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ACT NO. 6 OF 2006

Lesotho Electricity Authority (Amendment) Act 2006

An Act to amend the Lesotho Electricity Authority Act 2002¹.

Enacted by the Parliament of Lesotho

Short title and commencement

1. This Act may be cited as the Lesotho Electricity Authority (Amendment) Act 2006 and shall come into operation on such date as the Minister may, by notice published in the gazette, appoint.

Interpretation

2. Section 2 of the Principal Act is amended by-
 - (a) inserting the following definitions in their appropriate alphabetical order:
 - (i) “emergency situation” means a situation where interruption or failure of a regulated emergency impacts adversely on the national interests;
 - (ii) “financial year” means the twelve months period commencing on the 1st of April of every year and ending on the 31st of March in any year.”
 - (b) deleting “48” in the definition of licenced operator and substituting “50”; and
 - (c) deleting “39” in the definition of regulated activities and substituting “41”.

Establishment of the Lesotho Electricity Authority

3. Section 3 of the Principal Act is amended in subsection (2) (e) by deleting “Authority” and substituting “Act”.

Composition of the Board

4. Section 4 of the Principal Act is amended by-

- (a) repealing subsection (2) and substituting the following subsection:

“(2) The Board shall consist of-

- (a) the Chairman who shall be appointed by the appointing authority on a part-time basis;
- (b) the Chief Executive who shall be ex-officio member and appointed by the appointing authority on a full time basis; and
- (c) six other members who shall be appointed by the appointing authority on a part-time basis.”.

- (b) repealing subsection (3) and substituting the following subsection:

“(3) A member of the Board except the Chief Executive shall be paid such remuneration and allowances as may be determined by the Minister after consultation with the Minister responsible for finance.”.

- (c) repealing subsections (4), (5), (6), (7), (8) and (9) and renumbering the subsequent subsections accordingly;

- (d) repealing subsection (11) and substituting the following subsection:

“(11) The Chief Executive shall hold office for a period of three years and is eligible for reappointment for a further period of three years after which he shall no longer be eligible for reappointment.”.

- (e) inserting immediately after subsection (13) the following subsection:

“(14) A member of the Board other than the Chief Executive shall hold office for a period of four years and is eligible for reappointment for a further period of four years after which he shall no longer be eligible for reappointment.”.

Resignation of Board Members

5. Section 6 of the Principal Act is amended by repealing subsection (2) and substituting the following subsection:

“(2) A Board member shall be deemed to have given the notice referred to in subsection (1) if he fails to attend three consecutive meetings of the Board without giving a reason or an acceptable explanation for his absence to the Chairman.”.

Removal from office

6. Section 8 of the Principal Act is amended –

- (a) in paragraph (d) by deleting “or”;
- (b) in paragraph (e) by deleting “and” and substituting “or”.

Funding

7. Section 19 of the Principal Act is repealed and the following section is substituted:

- “19. (1) The Authority shall have a budget which shall be-
- (a) proposed by the Chief Executive;
 - (b) recommended to the Minister by the Board; and

- (c) approved by the Minister.
- (2) The Funds of the Authority shall consist of the following:
 - (a) any fees prescribed for any service offered by the Authority;
 - (b) any appropriate levy on consumers;
 - (c) all investments acquired by or vested in the Authority and all monies earned or arising therefrom; and
 - (d) all monies that may, from time to time be donated, lent or granted to the authority.
- (3) The Authority shall cause proper books of accounts, all necessary books and records on accounts to be kept.
- (4) The accounts of the Authority shall be audited by the Auditor General.

Independence of the Authority

8. Section 20 of the Principal Act is repealed and the following section is substituted:

“20 the Authority shall be independent in the performance of its functions under this Act subject to it having due regard to over all Government policy.”.

Reporting

9. Section 28 of the Principal Act is amended -

- (a) in subsection (1) by deleting-

- (i) "two months" and substituting "six months";
 - (ii) "calendar year" and substituting "financial year".
- (b) in subsection 2 -
- (i) paragraph (e) by deleting "and"
 - (ii) paragraph (f) by deleting a full stop at the end of the paragraph and substituting the following: "; and";
- (c) by inserting the following paragraph immediately after paragraph (f):
- “(g) audited financial statements for the previous financial year.”.
- (d) by repealing subsection (3) and substituting the following subsection:
- “(3)” The Minister shall place the report before Parliament within two months of receiving the report.”

General powers of the authority

10. Section 34 of the Principal Act is amended in paragraph (d) by deleting "chairman", divisions and offices of the Authority"; and substituting the following "Chief Executive".

Streetworks and access rules and by-laws

11. (1) The heading to section 39 of the Principal Act is repealed and the following heading is substituted:

“Powers to enter and use land for regulated activities”.

- (2) Section 39 of the Principal Act is repealed and the following section is substituted:

"39 (1) A licensee may, at all reasonable times and after obtaining consent from the owner or occupier of any land required for a regulated activity, enter and use such land for the regulated activity.

(2) The owner or occupier of land required for a regulated activity in terms of subsection (1) shall not unreasonably withhold consent.

(3) A licensee who enters and uses land for a regulated activity pursuant to this section shall -

- (a) take prescribed steps prior to carrying out streetworks or any work connected to a regulated activity;
- (b) take prescribed steps prior to entering premises not belonging to the licensed operator;
- (c) ensure the safety of all persons during the carrying out of streetworks or any work connected to a regulated activity;
- (d) ensure the reinstatement of all land or building following the completion of streetworks or any work connected to a regulated activity and where required by any person having an interest in land or building the subject of streetworks, or any work connected to a regulated activity, repair any damage to such land or building;
- (e) ensure that a proper and accurate record is maintained of all streetworks or any work connected to a regulated activity carried out;
- (f) take prescribed steps for the carrying out of emergency streetworks or any work connected to a regulated activity carried out;
- (g) ensure that streetwork or any work connected to a regulated activity is carried out with the minimum of interference with production facilities belonging to other

licensed operators or the owner of operators of telecommunication equipment or facilities, and all adjacent landowners or users.”.

Contents of Streetworks rules and by-laws

12. (1) The heading to section 40 of the Principal Act is repealed and the following heading is substituted:

“Acquisition of land required for regulated activities”

(2) Section 40 of the Principal Act is repealed and the following section is substituted:

“40 (1) Where the Minister responsible for land considers that any land is required for a regulated activity, he may acquire any land for such a regulated activity in accordance with the Land Act, 1979².

(2) Acquisition of land under subsection (1) shall be deemed to be for a public purpose in terms of the provisions of the Land Act, 1979 and shall be effected in accordance with the provisions of the Land Act 1979.”.

Regulated activities

13. Section 41 of the Principal Act is amended -

- (a) in paragraph (d) by deleting the full stop and substituting the semi colon; and
- (b) by inserting the following paragraph after paragraph (d):

“(e) the import and export of electricity.”.

Sale of production capacity

14. Section 43 of the Principal Act is repealed and the following section is substituted:

“43 (1) No licensed production operator shall sell –

(a) production capacity; or

(b) electricity output;

to any person other than a licensee who is authorised in terms of his licence to supply electricity to consumers.

(2) Notwithstanding subsection (1), the Authority may, by notice published in the Gazette and after consultation with the Minister, exempt a licensed production operator from the provision of this section.”.

Self supply of electricity

15. Section 44 of the Principal Act is repealed and the following section is substituted:

“44 (1) The Authority may exempt auto generators of electricity whose production capacity is used solely for the self supply of electricity, from the requirement to be licensed under this Act.

(2) Auto-generators of electricity exempted under subsection (1) shall submit, to the Authority, such information as the Authority may think it necessary in order to enable it to monitor the development of the electricity generation in Lesotho.”.

Power to grant license exemptions

16. Section 48 of the Principal Act is amended by inserting the following immediately after may:

“under emergency situations”.

Exemptions

17. Section 49 of the principal act is amended-

- (a) in subsection 5 by deleting “5” coming before “where the application” and substituting the following “4”;
- (b) renumbering the subsequent subsections accordingly;

Application and issue of a licence

18. Section 50 of the Principal Act is amended by -

- (a) inserting “(1)” before “The Authority”; and
- (b) by inserting the following subsections:
 - “(2) Notwithstanding the provisions of section 51(c) and 52, the Authority may, on application by existing operators, issue a licence to the existing operators to conduct a regulated activity without following the procedures stipulated under section 51 (c) and 52.

Conditions of generation licences

19. Section 61 of the Principal Act is amended by repealing paragraph (a) and renumbering the subsequent paragraphs accordingly.

Conditions of transmission and dispatch licences

20. Section 62 of the Principal Act is amended by repealing paragraph (b) and renumbering the subsequent paragraphs accordingly.

Conditions of distribution and supply licences

21. Section 63 of the Principal Act is amended-

- (a) in subsection (1) by repealing paragraph (b); and
- (b) in subsection (2) by deleting “Minister” and substituting “Authority”.

Transmission duties

22. Section 108 of the Principal Act is amended by inserting the following paragraph immediately after paragraph “(e)”;

“(f) carry out the activities of power procurement and allocation of such power where such activities are authorised by the licence issued to it by the Authority”.

Repeals

23. The Electricity Act 1969³ is repealed

1. Act No. 12 of 2002
2. Act No. 17 of 1979
3. Act No. 7 of 1969