this sub-section shall be women.

(2) The Chairperson shall be elected by the Board from among the members who are not civil servants.

(3) The Vice-Chairperson shall be elected by the members of the Authority from among their number.

(4) A person shall not be appointed as a member of the Authority if the person—

- (a) is an undischarged bankrupt;
- (b) has been convicted of an offence involving fraud or dishonesty; or

(c) has been convicted of an offence under any other written law and sentenced to a term of imprisonment of not less than six months, without the option of a fine.



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7. Tenure of office and vacancy

(1) Subject to the other provisions of this Act, a member of the Authority shall hold office for a period of three years from the date of appointment and shall be eligible for re-appointment for one further term of three years.

(2) The office of the member shall become vacant—

(a) upon the member's death;

(b) if the member is absent without reasonable excuse from three consecutive meetings of the Authority of which the member has had notice;

(c) on ceasing to be a representative of the organisation which nominated the member;

(d) if the member becomes mentally or physically incapable of performing the duties of a member of the Authority;

(e) if the member is declared bankrupt;

(f) if the member is convicted of an offence involving fraud or dishonesty; or

(g) if the member is convicted of an offence under any other written law and is sentenced to a term of imprisonment of not less than six months without the option of a fine.

(3) On the expiration of the period for which a member is appointed the member shall continue to hold office until a successor has been appointed but in no case shall the further period exceed four months.

8. Filling of casual vacancy

Whenever the office of a member becomes vacant before the expiry of the term of office, the Minister may appoint, another member in place of the member who vacates office but that member shall hold office only for the unexpired part of the term.

9. Proceedings of Authority

(1) Subject to the other provisions of this Act, the Authority may regulate its own procedure.

(2) The Authority shall meet for the transaction of business at least every three months at such places and times as the Chairperson may determine.

(3) The Chairperson may, upon giving notice of not less than fourteen days, call a meeting of the Authority and shall call a special meeting to be held within fourteen days of receipt of a written request to the Chairperson by at least five members of the Authority.

(4) If the urgency of any particular matter does not permit the giving of such notice as is required under sub-section (3), a special meeting may be called by the Chairperson, upon giving a shorter notice.

(5) Four members of the Authority shall form a *quorum* at any meeting of the Authority:

Provided that at least one of the members, who constitute a *quorum* at any meeting of the Authority shall be a civil servant.

(6) There shall preside at any meeting of the Authority—

(a) the Chairperson;

(b) in the absence of the Chairperson, the Vice-Chairperson; or

(c) in the absence of the Chairperson and the Vice-Chairperson such member as the members present may elect for the purpose of that meeting.

(7) A decision of the Authority on any question shall be by a majority of the members present and voting at the meeting and in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to the deliberative vote.

(8) The Authority may invite any person, whose presence is in its opinion desirable, to attend and to participate in the deliberations of the meeting of the Authority but such person shall have no vote.

(9) The validity of any proceedings, act or decision of the Authority shall not be affected by any vacancy in the membership of the Authority or by any defect in the appointment of any member or by reason that any person not entitled to do so took part in the purpose of that meeting.

10. Committees of Authority

(1) The Authority may, for the purpose of performing its functions under this Act, constitute such committees as it considers necessary and may delegate to any committee such of its functions as it considers fit.

(2) The Authority may appoint as members of a committee, persons who are, or are not, members of the Authority, except that at least one member of a committee shall be a member of the Authority.

(3) A person serving as a member of a committee shall hold office for such period as the Authority may determine.

(4) Subject to any specific or general directions of the Authority, a committee may regulate its own procedure.

11. Allowances of members

The members or the Authority or any committee shall be paid such allowance as the Authority may, with the approval of the Minister, determine.

12. Disclosure of interests

(1) If a member or person is present at a meeting of the Authority or any committee of the Authority at which any matter is subject of consideration and in which matter the member or person or the members or person's spouse is directly or indirectly interested in a private capacity, the member or person shall as soon as is practicable after the commencement of the meeting, declare such interest and shall not, unless the Authority or the committee otherwise directs, take part in any consideration or discussion of, or vote on, any question touching that matter.

(2) A declaration of interest made under sub-section (1) shall be recorded in the minutes of the meeting at which it is made.

13. Prohibition of publication or disclosure

(1) A person shall not without the consent in writing given by, or on behalf of, the Authority, publish or disclose to any person other than in the course of duties, the contents of any document, communication, or information which relates to, and which has come to the person's knowledge in the course of the person's duties under this Act

(2) Any person who knowingly contravenes the provisions of sub-section (1) commits an offence and shall be liable, upon conviction, to a fine not exceeding three thousand penalty units or to imprisonment for a term not exceeding three months, or to both.

14. Seal of Authority

(1) The seal of the Authority shall be such device as may be determined by the Authority and shall be kept by the Secretary.

(2) The affixing of the seal shall be authenticated by the Chairperson or the Vice-Chairperson and the Secretary or any other person authorised in that behalf by a resolution of the Authority.

(3) Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not be required to be under seal, may be entered into or executed without seal on behalf of the Authority by the Secretary or any other person generally or specifically authorised by the Authority in that behalf.

(4) Any document purporting to be a document under the seal of the Authority shall be received in evidence and shall be deemed to be so executed or issued, as the case may be, without further proof, unless the contrary is proved.

PART III

SECRETARIAT

15. Constitution of Secretariat and definition of its functions

(1) There is hereby constituted the Secretariat of the Authority which shall have the function of implementing the decisions of the Authority.

(2) Without prejudice to the generality of sub-section (1) the Secretariat shall—

(a) prepare programmes and detailed plans for the implementation of the approved national rural electrification master plan;

(b) facilitate the formation of appropriate institutions to generate, distribute or supply electricity to specific localities in rural areas;

(c) monitor rural electrification institutions, organisations or companies funded from the Rural Electrification Fund to ensure that they fulfill their obligations and perform in accordance with standards set by the Authority;

(d) in conjunction with Energy Regulation Board, develop appropriate tariff structures for electricity supply to consumers, balancing the need for affordability with the sustainability of supply systems;

(e) provide technical guidance and consultancy services to rural communities, entrepreneurs and other organisation involved in rural electrification;

(f) build and maintain a comprehensive public awareness campaign to enhance support of the rural electrification programmes; and;

(g) perform such other functions as may be assigned to it by the Authority;

16. Director

(1) The Authority shall, with the approval of the Minister, appoint a Director who shall be the Chief Executive Officer of the Authority and the Secretariat and who shall, subject to the control and direction of the Authority, be responsible for the implementation of the decisions of the Authority and the day to day administration of the Authority.

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(2) The Authority shall, with the approval of the Minister, determine the terms and conditions of service

of the Director.

(3) The Director shall attend meetings of the Authority and may attend meetings of any committee of the Authority and may address the meetings, but shall have no vote.

17. Secretary and other staff

(1) The Director shall be Secretary to the Authority.

(2) The Authority may appoint such other staff of the Authority as it considers necessary for the performance of its functions under this Act.

(3) The Authority shall determine the terms and conditions of service of the staff of the Authority.

PART IV THE RURAL ELECTRIFICATION FUND

18. Establishment of Rural Electrification Fund

(1) There is hereby established the Rural Electrification Fund.

(2) The Fund shall consist of—

(a) such moneys as may be appropriated by Parliament for the purposes of the Fund;

(b) all electricity levy collected; and

(c) such monies as may be paid to the Fund by way of loans, grants or donations.

(3) The Minister responsible for finance shall ensure that all monies collected as electricity levy under paragraph (b) of sub-section (2) are paid directly into the Fund within twenty-one days of the collection of the money.

19. Application of moneys of Fund

The Authority shall apply the moneys of the Fund to increasing the availability of, electricity in rural areas and access to electricity by rural populations.

PART V FINANCIAL PROVISIONS



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20. Funds of Authority

(1) The funds of the Authority shall consist of such money as may—

- (a) be appropriated by Parliament for the purposes of Authority;
- (b) be paid to the Authority by way of loans, grants or donations; and
- (c) vest in or accrue to the Authority.

(2) The Authority may—

(a) accept moneys by way of grants or donations from any source in Zambia, and subject to the approval of the Minister, from any source outside Zambia; and

(b) subject to the approval of the Minister, raise by way of loans or otherwise, such moneys as it may require for the discharge of its functions.

(3) There shall be paid from the funds of the Authority—

(a) the salaries, allowances, loans, gratuities and pensions of staff of the Authority and other payments for the recruitment and retention of staff;

(b) such reasonable travelling and subsistence allowances for members or members of any committee of the Authority when engaged on the business of the Authority at such rates as the Authority may, with the approval of the Minister, determine; and

(c) any other expenses incurred by the Authority in the performance of its Junctions.

21. Investment of funds

The Authority may invest in such manner as it considers necessary any of its funds which it does not immediately require for the performance of its functions.

22. Financial year

The financial year of the Authority shall be the period of twelve months ending on 31st December in each year.

23. Accounts

(1) The Authority shall cause to be kept proper books of the accounts and other records relating to its accounts.



(2) The accounts of the Authority shall be audited annually by independent auditors appointed by the Authority subject to the approval of the Minister.

(3) The auditor's fees shall be paid by the Authority.

24. Annual report

(1) As soon as is practicable, but not later than ninety days after the end of the financial year, the Authority shall submit to the Minister a report concerning its activities during such financial year.

(2) The report referred to in sub-section (1) shall include information on the financial affairs of the Authority and there shall be appended to the report—

- (a) an audited balance sheet;
- (b) an audited statement of income and expenditure;
- (c) an audited statement of the income and expenditure of the Rural Electrification Fund; and
- (d) such other information as the Minister may require.

(4) The Minister shall, not later than seven days after the first sitting of the National Assembly next after receipt of the report referred to in sub-section (1), lay it before the National Assembly.

25. Regulations

The Minister may, on the recommendation of the Authority, by statutory instrument, make regulations for the better carrying out of the purposes of this Act.

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