

THE ELECTRIC POWER ACT, 1997

No 11 of 1997

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THE ELECTRIC POWER ACT, 1997

An act of Parliament to amend and consolidated the law relating to the generation, transmission, transformation, distribution, supply and use of electrical energy for lighting and other purposes, and for connected purposes.

Enacted by the Parliament of Kenya as follows:

PART I PRELIMINARY

Short Title	1	This Act may be cited as the Electric Power Act, 1997.
Interpretation	2	<p>In this Act, unless the context otherwise requires—</p> <p>“Act” includes any subsidiary legislation made thereunder;</p> <p>“apparatus “ means electrical apparatus, and includes all machines; apparatus and fittings in which conductors are used or of which they form part;</p> <p>“area of supply” means the area within which the licensee is for the time being authorised to supply electrical energy under the licence;</p> <p>“Board” means the Electricity Regulatory Board established under Section 119;</p> <p>“bulk supply” means the supply of electrical energy in bulk by an electric power producer to another electric power producer or any public electricity supplier;</p> <p>“bulk supply area” means the area within which an electric power producer or a public electricity supplier is for the time being authorised to give a bulk supply under a bulk supply licence;</p> <p>“circuit” means an electrical circuit forming a system or branch of a system;</p> <p>“company” means a company registered in Kenya or a company within the meaning of the Companies Act;</p> <p>“Compulsory acquisition” of any land by a licensee means acquisition of that land, whether permanently or temporarily, through the agency of the Government or any other public body exercising statutory powers of acquisition or setting apart;</p> <p>“compulsory area” means the area of supply defined in a licence as being an area within which the supply of electrical energy is compulsory;</p> <p>“conductor” means an electrical conductor connected or arranged to be electrically connected to a system;</p> <p>“consumer” means any public or local authority; company, person or body of persons supplied or entitled to be supplied with electrical energy by a licensee.</p> <p>“daily penalty” means a penalty for each day on which any offence is continued after conviction thereof;</p> <p>“danger” means danger to the health, life, person or property of</p>

- anyone from shock, from fire or otherwise arising from the generation, transformation, conversion, transmission, distribution, supply or use of electrical energy;
- “deposited map” means the map of the area of supply deposited with the Minister by the licensee together with the licence and signed by the Minister;
- “distributing area” means the area of supply specified in a distributing licence;
- “distributing licence” means a licence granted to a public or local authority, company, person or body of persons (in this Act referred to as a public electricity supplier) to distribute or supply electrical energy for the purposes and within the area defined therein; such licence shall also entitle the public electricity supplier to receive a bulk supply from an electric power producer or from another public electricity supplier,
- “distributing main” means that portion of any electric supply line which is used or is intended to be used to give origin to service lines for the purpose of the general supply;
- “earthed” means connected to the general mass of earth in such a manner as to ensure at all times an immediate and safe discharge to earth of electrical energy;
- “electrical energy” means energy involving the use of electricity, electric current or any like agency, which may be produced either by mechanical, chemical or any other means;
- “electric line” means an electric supply line and includes a telegraph or telephone line;
- “electric power production licence” means a licence granted to a public or local authority, company, person or body of persons, in this Act referred to as an electric power producer, to generate and supply electrical energy to other electric power producers or public electricity suppliers within the area described therein;
- “electric power producer” means a public or private company, a public or local authority, person or body of persons which owns or operates facilities for generation of electric power for sale to one or more public electricity suppliers or to one or more electric power producers pursuant to a licence issued by the Minister;
- “electric supply line” means any wire, conductor or other means used or intended to be used for the purpose of conveying, transmitting, distributing, serving or using electrical energy, together with any casing, coating, covering, tube, pipe, insulator or support enclosing, surrounding or supporting the same or any part thereof, or any apparatus (including apparatus for switching, controlling, transforming, converting or otherwise regulating electric energy,) ancillary thereto, for the purpose of conveying, transmitting, distributing, serving or using electrical energy, but does not include any telegraph or telephone line;
- “factory” means any premises or site in which, or within the close or curtilage of which, any persons works for hire or is

employed whether for wages of not in connection with or incidental to the purposes of any trade or process, and in which electrical energy is used, and includes workshop;

“general supply” means the general supply of electrical energy to ordinary consumers or for public lamps;

“generating station” means any station for generating electricity, including any buildings and plant used for the purpose, and the site thereof, and a site intended to be used for a generating station, but does not include any station for transforming, converting or distributing electrical energy;

“Kenya Bureau of Standards,” means the Standards Institution of Kenya, established under the Standards Act;

Cap 496

“large retail customer” means a customer that contracts for firm capacity in excess of twenty (20) megawatts per annum for minimum of five years;

“licence” means any document or instrument in writing granted under this Act authorizing a public or local authority, company, person or body of persons to undertake the generation, supply or distribution of electrical energy in the manner described in such document or instrument;

“licensee” means the public or local authority, company, person or body of persons to whom a licence is granted;

“local generating licence” means a licence authorizing a public electricity supplier, in this Act referred to as a local generating licence, to generate and distribute electrical energy in the area covered in such licence;

“meter” means any and every kind of machine, device or instrument used for the measurement of the supply of electrical energy, and includes such auxiliary appliances as resistors, shunts, reactances, current transformers, voltage transformers and time switches, external and necessary to the meter;

“mine” has the meaning assigned to it in the Mining Act, and includes quarry;

Cap 306

“ordinary consumer” means any consumer other than a consumer under special agreement.

“Overhead system” means an electrical system in which the electric supply lines, conductors or other apparatus used or which may be used for conveying, transmitting, transforming, distributing or supplying electrical energy are placed above ground and in the open air, and includes any portions of a system so placed above ground and in the open air, excepting within premises in the sole occupation or control of the licensee, and excepting so much of any service line as is necessarily so placed for the purpose of supply, and includes an aerial line as defined in this Act,

“plan,” means a plan drawn to a horizontal scale of at least one one-thousandth of full size and where possible a section drawn to the same horizontal scale as the plan and to a vertical scale of at least one – hundredth of full size or to such other scales as the Minister may direct for both plan

and section, together with such detail plans and sections as may be required;

“Power” means electrical power or the rate per unit of time at which electrical energy is supplied;

“pressure” means the effective difference of electrical potential between any two conductors, or between a conductor and the earth, and is said to be:

a. “low” when it does not exceed 250 volts under normal conditions, subject however to the percentage variation allowed by any rules made under this Act;

“medium” when it exceeds 250 volts but does not exceed 415 volts under normal conditions, subject however to the percentage variation allowed by any rules made under this Act;

“high” when it normally exceeds 415 volts but does not exceed 11,000 volts;

“extra high” when it normally exceeds 11,000 volts;

“public authority” means the Government or any department or branch of the Government or of the community;

“public electricity supplier” means a public or local authority, company, person or body of persons licensed by a distributing licence to distribute or supply electrical energy for any purpose;

“public lamp” means any electric lamp used for the lighting of any street which is under the control of a public or local authority;

“railway” means any railway maintained as a public service for the transport of passengers or goods;

“service line” means any portion of any electric supply line through which electrical energy is or is intended to be supplied by a licensee;

to a consumer either from a distributing main or immediately from the premises of the licensee; or

from a distributing main to a group of consumers on the same premises or on adjoining premises supplied from the same point of the distributing main, up to the point where such electric supply line reaches the supply terminals;

“special agreement” means any agreement for supply of electrical energy made between a licensee and a consumer which, by reason of any peculiarity in supply or demand, contains some special term or condition as to the nature or power factor of the load, time of supply, price, quantity to be consumed, period or otherwise, which term or condition is not reasonably applicable and acceptable to every consumer or any general class of supply;

“street” includes any way, road, lane, square, court, alley, passage or open space, whether a thoroughfare or not, over which the public have a right of way, and also the roadway and footway over any public bridge, or causeway;

“substation” means any premises or enclosure or part thereof, being large enough to admit the entrance of a person after the apparatus therein is in position, containing apparatus for transforming or converting electrical energy to or from a pressure above medium pressure (other than transforming or converting solely for the operation switchgear or instruments) with or without any other apparatus for switching, controlling or otherwise regulating the electrical energy, and includes the apparatus therein;

“supply terminals” means the ends of the electrical supply lines upon any consumer’s premises at which the supply of electrical energy is delivered from the service line of the licensee, and is situated:

- (a) in any case where the supply of electrical energy is measured by a meter, at the point at which the conductor from the service line enters the meter, or, in respect of a conductor from the service line which does not pass through the meter, the point on such conductor nearest to the meter;
- (b) in any other case, at the point at which the conductor from the service line enters the consumer’s main switch, or, if there is more than one main switch, that main switch on the consumer’s premises which is nearest to the source of supply.
- (c) In any case in which the supply of electrical energy is made to a street lamp, at the point of attachment to the distributing main of the electric supply line serving such Lamp;

“Switching station” means any premises or enclosure or part thereof, being large enough to admit the entrance of a person after the apparatus therein is in position, containing apparatus for switching, controlling or otherwise regulating electrical energy at a pressure above medium pressure, but not for transforming or converting electrical energy (other than transforming or converting solely for the operation of switchgear or instruments), and includes the apparatus therein;

“System” means an electrical system in which all the conductors and apparatus are electrically connected to a common source of electrical energy;

“telegraph” means any system or means of conveying telegraph, telephone or other signs, signals, sounds or communications by the agency or electricity, magnetism, electromagnetism or by any agency or like nature, with or without the aid of wires, including the systems commonly known as wireless or radio telegraphy and wireless or radio telephony or etheric signalling, and any improvements or developments of those systems, and also includes any apparatus used in conveying any such signs, signal, sounds or communications;

“telegraph or telephone line” means the conductors and their

supporting or containing structures which are or may be used in connection with or for the purpose of any public or private telegraph;

“tramway” means any tramway maintained as a public service for the transport of passengers or goods;

“undertaking” means any business of generation, supply or distribution of electrical energy undertaken pursuant to a licence, and includes all the assets and liabilities from time to time constituting or belonging or appertaining to such business;

“use of electrical energy” means the conversion of electrical energy into chemical energy, mechanical energy, sound, heat or light, or the use or application of electrical energy to or for any of the purposes for which it may be or become or be found to be adapted;

“works” means electric supply of lines, machinery, lands, buildings, structures, earth works and water works, and includes any apparatus or things of whatsoever description, required for the generation, transmission, transformation, distribution supply of use of electrical energy.

Application
of Act

3

The provisions of this Act shall apply, as hereinafter specified, to every public or local authority, company, person or body of persons generating, transmitting, distributing, supplying or using electrical energy, and to all works or apparatus for any or all of these purposes.

PART II LICENSING

Restriction on Supply and Use of Electricity

- 4 (1) No public or local authority, Company, person or body of persons not being a licensed electric power producer or local generating licensee under this Act shall generate, or, not being a licensed public electricity supplier or an electric power producer shall, subject to the provisions of this Act, transmit a supply of electrical energy or construct, maintain or operate works for such generation or transmission of electrical energy:

Provided that a licensee supplying electrical energy to a consumer may, in the sole discretion of the licensee and subject to this Act consent to the supply by that consumer, to any person or persons, of all or any part of that electrical energy received by that consumer from the licensee, and such consent shall be given in writing and may stipulate such conditions as the licensee may think fit.

- (2) Notwithstanding the provisions of subsection (1):
- (a) the Minister may authorize any public or local authority, company, person or body of persons in any place not within the area of supply of any public electricity supplier and whose primary business or occupation is not the supply of electrical energy to generate and to supply such energy for sale or any other consideration to one or more particular public or local authorities, companies, persons or bodies of persons not within any such area of supply;
 - (b) the Minister may authorize any public or local authority, company, person or body of persons, whether within any such area of supply or not, to generate or to transmit a supply of electrical energy for its or his own use, and to erect, maintain and operate the works necessary therefore; but no such authorization shall be given to any public or local authority, persons or body of persons within any such area of supply for any purpose other than stand-by plant or special technical apparatus required for the maintenance of essential communications or military services, without the consent in writing of the public electricity supplier first had and obtained; but, if in the opinion of the Minister any such consent is unreasonably withheld, the Minister, notwithstanding the provisions of this paragraph, may proceed as if such consent had been given:

Provided that where:

- (i) the rated capacity of the hybrid generating system (petroleum oil fired electric power generator not exceeding 100 kilowatts integrated with renewable energy electric power generator) with an electric power production capacity of not more than 1000 kilowatts in the case of the public or local authority, company, person or body of persons and the pressure in any part of the system connected thereto does not exceed medium pressure;

(ii) the rated capacity of the generating plant does not exceed 25 kilowatts in the case of a public or local authority and 100 kilowatts in the case of a company, person or body or persons and the pressure in any part of the system connected thereto does not exceed medium pressure; and

(iii) no part of such system is outside the close or curtilage of the premises in which the electrical energy is generated,

no licence or authorization shall be necessary.

(3) No public or local authority, company, person or body of persons within the area of supply of a public electricity supplier may, after having been offered a supply of electrical energy by such public electricity supplier, use any form of energy for power or lighting purposes (excepting portable power and portable lighting purposes) other than electrical energy without the approval of the Minister, which approval shall not be refused in any case in which the Minister is satisfied that the public or local authority concerned will be unduly prejudiced by such refusal:

Provided that nothing in this subsection shall prevent the use of steam or internal combustion engines for locomotive purposes of the generation of electrical energy for the lighting for such vehicles.

(4) No public or local authority, company, person or body of persons which is not licensed as an electric power producer of public electricity supplier shall receive a supply of electrical energy from an electric power producer, nor shall an electric power producer supply electrical energy except to another electric power producer or to a public electricity supplier.

Notice of
application
for licence

5

- (1) Before making any application for a licence, the intending applicant shall give notice by public advertisement of the intended application not more than ninety days and not less than sixty days before the application is to be made.
- (2) Every such advertisement shall be published in each of two successive weeks in the Gazette and once at least in each of two successive weeks in some one and the same newspaper circulating in the area or proposed area of supply and any other area concerned in the application, and shall contain the following particulars:
 - (b) a short title descriptive of the application;
 - (c) the date of the intended application;
 - (d) the name, address and description of the applicant;
 - (e) a short statement of the purpose for which the licence is required;
 - (f) a description of the proposed area of supply (if any) and of such part (if any) of such area within which it is proposed that the supply of electrical energy should be compulsory;
 - (g) the names of the streets (if any) or a description of the routes where it is proposed that electric supply lines shall be installed within a specified time;
 - (h) the address of an office in Nairobi and another office within the area of supply at which printed or typed copies of the draft licence to be applied for and of the licence when granted, and of any other particulars required by this Act can be inspected by the public;
 - (i) in any case relating to an application for a licence by which it is proposed to obtain powers to authorize the compulsory acquisition or the use of land for the purposes of a generating station, substation or switching station, a description of the land;
 - (j) in any case relating to an application for a licence relating to the purchase of any works used for any of the purposes of the generation or supply of electrical energy, a description of the position or positions of the works to be purchased;

(k) in any case relating to any combination of any public or local authorities, the basis upon which such combinations proposes to operate and upon which the representation on, and the financial requirements of, the combination or of any joint committee or joint board representing such combination, and the contribution to the common fund by the constituent authorities are to be provided for.

- (3) As well as giving such notice by public advertisement, and within the specified for its publication, the intending applicants shall serve a notice in writing with the aforesaid particulars on every local authority in the area or proposed area of supply and in any other area concerned in the application, but, where the intending applicant is a local authority and the application to be made relates to an area in the jurisdiction of the intending applicant, the provision as to notice to the local authority shall not apply.
- (4) Every such notice, whether by public advertisement or by service in writing, must state that any public or local authority, company, person or body of persons desirous of making any representation on or objection to the application or to the grant of the licence must do so by letter addressed to the Minister and marked on the outside of the cover enclosing it "Electric Power Act", on or before the expiration of sixty days from the date of the application as stated in the notice and that a copy of such representation or objection must be forwarded to the applicant.

Draft licence 6

- (1) (a) The applicant must in each case prepare a draft of the licence being applied for.
- (b) The draft licence must be printed or typed on one side only of the paper, and each scheduled annexed must begin a new page.
- (c) The name and address of the applicant for the licence must appear on the outside of the draft.
- (d) The notice contained in the advertisement as to representations or objections must appear at the end of the draft.

- (2) The draft must contain, amongst other things:
- (a) the name, address and description of the applicant;
 - (b) a description of the proposed area of supply and compulsory area (if any) and, in the case of a bulk supply licence, a description of the routes, streets, roads, railways or tramways, and, in the case of a distributing licence, the names of the streets, along which it is proposed that electric supply lines shall be installed for the purpose of giving the supply;
 - (c) a statement of the purpose for which a supply is to be given,
 - (d) a statement of the maximum prices which may be charged, in the case of a bulk supply licence, for a bulk supply, and, in the case of a distributing licence, for a supply for:
 - (i) industrial power;
 - (ii) domestic power
 - (iii) lighting for public lamps;
 - (iv) power other than for industrial or domestic purposes;
 - (v) commercial power, and,
 - (vi) agricultural or irrigation power;
 - (e) a statement of the proposed method or methods of rebate on or reduction of the maximum price or prices in consideration of any stated improvement in the conditions of the demand by reason of:
 - (i) load factor;
 - (ii) Power factor;
 - (iii) time of the demand; or
 - (iv) other circumstances of the demand;
 - (f) in the case of a licence to authorize the compulsory acquisition or the use of land for the purposes of a generating station, substation or switching station, a description of such land;
 - (g) in the case of a licence relating to the purchase of any works used for the purpose of supplying electrical energy, a description of the works to be purchased and of the area in which electrical energy is supplied therefrom;

- (h) in the case of a licence relating to any combination of any public or local authorities:
 - (i) a description of the purpose of the combination;
 - (ii) Provisions for constituting the committee or board of management or other directorate of the combination, for the appointment and removal of members and for the meetings of the committee or board of management or other directorate of the combination;
 - (iii) Provisions:
 - (i) (a) relating to the financial arrangements between the proposed constituent authorities;
 - (j) (b) for the appointment and remuneration of officers; and
 - (k) (c) for settling differences between committee, board or other directorate, and any of the constituent authorities;
 - (i) provisions as to the auditing of accounts;
 - (ii) provisions for adapting any licence in force in the area of supply or any part thereof to the case of the committee, board or other directorate proposed to be constituted;
 - (l) the period (if any) for which the licence is applied for.
 - (m) A statement of the conditions (if any) which have been agreed upon between the applicant and any local authority in the area of supply as to the purchase of any works under the licence;
 - (n) A statement of the conditions (if any) which have been agreed upon between the applicant and any local authority in the area of supply relating to the works under the licence in the area of the local authority.

Articles and particulars to be deposited with the application

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The applicant must in each case, when making the application, deposit with it:

- (a) three printed or typed copies of the draft licensee;
- (b) a list of the local authorities in whose districts the area or proposed area of supply is situated;
- (c) in the case of an application relating to the purchase of any works used for supplying electrical energy, a list of the local authorities within whose districts the works are situated;
- (d) a list of the public or local authorities, companies, persons or bodies of persons (if any) authorized to supply electrical energy within the area or proposed area of supply;

- (e) in the case of an application by a public or local authority, the following particulars:
 - (i) the sum proposed to be expended on the undertaking;
 - (ii) whether it is proposed to raise a loan for the purposes of the undertaking or otherwise how the money required is provided;
 - (iii) in the case of a local authority, the rateable value of the district;
 - (iv) the amount of indebtedness and the borrowing powers of the applicant for all purposes;
 - (v) in the case of a local authority, the amount of the rates in the Kenya pound or the rates payable per annum;
 - (vi) a statement, including a detailed estimate of the cost, showing that a definite scheme for the purposes of the licence being applied for has been prepared and considered by the public or local authority, and the report of a competent engineer on the proposed scheme;
- (f) in the case of an application by or relating to any combination of any public or local authorities; there must be deposited with the application, in addition to such of the deposits hereinbefore specified as are applicable, the following particulars.
 - (i) the rateable value of each of the districts of the proposed constituent authorities.
 - (ii) the amount of the indebtedness and the borrowing powers of each of the proposed constituent authorities;
 - (iii) the amount of rates in the Kenya pound in the districts of each of the proposed constituent authorities;
 - (iv) where the proposal is not for the combination of existing undertakings actually worked, a statement, including a detailed estimate of the cost, showing that a definite scheme for the purposes of the licence being applied for has been prepared and considered by the proposed constituent authorities, and the report of a competent engineer on the proposed scheme;
 - (v) a statement of the proportions in which the cost is to be defrayed by the proposed constituent authorities relating to the application;
 - (vi) a copy of any agreement between the proposed constituent authorities, relating to the applicant;
- (g) in the case of an application other than by any public or local authority or authorities, the following particulars:
 - (i) a statement, including a detailed estimate of the cost, showing that a definite scheme for the purposes of the licence being applied for has been prepared and considered, and the report of a competent engineer on the proposed scheme;
 - (ii) a statement of the capital proposed to be expended in connection with the undertaking, and the mode in which such capital is to be provided ;

		(h) if the applicant is a company, a copy of the memorandum and articles of association.
Mode of application for licence and objection	8	Every application for a licence or any authority, consent or approval under this Act shall be accompanied by such fee as may be prescribed, and every objection to the grant of any such licence, authority or consent or approval, or any representation to be made with respect to any matter under this Act, shall be made in the manner hereinafter prescribed in that behalf.
Submission of licence application to the Board	9	<p>(1) An application for a licence under this Act shall be submitted to the Board for consideration and recommendation to the Minister.</p> <p>(2) All licence applications for the generation, distribution and transmission of electric power shall be processed within one hundred and eighty days after the Electricity Regulatory Board confirms to the Minister in writing that the application is materially complete in all respects.</p> <p>(3) In recommending the grant of a licence to the Minister, the Board shall consider:</p> <p>(a) The need to protect the environment and conserve natural resources;</p> <p>(b) The energy needs of the community and of the proposed area of supply to which the application relates;</p> <p>(c) The technical and financial capacity of the applicant to render the service for which the licence is requested;</p> <p>(d) The ability of the applicant to operate in a manner designed to protect the health and safety of the users of the service and other members of the public who would be affected by its operation;</p> <p>(e) The impact of the service on the cultural and recreational life of the community; and,</p> <p>(f) Any other issues which may have a bearing on the operation of the proposed service.</p>
Notice of application for extension of time, revocation of licence or alteration of area	10	<p>(1) Subject to any provision in this Act to the contrary, before making any application for extension of time to the Minister or to the Board:</p> <p>(a) to authorize, consent to or approve of the altering or varying of any provision contained in a licence which is provided by this Act;</p> <p>(b) for any authority, consent or approval required under this Act;</p> <p>(c) to dispense with any authority, consent or approval of any public or local authority which is required with regard to any matter arising under this Act when such consent or approval is refused or withheld;</p> <p>(d) for the revocation of any licence, if as to an area of supply, for the whole or any part of such area;</p> <p>(e) for the alteration or variation of any licence or of any area defined therein; or</p> <p>(f) for the renewal of any licence granted under this Act,</p> <p>the intending applicant shall give notice by public advertisement of the intended application not more than sixty days and not less than thirty days, or, in the case of any application for revocation of a licence, not more than ninety days and not less than sixty days, before the application is to be made.</p> <p>(2) Every such advertisement shall be published in each of two successive weeks in the Gazette and once at least in each of two</p>

successive weeks in a newspaper circulating in the area or proposed area of supply and in any other area concerned in the application and shall contain the following particulars:

- (a) a short title descriptive of the application;
 - (b) the date of the intended application;
 - (c) the name, address and description of the applicant;
 - (d) a statement of the object of and reasons for the application;
 - (e) a description of the area or areas (if any), and of any public or local authority, company, person or body of persons (if any), which will or may be affected by the grant of the application;
 - (f) a statement of how or of the manner in which such area or areas, or such public or local authority, company, person or body of persons, will or may be affected by the grant of the application.
- (3) As well as giving such notice by public advertisement, and within the time specified for its publication, the intending applicant shall serve a notice in writing with the aforesaid particulars on every public or local authority or licensee who will or may be affected by the grant of the application.
- (4) Every such notice shall state that any public or local authority, company, person or body of persons desirous of making any representation on or objection to the application shall do so by letter addressed to the Minister and marked on the outside of the cover enclosing it "Electric Power Act", on or before the expiration of thirty days or, in the case of an application for the renewal or revocation of any licence, sixty days from the date of the application as stated in the notice, and that a copy of such representation or objection shall be forwarded to the applicant.
- (5) The application addressed to the Minister may be printed or typed, and shall be signed or sealed, as may be legally necessary, by or on behalf of the applicant and delivered to the Minister and marked on the outside of the cover enclosing it "Electric Power Act", together with proofs of the applicant's compliance with the provisions as to notices on or before the date stated in the notice as being and which shall be the date of the application.
- (6) The Minister shall consider any such application and any representation or objection which has been made respecting the same, and may make or order such inquiry as he thinks fit and may refuse or may grant the application with such conditions or modifications as he deems expedient within a period of six months from the date of submission go the applicant.
- (7) The provisions of subsections (1), (2), (3) and (4) shall not apply to applications for authority of the Minister under subsection (2) of section 4, or subsection (3) of section 35.
- (1) Before granting a licence under this Act, the Minister shall give notice in the Kenya Gazette.
- (a) Stating that he proposes to grant the licence and the reasons for such grant; and
 - (b) Specifying the time (not being less than thirty (30) days from the date of publication of the Notice) within which representations or objections with respect to the proposed licence may be made; and,

Notice of
licence

11

		(c) Shall consider any representations or objections duly made and not withdrawn.
		(2) The Minister shall, upon considering representations and objections made under this section, grant the licence applied for subject to such terms and conditions may be specified therein.
		(3) The Minister may upon the recommendation of the Board grant a local generating licence subject to the provisions of this Act, to a licensee to generate and distribute electrical energy in the area covered under the licence.
Duration of licence	12	(1) Licences to electric power producers shall be issued for a term of not less than fifteen years.
		(2) Licences to public electricity suppliers shall be issued for a term of not less than thirty years.
Conditions of licence	13	All licences approved by the Minister shall include the following conditions:
		(a) The area covered under the licence;
		(b) A guaranteed duration of years;
		(c) A requirement that the licensee comply with all possible safety, health and environmental laws;
		(d) A stipulation that the licensee is subject to liability under tort and the contract laws of Kenya;
		(e) A requirement that any compulsory taking of property related to the generation, transmission and distribution of electricity shall be made in compliance with section 75 of the constitution; and,
		(f) A requirement that all necessary fees associated with the licence shall be paid on a timely basis.
Licensee may obtain other licences	14	(1) Nothing in this Act shall prevent a public electricity supplier from applying for and, subject to this Act, obtaining other licences for the transmission or distribution of electrical energy in any area.
		(2) Nothing in this Act shall prevent an electric power producer from applying for and, subject to this Act, obtaining other licences for the generation of electrical energy in any area.
Alteration or modification of licence	15	A licence issued under this Act may not be altered, revised or modified except with the consent of the licensee.
Contravention of licence conditions	16	(1) Where the Board is of the opinion that a licensee is contravening a condition or requirement of its licence, it shall notify the Minister accordingly, and the Minister shall order the licensee to comply with the said condition or requirement.
		(2) The Minister may impose such civil fines, being not less than ten thousand shillings per violation per day, as he may deem necessary to secure compliance with an order issued under subsection (1).
Revocation of licence	17	(1) A licence issued under this Act may be revoked where the Minister, upon the recommendation by the Board is satisfied that the licensee is not operating in accordance with the terms and conditions notwithstanding an order issued or a fine imposed as provided under section 16.
		(2) The Minister shall give a licensee sixty days' notice to show cause why licence should not be revoked.
		(3) Where the Minister revokes any licence, either in whole or in part, he shall give notice by public advertisement of such revocation within one month of the revocation.

		(4) A licensee aggrieved by the Minister's decision or action shall have the right of appeal to the High Court.
Renewal of licence	18	(1) Where the remaining duration of a licence is limited, the licensee may, within a period of and not less than three years from the date fixed for the termination of the licence, make application to the Minister for a renewal of such licence; such application shall be made after public advertisement in manner prescribed by section 10. (2) A licence issued under this Act may be renewed if the Minister finds that the licensee has acted in accordance with all the terms and conditions of the licence, and that renewal of such licence is in the public interest.
Transfer of licence	19	A licensee shall not transfer or otherwise divest itself of any rights, powers or obligations conferred or imposed upon it by the licence without the consent of the Minister.

PART III SUPPLY OF ELECTRIC POWER

Power of the Minister to provide electric lines or funds therefor	20	Where in the opinion of the Minister, a supply of electrical energy should be obtained from an electric power producer or a public electricity supplier and after investigation it is considered uneconomic or commercially inexpedient to provide for the necessary works as specified in that behalf, the Minister, may with the consent of the National Assembly undertake in whole or in part the provision of any such works or of the funds necessary to defray the charges thereon or may guarantee such payments, upon such terms and conditions as the Minister may consider necessary or expedient.
Approval of Contracts	21	(1) All contracts for the sale of power or transmission services between and among electric power producers, public electricity suppliers and large retail consumers shall be submitted to the Board for approval as provided for by section 121 (1) (f). (2) Provisions of any contract approved by the Board shall be legally binding on all parties.
Criteria for approval of contracts	22	In considering a contract under section 19, the Board shall apply the following criteria: (a) that the rates or tariffs established in the agreement are just and reasonable; (b) that the metering equipment is owned, installed and maintained by the public electricity supplier; and, (c) that the costs of any interconnection facilities provided by the electric power producer are to be reimbursed by the public electricity supplier.

Distributing
mains to be
laid down

23

- (1) The public electricity supplier shall, within a period of two years or such other period as may be specified in the licence after the commencement of the licence, or as may be authorised by the Minister as provided for by section 10 subject to any agreement to the contrary, may with the approval of the Board, at his own expense lay down or erect suitable and sufficient distributing mains for the purpose of general supply throughout every street or part of a street specified in that behalf in the distributing licence, and shall thereafter maintain those distributing mains.
- (2) In addition to the distributing mains hereinbefore specified, the public electricity supplier shall, at any time after the expiration of 18 months after the commencement of the distributing licence, subject to any agreement to the contrary made with the approval of the Board at his own expense lay down or erect suitable and sufficient distributing mains for the purpose of general supply throughout every other street or part of a street within the area of supply upon being required to do so in the manner provided by the distributing licence, or by this Act.
- (3) All such distributing mains as are mentioned in subsection (2) (unless already laid down or erected), shall be laid down or erected by the public electricity supplier within six months after any requisition in that behalf served upon him in accordance with the provisions of the distributing licence or this Act has become binding upon him, or within such further time as may in any case be approved by the Minister.
- (4) Where any requisition is made in respect of any street which the public electricity supplier is not specially authorised to break up, or in or along which he is not authorised to erect and construct works of an overhead system, he shall (unless all authorities and persons owning or controlling such street, or responsible for the repair thereof, consent to such breaking up or to the erection of such overhead system, as the case may be) forthwith apply to the Electricity Regulatory Board for its written consent authorising and empowering the public electricity supplier to break up that street, or to erect and construct therein works of an overhead system, as the case may be, and the requisition shall not be binding upon the public electricity supplier if the Electricity Regulatory Board refuses its consent in that behalf.

<p>If licensee fails to lay down mains, etc., licence may be revoked</p>	<p>24</p>	<p>(1) If the public electricity supplier makes default in laying down or erecting any distributing mains in accordance with the provisions of the distributing licence or of this Act within the periods prescribed in that behalf respectively he shall be liable for each default to a penalty not exceeding ten thousand shillings for each day during which the default continues, and if the Board is of the opinion in any case that the default is wilful and unreasonably prolonged it may, after considering any representation of the public or local authority, company, person or body of persons recommend to the Minister to deal with distributing licence in the manner provided by this Act.</p> <p>(2) Where the Minister is authorised under this section to deal with a distributing licence, he may either revoke the distributing licence as the whole or any part of the area of supply or, if the public electricity supplier so desires, suffer it to remain in force as to that area or part thereof, subject to such conditions as he thinks fit to impose, and any conditions so imposed shall be binding on and observed by the public electricity supplier, and shall be of the like force and effect in every respect as though they were contained in the distributing licence:</p>
<p>Laying of electric lines under special agreement</p>	<p>25</p>	<p>Provided that the Minister shall not revoke the distributing licence as to part only of the area of supply where the public electricity supplier makes a representation that he desires to be relieved of his liabilities as respects the rest of the area of supply, and in that case the Minister shall not under this section revoke the distributing licence otherwise than as to the whole of the area of supply</p> <p>Where a public or local authority is not the public electricity supplier, the supplier shall, within 28 days or such other period as the Board may approve before commencing to lay underground in any street any electric supply line which is intended for supplying electrical energy to any particular consumer, and not for general supply, serve upon the local authority, and the owner or occupier of all premises abutting on so much of the street as lies between the points of origin and termination of the electric supply line so to be laid, and a notice stating that the public electricity supplier intends to lay the electric supply line, and setting forth the effect of this section, and, if within that period any such owner or occupier requires in accordance with the provisions of the licence that a supply shall be given to his premises, the necessary distribution main shall be laid by the public electricity supplier at the same time as an electric supply line intended for the particular consumer.</p>

Manner in which requisition to be made	26	<p>(1) Any requisition requiring the public electricity supplier to erect or lay down a distributing main to be operated at low or medium pressure for the purposes of general supply, throughout any street or part of a street may be made by any owner or occupier of premises along that street or part of a street or by a group of such owners or occupiers, either jointly or severally, or, where a public or local authority is not the public electricity supplier and has the control and management of public lamps in that street or part of a street, by the public or local authority:</p> <p>Provided that the provisions of this subsection shall apply only to premises on which the building or any part thereof for which a supply of electrical energy through the distributing main to which the requisition relates is situated not more than 200m from the street.</p> <p>(2) Every such requisition shall be signed by the person or persons making it, or by the public or local authority (as the case may be) and shall be served upon the public electric supplier.</p> <p>(3) Forms of requisition embodying therein a suitable note drawing attention to the provisions of this section and the sections 24 and 27 shall be kept by the public electricity supplier at his office, and a copy shall on application be supplied free of charge to any owner or occupier of any premises within the area of supply and, where necessary, to the public or local authority, and any requisition so supplied shall be deemed valid in point of form.</p>
Requisition by owners or occupiers	27	<p>Where any such requisition is made by any such owner or occupier or group of owners or occupier or public or local authorities aforesaid, the public electricity supplier shall within a period of one month or such other period as the Board may approve after the service of the requisition, serve on the persons by whom the requisition is to be made, the conditions and terms to be complied with by such persons before the supply is provided.</p>
Public electricity supplier to furnish sufficient supply to owners and occupiers within area of supply	28	<p>(1) The public electricity supplier, shall upon being required to do so by the owner or occupier of any premises situated within two hundred metres from any distributing main operating at low or medium pressure in which he is for the time being required to maintain or is maintaining a supply of electrical energy for the purpose of supply under the distributing licence, or within two hundred metres from the nearer boundary of any street or road reserve (whichever may be the wider) along which such distributing main is laid down or erected, give and continue to give in accordance with the provisions of the distributing licence and of this Act a supply of electrical energy for those premises at supply terminals located within two hundred metres from such distributing main or nearer boundary of the street or road reserve as aforesaid, and he shall at his own expense furnish and lay or erect such electric supply lines, as may be necessary or proper for the purpose of supplying the maximum power with which such owner or occupier then requires to be supplied:</p> <p>Provided that</p> <p>(i) the cost or, in any case where a scale of charges for such purpose has been submitted by the public electricity supplier and approved by the Board, an amount calculated according to such scale to represent the cost, of so much of any electric supply lines for the supply of electrical energy to any owner or occupier as may be laid down or erected upon the property of that owner or in the possession of that occupier, and of so much of any such electricity supply lines as it may</p>

- be necessary to lay or erect for a greater distance than twenty meters from any distributing main of the public electricity supplier (excluding any distance to be traversed for that purpose across any such street or road reserve as aforesaid), although not on that property, for the purpose of such supply shall, if the public electricity supplier so requires, be refunded by that owner or occupier;
- (ii) notwithstanding any payments made in accordance with the foregoing provisions, all such electric supply lines shall be the property of the public electricity supplier who shall be responsible for their proper maintenance, repair and safe condition in accordance with this Act and any rules made thereunder, up to the supply terminals; such electric supply lines may be used by the public electricity supplier for the purpose of supply to other consumers, provided such use does not prejudicially affect the supply of electrical energy to the owner or occupier who first required such electric supply lines to be laid down or erected as aforesaid; but, in any such event, such owner or occupier shall be entitled to claim from and be paid by each consumer subsequently connected to such electric supply lines such sum as may be determined by the public electricity supplier as a fair and just proportion of the amount originally paid by such owner or occupier in respect thereof, and every consumer so connected from time to time shall likewise be entitled to claim from and be paid by every other consumer so connected after him such sum as may be determined by the public electricity supplier as a fair and just proportion of any amount theretofore paid by him by way of contribution to any consumer so connected before him.
- (2) Every owner or occupier of premises requiring a supply of electrical energy shall serve a notice upon the public electricity supplier specifying the premises in respect of which the supply is required and the maximum power required to be supplied, and the day (not being an earlier day than a reasonable time after the date of service of the notice) upon which the supply is required to commence.
 - (3) Notwithstanding anything in this section contained:
 - (a) the owner or occupier of any premises shall not be entitled to demand or continue to receive for other than normal and regular use from any public electricity suppliers a supply of electricity for any premises having a separate supply of electricity or a supply (in use or ready for use for the purposes for which such emergency supply of electricity is required) of gas, steam or other form of energy.
 - (b) if the owner or occupier of any such premises as aforesaid uses any form of apparatus, lamp or burner, or uses the electrical energy supplied to him by the public electricity supplier for any purposes, or deals with it in any manner so as to interfere unduly or improperly with the efficient supply of electrical energy to any other body or person by the public electricity supplier, the public electricity supplier may if he thinks fit, discontinue to supply electrical energy to those premises so long as the apparatus, lamp or burner is so used, or the electrical energy is so used or dealt with;

- (c) the public electricity supplier shall not be compelled to give or to continue to give a supply of electrical energy to any premises unless he is reasonably satisfied that the electric supply lines, fitting and apparatus therein are in good order and condition, and are not calculated to affect injuriously the use of electrical energy by the public electricity supplier or by other persons.
- (4) If any difference arises under this section as to the amount to be defrayed by any owner, occupier or consumer, or as to any improper use of electrical energy, or as to any alleged defect in any electric supply lines, fittings or apparatus, that difference shall be determined, upon the application of any person or party interest, by an electrical inspector.
- (5) Forms of requisition, embodying therein a suitable note drawing attention to the provisions of this section shall be kept by the public electricity supplier at his office, and a copy shall, on application be supplied free of charge to any owner or occupier of premises within the area of supply, and any requisition so supplied shall be deemed valid in point of form.
- 29 When electrical energy shall not be supplied
- The public electricity supplier shall not give or continue to give a supply of electrical energy to any premises or any part thereof:
- (a) if the supply of electrical energy to such premises or to that part thereof is prohibited by any rules made under this Act;
- (b) if the premises or that part thereof is the subject of an order for demolition made at the instance of the public or local authority within the area of whose jurisdiction the premises are situate.
- 30 Maximum power to consumers
- (1) The maximum power with which any consumer shall be entitled to be supplied shall be of such amount as agreed on by the parties in the supply agreement:
 Provided that where any consumer has required the supplier to supply him with a maximum power of any specified amount, he shall not be entitled to alter that maximum power, except upon giving to such supplier such notice, not being less than one month, as the Board may in the circumstances of each case direct, and upon payment in advance any costs to be reasonably incurred by such supplier in respect of the service lines by which electrical energy is applied to the premises of that consumer, or any of his fittings or apparatus upon those premises.
- (2) If any difference arises between any such owner or occupier and the public electricity supplier as to what may be reasonably anticipated as the consumption on his premises or as to the reasonableness of any expenses under this section, that difference shall be determined by the Board.
- 31 Notice to be given to licensee before removing
- (1) A seven day notice in writing shall be given to the public electricity supplier by every consumer before he quits any premises supplied with electrical energy by such supplier, and, in default of such notice, the consumer so quitting shall be liable to pay such supplier, the money due in respect of such supply up to such time as notice of removal is given or up to the next usual period for ascertaining the register of the meter or otherwise for determining the charges due on such premises, or to the date from which any subsequent occupier of such premises may require such supplier to supply electrical energy to such premises, whichever first occurs.

(2) Notice to the effect of this section shall be endorsed upon any demand note for charges for electrical energy.

(3) Notice shall be deemed to have been served from the date of receipt by the public electricity supplier.

Provided that nothing in this section shall invalidate any agreement entered into between the public electricity supplier and any consumer as to the period for which a supply of electrical energy shall be taken by such consumer.

Consolidation of licences held by the same licensee

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(1) Any licensee under this Act who is authorized by two or more distributing licences to supply electrical energy in two or more adjacent areas of supply may make application to the Minister for the consolidation of such licences, and the Minister may, if it is shown to his satisfaction that the granting of such an application will be in the interests both of the consumers in every area of supply concerned as well as of the licensee, revoke the existing several licences held by the licensee in respect of such areas and grant to the licensee in their stead a consolidated licence in respect of an area of supply comprising the areas formerly covered by the several licences;

Provided that the provisions of section 17 shall not apply to the revocation of any licence by the Minister under this section.

(2) An application under this section shall be made by the licensee after advertisement in the manner prescribed by section 10:

Provided that the period prescribed by subsections (4) of that section for the making of representations or objections shall, whatever the nature of the application, be thirty days.

(3) Where simultaneous applications have been made by a licensee under this section and under section 15 for the alteration of the area of supply to which any of the distributing licences mentioned in this section relates, the Minister may, subject to the provisions of the said section 15 take any such alteration into account in determining the area of supply to be covered by any consolidated licence granted under this section.

(4) The Minister may, if in his opinion it is equitable so to do, include in any consolidated licence granted under this section such terms and conditions, whether or not they are the same as or similar to the terms and conditions contained in the distributing licences revoked by him hereunder, as the Board may recommend.

Licensees may co-operate for purposes of the licences

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Licensees may, subject to the approval of the Board, enter into agreements to co-operate for any of the purposes of their licences, subject to the provisions of this Act, but the approval of the Board shall not be granted until the expiration of two months after public notice has been given, as provided for by section 10, of the intention to enter into such agreement together with object thereof.

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| Licensee not to purchase other undertakings | 34 | <p>(1) The licensee shall not purchase or acquire the undertaking of, or associate himself with, any public or local authority, company, person or body of persons supplying electrical energy under any licence, unless the licensee is authorized by the Board to do so.</p> <p>(2) If in contravention of this section the licensee purchases or acquires any such other public or local authority, company, person, or body of persons, the Minister may, if he thinks fit, revoke the licence upon such terms as he thinks just.</p> |
| Area of supply and supply beyond area | 35 | <p>(1) The area of supply shall be the area named for that purpose in the licence.</p> <p>(2) The licensee shall not at any time supply electrical energy or (except for the purpose of a licence) erect or lay down any works beyond the area of supply otherwise than as may be permitted under authority of the Minister either under subsection (3).</p> <p>(3) Where the owner or occupier of any premises is desirous of obtaining a supply of electrical energy from any licensee within whose licensed area of supply those premises are not situate, the Minister may, on recommendation of the Board and with the consent of the local authority (if any) within whose district the premises are situate and the licensee (if any) authorized by licence to supply electrical energy to such premises authorize the first-mentioned licensee to supply electrical energy to those premises on such terms and subject to such conditions as the Minister may think fit:
 Provided that:</p> <p style="padding-left: 40px;">(i) if any consent required by this subsection is unreasonably withheld, the Minister may proceed as if such consent had been given;</p> <p style="padding-left: 40px;">(ii) the authority granted under this section shall lapse with the termination, for whatever cause, of the licence.</p> <p>(4) An authority given by the Minister under subsection (3) of this section shall, unless it specifically states otherwise, confer all and any such powers and rights and impose all and any such duties on the licensee, and on any such other public or local authority, company, person or body of persons as may be in any manner interested or concerned, as would have been conferred or imposed by this Act if the premises and the route along which the electric supply lines are to be laid for the purposes of giving supply were, for all purposes of this Act, within the licensee's area of supply, anything in the licence notwithstanding.</p> |

Penalty for failure to supply	36	<p>(5) If the licensee supplies electrical energy or erects or lays down any works in contravention of this section, the Minister may revoke the licence on such terms as he thinks just.</p> <p>(1) Subject to any agreement which may be entered into between a public electricity supplier and a consumer as provided for under this Act, whenever the public electricity supplier makes default in supplying electrical energy to any owner or occupier of premises to whom he may be and is required to supply electrical energy under the distributing licence, he shall be liable in respect of each default to a penalty not exceeding ten thousand shillings for each day or part of a day on which the default occurs.</p> <p>(2) Whenever the public electricity supplier makes default in supplying electrical energy in accordance with the terms of the rules made under this Act, he shall be liable to such penalties as are prescribed by the rules in that behalf.</p> <p>(3) The penalties to be inflicted on the public electricity supplier under this section shall in no case exceed the aggregate in respect of any defaults, not being wilful defaults, on the part of the public electricity supplier the sum of thirty thousand shillings for any one day nor shall any penalty inflicted in respect of any default if the court is of the opinion that the default was caused by inevitable accident or force majeure, or was of so slight or unimportant a character as not materially to affect the value of the supply.</p>
Separate accounts for each undertaking	37	<p>Where any public or local authority, company, person or body of persons hold a licence or licences, the accounts of each undertaking under each licence shall, unless specifically exempted by the Board be subject to the subject to the provisions of this Act, and be kept separate and distinct and in the manner and form prescribed by this Act:</p> <p>Provided that:</p> <p>(i) the Board may direct that the operations of a licensee holding more than one licence in respect of separate or contiguous areas of supply may be treated as a single undertaking for the purposes of this section;</p> <p>(ii) a licensee holding two or more licences, the operations under which are not to be treated as a single undertaking under paragraph (i), or conducting any business or operations independent of his licence or licences, shall be entailed nevertheless to keep in the prescribed form additional or alternative sets of accounts, to be termed the Head Office Accounts, in respect of all such items as, in the opinion of the auditor appointed under section 36, cannot properly or reasonably be attributed or allocated to, and included in, the accounts of the undertaking of any one of such licences exclusively.</p>
Form of accounts	38	<p>The Board may prescribe the form and particulars in which all licensees under this Act shall maintain their books of accounts.</p>
Audit of accounts	39	<p>The following provisions shall apply as to the audit of accounts where the licensee is not a public or local authority:</p> <p>(a) The annual statement of the undertaking shall be examined and audited by such competent and impartial persons</p>

appointed by the licensee and approved by the Board, and the remuneration of the auditors shall be paid by the licensee;

- (b) The auditor shall at any time investigate and report to the Board upon any such particular matters or things relating to or arising out of the accounts of the licensee under this Act, as the Board may from time to time require;
- (c) The licensee shall give to the auditor and his clerks and assistants access to such of the books and documents relating to the undertaking as are necessary for the purposes of the audit, and shall when required furnish to him and them all vouchers and information requisite for that purpose, and shall afford to him and them all facilities for the proper execution of his and their duty;
- (d) The Board may make rules prescribing the times at and the mode in which the audit shall be made and conducted, or otherwise for the purpose of giving effect to the provisions of this section;
- (e) Any report made by the auditor, or such portion thereof as the Board may direct, shall be appended to the annual statement of accounts of the licensee;

40 All works to comply with the standards of Kenya Bureau of Standards

Any new works, and any extension or amplification of any existing works, for any of the purposes of generating, transforming, converting, transmitting, distributing or supplying electrical energy under any licence shall be carried out and performed in the mode and with the material or apparatus which complies with the specification or standard relating to any such purpose or to any such mode, material or apparatus of the Kenya Bureau of Standards or where no such standards exist, to comply with the relevant International Standards approved by the Kenya Bureau of Standards.

41 Minister may authorise installations on roads, railways, etc

(1) For the purpose of the conveyance, transmission, or supply of electrical energy, the Minister may, upon recommendation by the Board, authorize any licensee to erect, fix, install or lay any poles, wires, electric supply lines, pipes or other apparatus in, upon, under, over or across any public streets, road, railways, tramways, rivers, canals, harbours or Government property in such a manner and on such conditions as herein provided or as he may approve:

Provided that, where it is intended or necessary for such purpose to break, or open up, or to interfere with the traffic, business or purpose of any street, road, railway, tramway, river, canal, harbour or Government property, such authority shall be subject to the consent of the owner, lessee, operator or repairing or maintaining authority thereof, with such reasonable conditions as he or they impose, and such consent shall not be unreasonably withheld.

(2) Where such consent is refused or withheld, the licensee may apply to the Minister to dispense with such consent, and the Minister may, on the recommendation of the Board refuse the application or grant it with such conditions as he think fit.

42 The Kenya Posts and Telecommunications Corporation

(1) The licensee may apply and obtain a licence from the Kenya Posts and Telecommunications Corporation to establish, use and maintain in, over or through any area a system or means of transmission by an electrical method of messages to signals.

Provided that such messages or signals shall have reference only to

may
authorise
telephone or
signalling
lines for
operation of
supply
systems

the operations of the licensee for the purpose of his licence, and that all works or things necessary to be used for the establishment and maintenance of such system or means for communication shall be performed specifically as provided for by the Kenya Posts and Telecommunications Corporation in granting such authority.

- (2) The licensee shall within a period of thirty days from the date of obtaining the licence from the Kenya Posts and Telecommunications Corporation under sub-section (1) submit a copy of the licence to the Board.
- (3) Where any authority has been so granted, any person who makes or permits to be made any contravention of the first provision of this section shall be guilty of an offence and liable to a fine not exceeding fifteen thousand shillings.

Powers of the Minister in case of emergency	43	<p>(1) On the occurrence of any public emergency, or in the interest of the public safety, the Minister or any person specifically authorized in this behalf by the Minister may take temporary possession of any system or means for the transmission by an electrical method of messages or signals so established, used or maintained by any licensee.</p> <p>(2) If any doubt arises as to the existence of a public emergency or whether any act done under subsection (4) was in the interest of the public safety, a certificate signed by the Minister shall be conclusive proof on the point.</p>
Powers for execution of works	44	<p>Subject to the provisions of this Act and the licence, the licensee may exercise all or any of the powers conferred on him by this Act, and the licence, and may erect and construct overhead electric supply lines, and do all necessary works for such purpose in and over such streets and places in respect of which he is duly authorized, and which may, for the time being, be included in the area of supply and be upon land dedicated to public use.</p>
Notice by licensee to land owners	45	<p>(1) No licensee shall lay and connect on any land, other than his own, an electric supply line, whether aerial or otherwise, without permission first had and obtained from the Minister.</p> <p>(2) A licensee who has obtained authorisation from the Minister and who intends to lay an electric supply line on the land of another person shall give notice in writing to the owner of that land of his intention, after the expiration of 14 days from the date of that notice on a specified day to enter upon that land for the purpose of fixing the location of the electric supply line, and within 14 days of entry shall serve the owner with a statement in writing containing full particulars of the description and proposed location of the electric supply line.</p> <p>(3) An owner, after receipt of the notice and statement of particulars under sub-section 2 may assent in writing to the laying down of the electric supply line upon the payment of such compensation as may be agreed upon, and any assent so given shall be binding on all parties having an estate or interest in the land, subject to the following provisions:</p> <p>(a) that an arrangement entered into by an owner under disability or incapacity, or not having power to give assent except under this Act, shall not be valid unless it is approved by two valuers, one of whom is to be nominated by the person giving notice and the other by the owner; and each of the valuers, if they approve of the arrangement, shall annex to the document containing declaration to that effect subscribed by them;</p> <p>(b) that any compensation to be paid by the person giving notice to the owner, in cases where the owner is under disability or incapacity, or has no power to assent to the application under this Act, shall be applied in such manner as the court may determine;</p> <p>(c) that an occupier or person other than the owner interested in the lands shall be entitled to compensation for any injury he may sustain by the laying of the electric supply line, so long as the claim therefor is made within 12 months after by the laying of the electric supply line; and the amount of compensation shall be determined in the case of the dispute</p>

Refusal of
proposal by
land owner

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- by the court.
- (4) No assent expressed in writing in accordance with sub-section (1) shall be void by reason only of non-compliance with any statutory requirements as to registration.
 - (1) An owner shall be deemed to have assented to a proposal to lay an electric supply line on his land if he fails to notify the person desiring to lay an electric supply line in writing of his dissent therefrom within sixty days after the service on him of the notice required by this section; and in the event of dissent the court, on the application of the licensee, shall decide:
 - (a) what injury, if any, the proposed electric supply line will course to the owner, or to the occupier or other person interested in the land; and
 - (b) whether any injury, that will be coursed is capable of being fully compensated for by money, unless the owner requires those questions to be decided by arbitration.
 - (2) The result of a decision under sub-section (1) shall be as follows:
 - (a) if the decision is that injury shall be coursed to the owner, occupier or other party interested in the land; but that the injury, is of a nature capable of being fully compensated by money, the court or arbitrator shall proceed to assess the compensation and to apportion it amongst the owner, occupier and other parties in his or their judgement entitled thereto, and on payment of the sum so assessed the licensee may proceed to lay the proposed electric supply line;

- (b) if the decision is that injury will be caused to the owner, occupier or other party interested in the land; and that the injury, is not of a nature to admit of being fully compensated by money, licensee shall not be entitled to lay the proposed electric supply line;
 - (c) if the decision is that no injury will be caused to the owner, occupier or other party interested in the land; the licensee may forthwith proceed to lay the proposed electric supply line.
- (3) If any difficulty or question arises as to the person entitled to the compensation payable under this Act, the court shall order the compensation to be paid into court pending the making of an application under subsection (4).
 - (4) Upon the application of a person making claim to moneys paid into court under subsection (3) the court may, at the cost of the licensee, and after such notice as he deems fit to such person or persons as he shall direct, order distribution and payment of those moneys according to the respective rights and interests of the persons making claim to those moneys or any part thereof, and may make such other order in the premises as he deems fit.
 - (5) A person hindering, obstructing or interfering with the exercise by a licensee with regard to an electric supply line, or by the servants or agents duly authorised in writing of any such licensee, of any right of entry upon land conferred by this Act for the purpose of laying and connecting, or repairing, inspecting or removing, an electric supply line shall be guilty of an offence and liable on conviction to a fine not exceeding five thousand shillings.
 - (6) The provisions of this Act shall not relieve a licensee of the liability to make compensation to the owner or occupier of land for damage or injury caused by the exercise or use of any power or authority hereby conferred to by any irregularity, trespass or other wrongful proceeding in the execution of this Act, or by the injury or breaking of any electric supply line, or by reason of any defect in any electric supply line:
Provided that, if before action brought in respect thereof the owner of an electric supply line makes tender of sufficient amends to the party injured, that party shall not recover in an action.

- Power to construct works in streets, etc
- 47
- (1) Subject to the provisions of this Act and of the licence, the licensee may exercise all or any of the powers conferred on him by this Act and the licence, and may break up and construct works in, over, under or upon such streets and such railways, tramway, rivers, canals and harbours (if any) as he is specially authorized to break up or construct works in, over, under or upon, by the licence, so far as the those streets, railways, tramway, rivers, canals and harbours may for the time being be included in the area of supply, and be, or be upon, land dedicated to public use:
 Provided, as respects any such railway that the powers hereby granted shall extend only to such parts thereof as pass across or along any highway on the level.
- (2) Nothing in the licence shall authorize or empower the licensee to break up or interfere with any street or part of street or construct works in, over, under or upon any railway, tramway, river, canal or harbour (if any) or such parts thereof, as he is specially authorised to break up or to construct works in, over, under or upon by the licence, without the consent of the authority, body or person by whom that street is repairable, or of the authority, body or person vested with the control of such railway, tramway, river, canal or harbour, or of the Minister, and where the Minister gives that consent the provision of the licence shall apply to the street, railway, river, tramway, canal or harbour to which the consent relates as if the licensee had been specially authorized in that behalf by that licence.
- Street boxes
- 48
- (1) Subject to the Provisions of this Act and of the licence, the licensee may construct or erect in any street such chambers, boxes and apparatus as may be necessary for purposes in connection with the supply of electrical energy, including means for the proper ventilation of such chambers, boxes and apparatus:
 Provided that, where a public or local authority is not the licensee, such chambers, boxes and apparatus shall be of a design approved by the Kenya Bureau of Standards, and placed or situated in manner, approved by the public or local authority concerned, or at its discretion, by the Board.
- (2) Every such chamber, box and apparatus shall be for the exclusive use of the licensee and under his sole control, except so far as the Board may otherwise order, and shall be used by the licensee for the purposes of the licence, in accordance with this Act.
- (3) Every such chamber, box and apparatus, including the upper surface or covering thereof if constructed below ground level, shall be constructed of such materials, and shall be constructed and maintained by the licensee in such a manner as not to be source of danger, whether by reason of inequality of surface or otherwise.
- (4) Where a public or local authority is not the licensee, it may, with the approval or the Board, prescribe the hours during which the licensee is to have access to any underground chamber, boxes and apparatus, and if the licensee during any hours not so prescribed removes or displaces or keeps removed or displaced the upper surface or covering of any box without the consent of the public or local authority he shall be liable for each default to a penalty not exceeding fifteen thousand shillings and to a daily

Overhead
works.
Notices to be
given by
licensee

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penalty not exceeding five thousand shillings:

Provided that the licensee shall not be subject to any such penalty as aforesaid if the court is of opinion that the case was one of emergency, and that the licensee complied with the requirements of this section so far as was reasonable under the circumstances.

(1) Where the exercise of any of the power of the licensee in relation to the execution of any works will involve the placing of any works, for the purpose of the conveyance, transmission, distribution or supply of electrical energy by an overhead system (having received the express consent of the Board as herein provided) in, along or across any street, the following provisions shall have effect:

(a) One month or such other period as the Board may approve before commencing the execution of the works (not being repairs, renewals or amendments of existing works of which the character and position are not altered), the licensee shall serve a notice upon the public or local authority liable for the repair of such street (in this section referred to as the repairing authority) together with:

- (i) A description of the proposed works;
- (ii) A map of the locality or district showing the proposed routes and locations of all electric supply lines and substations; and
- (iii) A drawing showing the plan and elevation of all substations, and shall upon being required to do so by such repairing authority give such further information in relation to the matters specified as may be desired;

(b) the repairing authority may approve any such works, description, routes, locations, map and drawing, subject to such amendments and conditions as may seem fit, or may disapprove them, and may give notice of that approval or disapproval to the licensee;

(c) where the repairing authority approves any such works, description, routes, locations, map and drawing, subject to any amendments or conditions with which the licensee is dissatisfied, or where it disapproves any such works, description, routes, locations, map or drawing, the licensee may appeal to the Minister for the time being responsible for the particular repairing authority, and the Minister may inquire into the matter, and allow or disallow the appeal, and may approve any such works, description, routes, locations, map or drawing subject to such amendments or conditions as seem fit, or may disapprove them;

(d) if the repairing authority fails to give any such notice of approval or disapproval to the licensee within one month or such other period as the Board may approve, after the service of the notice by the licensee, such repairing authority shall be deemed to have approved the works, description, routes, locations, map and drawing.

(e) Notwithstanding anything in the licence or in this Act, the licensee shall not be entitled to execute any such works as above specified except so far as they may be of a description and in accordance with this Act and with the description, routes, locations, map and drawing which have been

approved by the repairing authority or the Board as above mentioned; but, where any such works, routes, locations, map and drawing so approved, the licensee may cause these works to be executed in accordance with description, routes, locations, map and drawing, subject in all respects to the provisions of the licence and of this Act;

- (f) Where the licensee is authorized to erect and install any overhead system, he shall perform the work of excavation and construction and the necessary reinstatement in any street or place and all other work in connection therewith in a neat and workmanlike manner, in accordance with specification, and to the reasonable satisfaction of the repairing authority;

- (g) If the licensee makes default in complying with any of the requirements or restrictions of this section, he shall (in addition to any other compensation which he may be liable to make under provisions of the licence or of this Act) make full compensation to the repairing authority for any loss or damage which such authority may incur by reason thereof, and in addition thereto he shall be liable for each default to a penalty not exceeding thirty thousands shillings and to a daily penalty not exceeding five thousand shillings:

Provided that the licence shall not be subject to any such penalty as aforesaid if the court is of opinion that:

- (i) The failure to comply with requirements of this section was the reasons attributable to the repairing authority; and, the licensee shall not be subject to any such penalty as aforesaid if the court is of opinion; and,
 - (ii) The case was one of emergency, and that the licensee complied with the requirements of this section so far as was reasonable under the circumstances.
- (2) In the application of this section within any area of supply where the licensee is a public or local authority, responsible for the public or municipal works of the province, district or township, the reference to the repairing authority shall not apply.
 - (3) (a) For the execution of any of the works contemplated in this section, the licensee may with the consent in writing of the owner of any building attach to that building such apparatus as may be required for such work.
 - (b) where in the opinion of the licensee any consent under this subsection is unreasonably refused or where any such consent is withheld for a longer period than thirty days after written application has been made for the same by the licensee, the licensee may make application to a subordinate court of the first class, which shall have power, having regard to the character or nature of the building and to the other circumstances of the case, to allow the attachment subject to terms as to compensation or rent and otherwise as he may think reasonable or to disallow the same, and may determine by which of the parties the costs of the application are to be paid.

Notice of works to be served on public or local authority

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- (c) Any consent of an owner and any order of a court under this subsection shall not have effect after that owner ceases to be in possession of the building, but any attachments fixed under this subsection shall not be removed until the expiration of three months after any subsequent owner has given to the licensee notice in writing requiring the attachment to be removed; and, where such notice is given, the proceeding provisions of this subsection shall apply and the court shall have the same powers as under paragraph (b)
 - (d) Any consent of an owner and any order of a court under this subsection shall be binding on all subsequent owners or occupiers of the building.
 - (e) For the purpose of this subsection, the owner of such building shall be the registered proprietor of the land on which the building is erected.
- (4) Nothing in this section shall exempt the licensee from any penalty or obligation to which he may be liable under this Act in the event of any telegraph or telephone line of the Kenya Posts and Telecommunications or of the authority responsible for the management of any railway being at any time injuriously affected by the licensee's works or his supply of electrical energy.
- (1) Where the exercise of any of the powers of the licensee in relation to the execution of any work involves the placing of any works, other than the works of an overhead system, in, under, along or across any street or public bridge, the following provisions shall have effect.
- a) One month, or such other period as the Minister for the time being responsible for the repairing authority may approve, before commencing the execution of the works (not being repairs, renewals or amendments of existing works of which the character and position are not altered), the licensee shall serve a notice upon the public or local authority concerned (in this section referred to as the repairing authority) describing the proposed works, together with a plan and specification of the works showing the mode and position in which the works are intended to be executed, and the manner in which it is intended that the street or bridge, or any sewer, drain or tunnel therein or thereunder, is to be interfered with, and shall, upon being required to do so by the repairing authority, give such further information in relation thereto as desired;
 - b) The repairing authority may in its discretion approve any such works, plan or specification, subject to such amendments or conditions as may seem fit, or may disapprove them, and may give notice of that approval or disapproval to the licensee;
 - c) Where the repairing authority approves any such works, plan or specification, subject to any amendments or conditions with which the licensee is dissatisfied, or disapproves any such works, plan or specification, the licensee may appeal to the Minister for the time being responsible for the repairing authority, and the Minister may

inquire into the matter, and allow or disallow the appeal, and may approve any such works, plan or specification, subject to such amendments or conditions as seem fit, or may disapprove them;

- d) If the repairing authority fails to give any such notice of approval or disapproval to the licensee within one month or such other period as the Bard may approve after the service of the notice by the licensee, the repairing authority shall be deemed to have approved the works, plan and specification;
- e) Notwithstanding anything in the licence or in this Act, the licensee shall not be entitled to execute any such works as above specified, except so far as they may be of a description and in accordance with a plan and specification which has been approved, or is to be deemed to have been approved, by the repairing authority, or by the Electricity Regulatory Board as above mentioned; but where any such works, description, plan and specification are so approved, or to be deemed to be approved, the licensee may cause those works to be executed in accordance with the description, plan and specification, subject in all respects to the provisions of the licence and of this Act;
- f) If the licensee makes a default in complying with any of the requirements or restrictions of this section, he shall (in addition to any other compensation which he may be liable to make under the provision of the licence or of this Act) make full compensation to the repairing authority for any loss or damage which such authority may incur by reason thereof, and in addition thereto he shall be liable for each default to a penalty not exceeding thirty thousand shillings, and to a daily penalty not exceeding five thousand shillings;

Provided that:

- (i) The licensee shall not be subject to any such penalty as aforesaid if the court is of opinion that the failure of the licensee to comply with the requirements of this section was for reasons attributable to the repairing authority; and,
 - (ii) The licensee complied with the requirements of this section so far as was reasonable under the circumstances.
- (2) In the application of this section within any area of supply where the licensee is a public or local authority, responsible for the public or municipal works of the province, district or township, the reference to the repairing authority and to sewers, drains of tunnels in or under streets or bridges shall not apply.
 - (3) Nothing in this section shall exempt the licence from any penalty or obligation to which he may be liable under this Act in the event of any telephone or telegraph line of the Kenya Posts and Telecommunications or of the authority responsible for the management of any railway being at any time injuriously affected by the licensee's works or his supply of electrical energy.

Execution by
licensee of

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Where the exercise of the powers of the licensee in relation to the execution of any works will involve the placing of any works in, over, under or upon any railway, tramway, river, canal or harbour,

works
affecting
public or
local
authority

the following provisions shall have effect unless otherwise agreed between the parties interested:

- (a) One month or such other period as the Board may approve before commencing the execution of the works (not being repairs, renewals or amendments of existing works of which the character and position are not altered), the licensee shall in addition to any other notices which he may be required to give under the licence or this Act serve a notice upon the public or local authority, body or person for the time being vested with the control of the railway, tramway, river, canal or harbour, as the case may be, (in this section referred to as the owner), describing the proposed works, together with a plan and specification of the works showing the mode and position in which the works are intended to be executed and placed, and shall upon being required to do so, by any such owner, give him such further information in relation thereto as he desires;
- (b) Every such notice shall contain a reference to this section and direct the attention of the owner to whom it is given to the provisions thereof;
- (c) Within three weeks or such other period as the Board may approve after the service of any such notice, plan and specification upon any owner, that owner may, if he thinks fit, serve a requisition upon the licensee requiring that any question in relation to the works, or to compensation in respect thereof, and any other question arising upon the notice, plan or specification, shall be settled by arbitration; and thereupon that question, unless settled by agreement, shall be determined by arbitration accordingly;
- (d) In settling any question under this section, an arbitrator shall have regard to any duties or obligations which the owner may be under in respect of the railway, tramway, river, canal or harbour, and may, if he thinks fit, require the licensee to execute any temporary or other works so as to avoid any interference with any traffic, so far as may be possible;
- (e) Where no such requisition as in this section mentioned is served upon the licensee, or where after any such requisition has been served upon him any question required to be settled by arbitration has been so settled, the licensee may, upon paying or securing any compensation which he may be required to pay or secure, cause to be executed the works described in such notice, plan and specification as aforesaid, and may repair, renew and amend them (provided their character and position are not altered), but subject in all respects to the provisions of the licence and of this Act, and only in accordance with the notice, plan and specification so served by him as aforesaid, or such modifications thereof respectively as may have been determined by arbitration as hereinbefore mentioned, or as may be agreed upon between the parties;
- (f) All works to be executed by the licensee under this section shall be carried out to the reasonable satisfaction of the owner, and that owner shall have the right for himself and his agents to be present during the execution of the works;

(g) Where the repair, renewal or amendment of any existing works, of which the character and position are not altered, will involve any interference with any railway, tramway, river, canal or harbour, in, over, under or upon which those works have been placed, the licensee shall, unless it is otherwise agreed between the parties, or except in case of emergency, give to the owner not less than twenty-four hours' notice before commencing to effect the repair, renewal or amendment, and the owner shall be entitled by himself and his agents to superintend the works and the licensee shall conform to such reasonable requirements as may be made by the owner or his agent; and the notice shall be in addition to any other notices which the licensee may be required to give under the licences or this Act:

(h) If the licensee makes default in complying with any of the requirements or restrictions of this section, he shall (in addition to any other compensation which he may be liable to make under the provisions of the licence or of this Act) make full compensation to the owner affected thereby for any loss or damage which he may incur by reason thereof, and in addition thereto he shall be liable for each default to a penalty not exceeding thirty thousand shillings, and to a daily penalty not exceeding five thousand shillings:

Provided that the licence shall not be subject to any such penalty as aforesaid if the court is of opinion that the case was one of the emergency, and that the licensee complied with the requirements of this section so far as was reasonable under the circumstances.

Local authority, etc may give notice of desire to break up streets, etc on behalf of the licensee

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(1) Excepting the works and excavations necessary for the installation and erection of an overhead system in any street or part of a street, any public or local authority, body of persons for the time being liable to repair any street or part of a street which the licensee is empowered to break up, or the public or local authority, body or person vested with the control of any railway, tramway, river, canal or harbour, or works connected therewith, which the licensee is empowered to break up, or to construct works in, over, under or upon for the purposes of the licence, may, if he thinks fit, serve a notice upon the licensee stating that he desires to exercise or discharge all or any part of the powers or duties of the licensee as therein specified in relation to the breaking up, filling in, reinstating or making good any streets, bridges, sewers, drains, tunnels or other works, vested in or under the control or management of that public or local authority, body or person, and may amend or revoke any such notice by another notice similarly served.

(2) Where any such authority, body or person (in this section referred to as the giver of the notice) has given notice that he desires to exercise or discharge any of such specified powers and duties of the licensee, then so long as that notice remains in force the following provision shall have effect, unless it is otherwise agreed between the parties interested:

(a) The licensee shall not be entitled to proceed himself to exercise or discharge any such specified powers or duties as aforesaid, except where he has required the giver of the notice to exercise or discharge those powers or duties and the giver of the notice has refused or neglected to comply

with that requisition, as hereinafter provided, or except in case of emergency;

- (b) In addition to any other notices which he is required to give under the provisions of the licence or of this Act, the licensee shall, not more than four days and not less than two days before the exercise or discharge of any such powers or duties specified as aforesaid is required to be commenced, serve a requisition upon the giver of the notice stating the time when that exercise or discharge is required to be commenced and the manner in which any such powers or duties are required to be exercised or discharge;
- (c) Upon receipt of any such requisition as last aforesaid, the giver of the notice may proceed to exercise or discharge any such powers or duties as required by the licensee, subject to the like restrictions and conditions, so far as they are applicable, as the licensee would himself be subject to in that exercise or discharge.
- (d) If the giver of the notice declines, or for twenty four hours after the time when any such exercise or discharge of any powers or duties is by any requisition required to be commenced neglects to comply with the requisition, the licensee may himself proceed to exercise or discharge the powers or duties therein specified in like manner as he might have done if such notice as aforesaid had not been given to him by the giver of the notice;
- (e) In any case of emergency the licensee may himself proceed at once to exercise or discharge so much of any such specified powers or duties as aforesaid as may be necessary for the actual remedying of any defect from which the emergency arises, without serving any requisition on the giver of the notice; but in that case the licensee shall, within twelve hours after he begins to exercise or discharge such powers or duties as aforesaid, give information thereof in writing to the giver of the notice;
- (f) If the licensee exercises or discharges any such specified powers or duties as aforesaid otherwise than in accordance with the provisions of this section, he shall be liable for each default to a penalty not exceeding thirty thousand shillings and to a daily penalty not exceeding five thousand shillings; Provided that the licensee shall not be subject to any such penalties as aforesaid if the court is of opinion that the case was one of emergency, and that the licensee complied with the requirements of this section as far as was reasonable under the circumstances;
- (g) All expenses properly incurred by the giver of the notice in complying with any requisition of the licensee under this section shall be repaid to him by the licensee, and shall be a civil debt recoverable summarily;
- (h) The giver of the notice may, if he thinks fit, require the licensee, where a public or local authority is not the licensee, to give him reasonable security for the payment to him of any expenses incurred or to be incurred by him under this section; and, if the licensee fails to give any such security

after being required to do so, he shall not be entitled to have the work required by him undertaken nor to serve any further requisition upon the giver of the notice requiring him to exercise or discharge any powers or duties under this section until the security has been dully given, or, in the event of dispute as to the amount of security to be given, until the dispute has been referred and decided as hereinafter provided.

- (3) Nothing in this section shall in any way affect the rights of the licensee to exercise or discharge any powers or duties conferred or imposed upon him by the licence or this Act in relation to the execution of any works beyond the actual breaking up, filling in, reinstating and making good any such street or part of a street, or any such bridge, sewer, drain, tunnel, railway, tramway, river, canal, harbour or other work as in this section mentioned.

The licensee may alter the position of any pipes (except, in a case where a public or local authority is not the licensee, any pipe forming part of any drain or sewer of any such authority) or any wires being in, over, under or upon any street or place authorized to be broken up by him, or in which he is authorized to construct works which may interfere with the exercise of his powers under this Act or the licence; and any body or person may in like manner alter the position of any electric supply lines or works of the licensee, being in, over, under or upon any such street or place as aforesaid, which may interfere with the lawful exercise of any powers vested in that body or person in relation to that street or place, subject to the following provisions, unless it is otherwise agreed between the parties interested:

- (a) One month or such other period as the Board may approve before commencing any such alterations, the licensee or the body or person as the case may be, (herein referred to as the operator) shall serve a notice upon the body or person for the time being entitled to or in charge of the pipes, wires, electric supply lines or works, as the case may be, (herein referred to as the owner), describing the proposed alterations, together with a plan and specifications showing the manner in which it is intended that the alterations shall be made, and shall, upon being required to do so by any such owner, give him any such further information in relation thereto as it may desire;
- (b) Within three weeks or such other period as the Board may approve after the service of any notice, plan and specification upon any owner, that owner may, if he thinks fit, serve a requisition upon the operator requiring that any question in relation to the works or to compensation in respect thereof, or any other question arising upon such notice, plan or specification as aforesaid, shall be settled by arbitration; and thereupon that question, unless settled by agreement, shall be determined by arbitration accordingly;
- (c) In settling any question under this section, an arbitrator shall have regard to any duties or obligations which the owner may be under in respect of the pipes, wires, electric supply lines or works, and may, if he thinks fit, require the operator to execute any temporary or other works, so as to avoid interference with any purpose for which the pipes, wires, electric supply lines or works are used, so far as possible.
- (d) Where no such requisition as in this section mentioned is served upon the operator, the owner shall be held to have agreed to the notice, plan and specification served on him as aforesaid, and in that case, or where, after any such requisition has been served upon him any question required to be settled by arbitration has been so settled, the operator, upon paying or securing any compensation which he may be required to pay or secure, may cause the alterations specified in such notice, plan and specification as aforesaid to be made, but subject in all respects to the provisions of this Act and of the licence, and only in accordance with the notice, plan, and specification so served by him as aforesaid or such modifications thereof respectively as may have been

determined by arbitration as hereinbefore mentioned or as may be agreed upon between the parties;

- (e) At any time before any operator is entitled to commence any such alterations as aforesaid, the owner may serve a statement upon the operator stating that he desires to execute the alterations himself, and, where any such statement has been served upon the operator, he shall not be entitled to proceed himself to execute the alterations, except where he has notified to the owner that he requires him to execute the alterations, and the owner has refused or neglected to comply with the notification as hereinafter provided;
- (f) Where any such statement as last aforesaid has been served upon the operator, he shall, not more than forty-eight hours and not less than twenty-four hours before the execution of the alterations is required to be commenced, serve a notification upon the owner, stating the time when the alterations are required to be commenced and the manner in which the alterations are required to be made;
- (g) Upon receipt of any such notification as last aforesaid, the owner may proceed to execute the alterations as required by the operator, subject to the like restrictions and conditions, so far as they are applicable, as the operator would himself be subject to in executing the alterations.
- (h) If the owner declines, or for twenty-four hours after the time when any such alterations are required to be commenced neglects, to comply with the notification, the operator may himself proceed to execute the alterations in like manner as he might have done if no such statement as aforesaid had been served upon him;
- (i) All expenses properly incurred by any owner in complying with any notification of any operator under this section shall be repaid to him by the operator and shall be civil debt recoverable summarily;
- (j) Any owner may, if he thinks fit, by any statement served by him under this section upon any operator, not being a public or local authority, require the operator to give him reasonable security for the repayment to him of any expenses to be incurred by him in executing any alterations as above mentioned, and, where any operator has been so required to give security, he shall not be entitled to have the work required by him undertaken, not to serve any further notification upon the owner requiring him to execute the alterations, until the security has been duly given, or, in the event of dispute as to the amount of security to be given, until the dispute has been referred and settled as hereinafter provided;
- (k) If the operator makes default in complying with any of the requirements or restrictions of this section, he shall (in addition to any other compensation which he may be liable to make under the provisions of the licence or of this Act) make full compensation to the owner affected thereby for any loss, damage or penalty which he may incur by reason thereof, and in addition thereto he shall be liable for each

default to a penalty not exceeding thirty thousand shillings and to a daily penalty not exceeding five thousand shillings:

Provided that the operator shall not be subject to any such penalty as aforesaid if the court is of opinion that the case was one of emergency, and that the operator complied with the requirements of this section so far as was reasonable under the circumstances.

- Laying of electric supply lines of works near sewers, pipes, or other electric lines
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- (1) Where the licensee requires to dig or sink any trench for laying down, erecting or constructing any new electric supply lines (other than service lines) or other works near to which any sewer, drain, watercourse, defence or work under the jurisdiction or control of a public or local authority, or any main, pipe, siphon, electric supply line or other work belonging to any gas, electric supply or water company, has been lawfully placed, or where any gas or water company requires to dig or sink any trench for laying down or constructing any new mains of pipes (other than service pipes) or other works near to which any electric supply lines or works of the licensee have been lawfully placed, the licensee or the gas or water company, as the case may be, (in this section referred to as the operator) shall, unless it is otherwise agreed between the parties interested, or in case of sudden emergency, give to the public or local authority concerned, or to the gas, electric supply or water company, or to the licensee, as the case may be, (in this section referred to as the owner) not less than three days' notice before commencing to dig or sink such trench as aforesaid, and that owner shall be entitled by his officer to superintend the work, and the operator shall conform to such reasonable requirements as may be made by the owner or the officer for protecting from injury every such sewer, drain, watercourse, defence, main, pipe, siphon, electric supply line or works, and for securing access thereto, and he shall also, if required by the owner thereof, repair, any damage that may be done thereto.
 - (2) Where the operator finds it necessary to undermine but not alter the position of any pipe, electric supply line or works, he shall temporarily support it in position during the execution of his work, and before completion provide a suitable and proper foundation for it where so undermined.
 - (3) Where the operator (being the licensee) lays any electric supply line crossing, or liable to touch, any mains, pipes, electric lines, or services belonging to any gas, electric supply or water company, the conducting portion of any electric supply line shall be effectively insulated in a manner approved by the Minister for time being responsible for such works upon recommendation of the Board, and the licensee shall not, except with the consent of the gas, electric supply or water company, as the case may be, and the Minister, lay his electric supply lines so as to come into contact with any such mains, pipes, electric lines or services or, except with the like consent and in a manner approved by the Minister upon recommendation of the Board, employ such mains, pipes, electric lines or services as conductors for the purposes of his supply of electrical energy.
 - (4) Any question or difference which may arise under this section shall be determined by arbitration.
 - (5) If the operator makes a default in complying with any requirements of this section, he shall make full compensation to all owners affected thereby for any loss, penalty, damage or

costs which they may incur by reason thereof; and in addition thereto he shall be liable for each default to a penalty not exceeding thirty thousand shillings and to a daily penalty not exceeding five thousand shillings:

Provided that the operator shall not be subject to any such penalty if the court is of opinion that the case was one of emergency, and that the operator complied with the requirements of this section so far as was reasonable under the circumstances, or that the default in question was due to the fact that the operator was ignorant of the position of the sewer, drain, watercourse, defence, main pipe, siphon, electric line or work affected thereby and that ignorance was not owing to any negligence on the part of the operator.

- (6) For the purposes of this section, "gas company" means any authority, company, person or body or persons lawfully supplying gas; "water company" means any authority, company, person or body or persons lawfully supplying water or water power; and "electric supply company" means any authority, company, person, or body of persons supplying electrical energy in pursuance of this Act but not in pursuance of the licence.
- (7) Where a public or local authority is the licensee, the references in this section to the public or local authority, and to sewers, drains, watercourses, defences or works under the jurisdiction or control of the said authority, shall not apply.
- (1) In the execution of works in connection with the construction, modification, maintenance or operation of any electric supply line or apparatus or conductor connected thereto, every licensee shall:
 - (a) In no way injure the works, conveniences or property belonging to any authority, company or person, nor obstruct or interfere with public traffic, except with the previous written consent of the Board.
 - (b) Take adequate precautions to protect from danger any person engaged upon such works, by the provision and maintenance in safe and efficient condition of the necessary safety appliances for the use of such persons and ensuring their proper use, or by other means approved by the Board.
 - (c) Take adequate precautions to prevent any conductor or apparatus from being accidentally or inadvertently electrically charged when persons are working thereon.
 - (d) Ensure that only persons qualified by knowledge or experience to understand the danger involved undertake work where technical knowledge or experience is required in order to avoid danger.
- (2) For the contravention of any of the provisions of subsection (1), the public or local authority, company or person responsible for the execution of the work shall be guilty of an offence and liable to a fine not exceeding thirty thousand shillings.
- (3) If any person contravenes any of the provisions of subsection (1) of this section, or by any omission, act, or negligence in respect of any electric supply line, apparatus or conductor under his control, or by wilfully tampering with any electric supply line, apparatus, conductor or safety appliance, causes hurt to any person or injury to any property, shall in addition to making full compensation to the licensee for making good such damage, thereby for any loss or damage which he may incur by reason thereof, shall be guilty of an offence and liable to a fine not

exceeding ten thousand shillings or to imprisonment for a period not exceeding twelve months, or to both such fine and such imprisonment.

- (1) Where any tree or hedge obstructs or interferes with the construction by a public electricity supplier of any electric supply line, or interferes or is likely to interfere with the maintenance or working of any electric supply line, owned by a public electricity supplier, such supplier shall give a seven day notice to the owner or occupier of the land on which the tree or hedge is growing requiring him to lop or cut it so as to prevent the obstruction or interference, subject to the payment by such supplier of the expenses reasonably incurred by him in complying with the notice:

Provided that in any case where such a notice is served upon an occupier who is not the owner of the land on which the tree or hedge is growing a copy of the notice shall also be served upon the owner thereof, if his address is known.

- 2) If within twenty-one days from the giving of such notice the requirements of the notice are not complied with, and neither the owner nor occupier of the land gives such counter-notice as is hereinafter mentioned, the public electricity supply may cause the tree or hedge to be lopped or cut so as to prevent such obstruction or interference as aforesaid.
- 3) If within twenty-one days from the giving of such notice the owner or occupier of the land on which the tree or hedge is growing gives a counter-notice to the public electricity supplier objecting to the requirements of the notice, the matter shall, unless the counter-notice is withdrawn, be referred to the Board for settlement, which after giving the parties an opportunity of being heard may make such order as it thinks just, and any such order may empower the public electricity supplier (after giving a seven day prior notice to any such person by whom the counter-notice was given of the commencement of the work as the order may direct) to cause the tree or hedge to be lopped or cut, and may determine any question as to what compensation (if any) and expenses are to paid:

Provided that any party aggrieved by any decision of the Board with regard to compensation may within thirty days after being notified of such decision appeal to the Minister and if still unsatisfied with the Minister's decision may within 30 days appeal to the High Court against such decision, and the decision of the High Court shall be final.

- 4) The public electricity supplier shall issue instructions to his or its officers and servant with a view to securing that trees and hedges shall be lopped or cut in a woodmanlike manner and so as to do as little damage as may be to trees, fences, hedges and growing crops, and shall cause the boughs lopped to be removed in accordance with the directions of the owner or occupier, and shall make good any damage done to land.
- 5) Any compensation or expenses payable to the owner or occupier by the public electricity supplier under this section shall be a civil debt recoverable summarily.
- 6) Where for the purpose of the construction or maintenance of an electric supply line operated above medium pressure it is necessary to fell any trees, this section shall apply to the felling of trees in like manner as it applies to the lopping trees.

- 7) This section shall apply to electric supply lines owned or to be constructed by a public electricity supplier or an electric power producer in line manner as it applies to electricity supply lines owned or to be constructed by a public electricity supplier.
- (1) (a) The licensee shall take all reasonable precautions in constructing, laying down erecting or placing his electric supply lines and other works of all descriptions and in working his undertaking, so as not injuriously to affect, whether by electrical induction or otherwise, the working of any telegraph or telephone line, or the currents in the telegraph or telephone line, whether that telegraph or telephone line is or is not existence at the time of the laying down or placing of the electric supply lines or other works.
- (b) If any question arises between the licensee and the owner of any such telegraph or telephone lines as to whether the licensee has constructed, laid down or placed his electric supply lines or other works, or has worked his undertaking, in contravention of this subsection, or as to whether the working of that telegraph or telephone line or the current therein is or is not injuriously affected thereby, that question shall be determined by arbitration; and the arbitrator (unless he is of opinion that the telegraph or telephone line not having been so in existence as such time as aforesaid, has been placed in unreasonable proximity to the electric supply lines or works of the licensee) may direct the licensee to make any alterations in, or additions to, his system, so as to comply with the provisions of this section, and the licensee shall make those alterations or additions accordingly.
- (c) Nothing in this subsection shall apply to any telegraph or telephone line which is operated or should be operated under a receiving licence pursuant to the Kenya Posts and Telecommunications Act or to any telegraph or telephone lines belonging thereto or incidental merely to the use thereof, excepting only if and so far as the owner thereof has proved to the satisfaction of the Kenya Posts and Telecommunications Corporation that any cause or anticipated cause of the same being injuriously affected is of such a nature as the licensee might, in the opinion of the Kenya Posts and Telecommunications Corporation, reasonably be required to remove, prevent or avoid.
- (2) Seven days or such other period as the Board may approve before commencing to lay down or erect or place any electric supply line, or to use any electric supply line in any manner whereby any telegraph or telephone line lawfully laid down or placed in any position may be injuriously affected, the licensee shall, unless otherwise agreed between the parties interested, give to the owner of such telegraph or telephone line notice in writing specifying the course, nature and gauge of the electric supply line, and the manner in which the electric supply line is intended to be used, and the amount and nature of the currents intended to be transmitted thereby, and the extent to, and manner in, which (if at all) earth returns are proposed to be used; and any owner entitled to receive that notice may serve a requisition on the licensee requiring him to adopt such precautions as may be therein specified in regard to the laying,

erecting, placing or use of the electric supply line for the purpose of preventing injurious affection, and the licensee shall conform with such reasonable requirements as may be made by the owner for the purpose of preventing the communication through the telegraph or telephone line from being injuriously affected as aforesaid:

Provided that:

- (i) Nothing in this subsection shall apply to repairs or renewals of any electric supply line so long as the course, nature and gauge of the electric supply line, and the amount and nature of the current transmitted thereby, are not altered;
 - (ii) Nothing in this subsection shall apply to any telegraph, or telephone which is operated or should be operated under a receiving licence pursuant to the Kenya Posts and Telecommunications Act, or to any telegraph or telephone lines belonging thereto or incidental merely to the use thereof.
- (3) If in any case the licensee makes default in complying with the requirement of this section, he shall make full compensation to every such owner as aforesaid for any loss or damage which he may incur by reason thereof, and in addition thereto he shall be liable for each default to a penalty not exceeding five thousand shillings and to a daily penalty not exceeding two thousand shillings:

Provided that the licensee shall not be subject to any such penalty as aforesaid if the court is of opinion that the case was one of emergency and that the licensee complied with the requirements of this section so far as was reasonable under the circumstances, or that the default was due to the fact that the licensee was ignorant of the position of the telegraph or telephone line affected thereby, and that ignorance was not owing to any negligence on the part of the licensee.

- (4) Nothing in this section contained shall be held to deprive any owner of any existing rights to proceed against the licensee by complaint, action or otherwise, in relation to any of the matters aforesaid.

Restriction
on placing of
electric lines
and works

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- (1) Where in any case an electric supply line or other works may have been laid down or erected in, over, along, across or under any street, for the purpose of supplying electrical energy, or may have been laid down or erected in any other position for such purpose in such a manner as not to be entirely enclosed within any building or buildings, or where any electric supply line or wires so laid down or erected may be used for such purpose otherwise than under and the subject to the provisions of a licence, the Board, if it thinks fit, may, by notice in writing to be served upon the body or person owning or using or entitled to use such electric supply line or works, require that such electric supply line or works shall be continued and used only in accordance with such conditions and subject to such rules for the protection of public safety and of the telephones or telegraphs and telephone lines whether of the Kenya Posts and Telecommunications Corporation or otherwise lawfully placed in any position as the Board may by or in pursuance of such

notice prescribe, and in case of non-compliance with the said rules the Board may require such body or person to remove such electric supply line or works.

- (2) If any body or person fails to comply with the requirements of any notice which may be served upon them or him under this section, such body or person shall be liable to a penalty not exceeding thirty thousand shillings for every such default, which shall be a civil debt recoverable summarily, and any court of competent jurisdiction, on complaint made, may make an order directing and authorizing the removal of any electric supply line or works specified in such notice by such person and upon such terms as the court may think fit.

Fencing,
lighting and
reinstatement
of works

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- (1) At all times during the progress of any works, constructions or excavations in or under any street or part of any street, the licensee, operator or owner, as the case may be, carrying out or executing such works shall provide such fences, guards and lights as may be reasonably necessary in the opinion of the authority having control or management of the street or part of the street for protecting the public from any danger arising or likely to arise from such works, and shall in completion of such works, constructions or excavating remove all debris or rubbish then remaining, and shall for three months after the date of reinstatement by him of any part of any street maintain the surface of such part in an efficient state of repair and for twelve months after such date maintain any such part of any street as regards subsidence, all to the reasonable satisfaction of the said authority.

- (2) If the licensee, operator or owner, as the case may be, opens or breaks up any street or bridge, or any sewer, drain, tunnel, place or work and makes any delay in completing any such work, or in filling in the ground, or in reinstating and making good the road or pavement, or the sewer, drain, tunnel, place or work so opened or broken up, or in carrying away the rubbish occasioned thereby, or if he neglects to cause the place where such road or pavement, sewer, drain, tunnel, place or work has been opened or broken up to be fenced, guarded and lighted, or neglects to keep the road or pavement in repair for the space of three months next after the same is made good, or such further time as aforesaid, he shall forfeit to the authority or person having the control or management of the street, bridge, sewer, drain, tunnel place or work in respect of which such default is made a sum not exceeding five thousand shillings for every such default, and he shall forfeit an additional sum of two thousand shillings for each day during which any such delay as aforesaid continues after he has received notice thereof.

- (3) If any such delay or omission as aforesaid takes place, the authority or person having the control or management of the street, bridge, sewer, drain, tunnel, place or work in respect to which such delay or omission takes place may cause the work so delayed or omitted to be executed, and the expense of executing the same shall be repaid to such authority or person by the licensee, operator or owner, as the case may be, and such forfeit or expenses shall be a civil debt recoverable summarily.

Licensee
responsible

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The licensee, operator or owner as the case may be, shall be answerable for all accidents, damages and injuries happening

for damage	through his act or default, or that of any person in his employment, by reason of or in consequence of any of his works, and shall adequately protect all authorities, bodies and persons by whom any street is repairable, and all other authorities, companies and bodies collectively and individually, and their officers and servants from all damages and costs in respect of those accidents, damages and injuries.
Liability of licensee etc, for nuisance	<p>61</p> <p>(1) Subject to subsection (2) nothing in this Act or in any licence shall be construed as exonerating any licensee, operator or owner, as the case may be, from any liability for any nuisance caused or permitted by him.</p> <p>(2) Notwithstanding subsection (1), the Board may, by order, exonerate from liability for nuisance, to the extent specified in such order, any licensee, operator or owner in respect of any works specified in the order which are carried on by or with the consent of the licensee, operator or owner pursuant to a licence.</p> <p>(3) An order under subsection (2) shall not operate to deprive any person of his right to bring an action in the courts for the recovery of damages for any nuisance in respect for which such order exonerates any licensee, operator or owner if such nuisance:</p> <p>(a) can by any reasonably practicable means (regard being had to the public interest, the state of scientific knowledge and to situation and expense) be abated or substantially reduced; or</p> <p>(b) is caused or contributed to by any negligence in the installation, operation or maintenance of the works specified in such order or of any works carried on in conjunction therewith.</p> <p>(4) An order under this section shall be in the form set out in the prescribed form.</p> <p>(5) The Board shall not in any one order made under this section exonerate from any liability for nuisance any licensee, operator or owner in respect of works carried on by such licensee, operator or owner on separate sites, unless such separate sites are contiguous.</p>
Charges and methods of charge	<p>62</p> <p>(1) All rates or tariffs charged by a public electricity supplier for electrical energy supplied, maximum demand, fixed charge or penalties shall be just and reasonable and shall not give undue preference or be discriminatory.</p> <p>(2) Within one hundred and eighty (180) days of the commencement of this Act, every licensee shall file a proposed rate or tariff schedule with the Board for approval, and until such approval is given any existing rates or tariffs shall remain in effect and be deemed to be otherwise valid.</p> <p>(3) In considering whether a reasonable return can be earned, the Board shall consider the ability of the licensee to, inter alia:</p> <p>(a) maintain its financial integrity;</p> <p>(b) attract capital;</p> <p>(c) operate efficiently; and</p> <p>(d) fully compensate investors for the risks assumed.</p> <p>(4) Any proposed change in an effective rate or tariff schedule shall be filed with the Board for approval not later than forty five (45) days before the proposed effective date.</p>

Supply may
be cut off on
failure to pay
charges

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- (5) The Board may suspend a filed rate or tariff schedule increase for up to five (5) months.
- (6) A public electricity supplier tariff schedule for approval by the Board may consist of a contract for the sale of electric power and schedule of prices, and terms and conditions generally applicable to the transmission or distribution of power at retail within a franchise established by the Minister.
- (7) A public electricity supplier may require a consumer to make such account deposit commensurate with the consumer's electrical energy consumption, before electrical energy is supplied to him, which deposit may be revised by the public electricity supplier from time to time, to take account of both the level of consumption and of changes in electricity tariffs.
- (8) The charges under subsection (3) hereof may, subject to agreement between the parties, be paid in advance.
- (1) If any public or local authority, company, person or body of persons neglects to pay any charge for electrical energy or any other sum due from him or them to the licensee in respect of the supply of electrical energy, the licensee may, after giving not less than fourteen days' notice in writing to such authority, company, person or body of persons, and without prejudice to his right to recover such charge or sum, cut off such supply, and for that purpose may cut or disconnect any electric supply line or other works through which electrical energy may be supplied, and may be supplied, and may, until such charge or other sum, together with any expenses incurred by the licensee in cutting off such supply of electrical energy as aforesaid and any lawful charges for or incidental to reconnection, are fully paid, but no longer, discontinue the supply of electrical energy to such authority, company, person or body of persons:
Provided that, where any company, person or body of persons has given to the licensee a deposit as security for payment for the supply of electrical energy, the licensee may at any time while any such charge or other sum remains unpaid after notice as aforesaid:
 - (i) apply such deposit in or towards payment thereof; or
 - (ii) discontinue the supply of electrical energy to such company, person or body of persons; or
 - (iii) apply such deposit toward payment thereof payment thereof and if any part of such charge or other sum remains unpaid thereafter discontinue the supply of electrical energy to such company, person or body of persons,
until such charge of other sum together with any expenses incurred in disconnecting such supply and any lawful charges for or incidental to the reconnection thereof have been paid.
- (2) Where any difference or dispute in respect of any such charge or sum as aforesaid has been referred to the Board or to arbitration under this Act, or has otherwise fallen sub-judice before notice of disconnection as aforesaid has been given by the licensee, the licensee shall not exercise any of the powers conferred by this section in respect of the same charge or other sum until final

determination of such difference or dispute:

Provided that the prohibition contained in this subsection shall not apply in any case in which the licensee has made a request in writing to the consumer for a deposit with electrical inspector, arbitrator or other judicial authority concerned, in addition and without prejudice to any other deposit with licensee which he is entitled to require, of the amount of the charge or other sum in dispute, and the consumer has failed to comply with such request within forty-eight hours of the same having been made.

Power to refuse to supply electrical energy in certain cases	64	The licensee may refuse to supply electrical energy to any public or local authority, company, person or body of persons whose payments for the supply of electrical energy are for the time being in arrears (not being the subject of a dispute), whether any such payment are due to the licensee in respect, of supply to the premises in respects of which such supply is demanded or in respect of other premises.
Appointment of electrical inspectors	65	The Board shall employ and keep employed such competent and impartial person or persons as it thinks fit, to be electrical inspectors, for the purpose of this Act, and shall determine the remuneration to be paid to such inspectors.
Duties of electrical inspectors	66	(1) The duties of Electrical Inspectors under this Act shall be as follows: (a) the inspection and testing, periodically and in special cases, of the licensees' works and supply of electrical energy given by him; (b) the certifying and examination of meters; and (c) such other duties as may be required of them under the provisions of this Act or any licence. (2) The Board may prescribe the manner in which, and the times at which, any such duties are to be performed by an electrical inspector, and also the fees to be taken by him, and those fees shall be accounted for and applied as may be directed by the Board.

Notice of accidents and inquiries by Board.

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(3) Any electrical inspector appointed under this Act and duly authorized in that behalf by the Board may at all reasonable times enter any premises for the purpose of ascertaining if the provisions of this act are being complied with:

Provided that no electrical inspector shall enter any such premises, other than the premises of a licensee or of a public or local authority, without the permission of the occupier first had and obtained. Such permission shall not be refused.

- (1) The licensee shall send to the Board notice of any accident by electric shock, and also of any other accident of such kind as to have caused, or to have been likely to have caused loss of life or personal injury, and of any explosion or fire, which has arisen from and in the course of the generation, transformation, conversion, transmission, distribution or supply of electrical energy by the licensee, or which has arisen in or about any generating station, substation, switch station, factory, works or electric supply lines of the licensee and also notice of any loss of life or personal injury occasioned by any such accident, explosion or fire.
- (2) Such notice shall be sent by the earliest practicable post after the accident, explosion or fire occurs, or, as the case may be, after the loss of life or personal injury becomes known to the licensee.
- (3) If the licensee fails to comply with the foregoing provisions of this section, he shall be liable for each default to a penalty not exceeding thirty thousand shillings.
- (4) The Board may also, if it deems it necessary, appoint any electrical inspector or other fit person to inquire and report as to the cause of any accident affecting the safety of the public which may have been occasioned by or in connection with the licensee's works, whether notice of the accident has or has not been received from the licensee, or as to the manner in and extent to which the provisions of the licence and of this Act, so far as the provisions affect the safety of the public, have been complied with by the licensee; and any person appointed under this section, not being an electrical inspector, shall, for the purposes of his appointment, have all the powers of an electrical inspector under this Act.

Testing of electric lines

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On the occasion of the testing of any electric supply line of the licensee, reasonable notice thereof shall be given to the licensee by the electrical inspector, and the testing shall be carried out at such suitable hours as, in the opinion of the electrical inspector, will least interfere with the supply of electrical energy by the licensee, and in such manner as the electrical inspector thinks expedient, but except under the provision of an order made in each case in that behalf by the Board, he shall not be entitled to have access to or interfere with the electric supply lines of the licensee at any points other than those at which the licensee has reserved for himself access to the said electric supply lines;

Provided that:

- (i) The licensee shall not be held responsible for any interruption in the supply of electrical energy which may be occasioned by or required by the electrical inspector for the purpose of any such testing as aforesaid;
- (ii) The testing shall not be made in regard to any particular portion of an electric supply line oftener than once in any

		three months, unless in pursuance of an order made in each case in that behalf by the Board.
Testing of works and supply on consumer's premises	69	The Board, if and when required to do so by any consumer, shall, on payment by the consumer of the prescribed fee, test the variation of electric pressure at the supply terminals, or make such other inspection and test of the works of the licensee upon the consumer's premises as may be necessary for the purpose of determining whether the licensee has complied with the provisions of the licence and of the rules made under this Act.
Public electricity supplier to establish testing stations	70	The licensee shall, if required to do so by the Board, establish at his own cost and keep in proper condition at such places within a reasonable distance from a distributing main, such reasonable number of testing stations as the Board thinks proper and sufficient for testing the supply of electrical energy by the licensee through the distributing main, and shall place thereat proper and suitable instruments of a pattern to be approved by the Board and shall connect those stations by means of proper and sufficient electric supply lines with the distributing mains, and supply electrical energy thereto for the purpose of the testing.
Licensee to keep instruments on his premises	71	The licensee shall set up and keep upon all premises from which he supplies electrical energy by an electric supply line such suitable and proper instruments of such pattern and construction as may be approved or directed by the Board and shall take and record, and keep on record, such observations as the Board may direct, and any observations so recorded shall be produced to the Board on demand and shall be receivable in evidence.
Reading of instruments	72	(1) The licensee shall keep in efficient working order all instruments which he is required by or under this Act or the licence to place, set up or keep at any testing station of on his own premises, and the Board may examine and record the readings of those instruments, and any readings so recorded shall be receivable in evidence. (2) The examinations and readings under this section must be made at such time and in such manner as may be directed by the Board.
The Board may test licensee's instruments	73	The Board shall have the right of access at all reasonable hours to the testing stations and premises of the licensee for the purpose of testing the electric supply testing and instruments of the licensee, and ascertaining if they are in order, and in case they are not in order he may require the licensee forthwith to have them put in order.
Representation of licensee at testing	74	The licensee may, if he thinks fit, on each occasion of the testing or inspection of any works of the licensee by an electrical inspector, be present or be represented by some officer, or other agent, but the licensee or that officer or agent shall not interfere with the testing or inspection.
Licensee to give facilities for testing	75	The licensee shall afford all facilities for the proper execution of the provisions of this Act with respect to inspection and testing and the readings and the readings and inspection of instruments, and shall comply with all the requirements of or under this Act in behalf; and in case the licensee make default in complying with any of the provisions of this section he shall be liable in respect of each default to a penalty not exceeding thirty thousand shillings, and to a daily penalty not exceeding five thousand shillings.
Report of result of	76	(1) Every electrical inspector shall, on the day immediately following that on which any testing has been completed by him

testing	<p>under this Act, make and deliver a report of the results of his testing to the authority or person by whom he was required to make the test, and to the licensee, and that report shall be receivable in evidence.</p>
Expenses of electrical inspector	<p>77 Save as otherwise provided by this Act or by the licence, all reasonable expenses of the electrical inspector shall, unless agreed, be ascertained by a subordinate court of the first class, and shall be paid as directed by that court, and shall be a civil debt recoverable summarily:</p> <p>Provided that:</p> <ul style="list-style-type: none"> <li data-bbox="532 648 1308 863">(i) Where the report of an electrical inspector or the decision of the Minister shows that the licensee or any consumer was guilty of any default or negligence, the fees prescribed and expenses on being ascertained as above – mentioned shall be paid by the party guilty of default or negligence as the court, having regard to the report or decision, directs, and shall be a civil debt recoverable summarily; <li data-bbox="532 884 1308 1003">(ii) In any proceedings for penalties under this Act, the fees and expenses of the Board incurred in connection with the proceedings shall be payable by the complainant or defendant as the court may direct.
Meter to be used except by agreement	<p>78</p> <ul style="list-style-type: none"> <li data-bbox="548 1024 1308 1272">(1) The amount to be charged for electrical energy supplied by the licensee to any consumer (hereafter referred to as the value of the supply) shall, except as otherwise agreed between such consumer and licensee, be ascertained by means of an appropriate meter or meters, whether prepaid meters or not, which may be duly certified as hereinafter provided, and fixed and connected with the supply system in a manner approved by the Board. <li data-bbox="548 1293 1308 1413">(2) Such meter, whether the property of the licensee or of the consumer, may be sealed by the licensee with an approved seal bearing the licensee's distinguishing brand or mark impressed thereon. <li data-bbox="548 1434 1308 1619">(3) The licensee may, in order to protect such meter or any other apparatus belonging to him, install suitable cutouts on a consumer's premises on the supply side of any such meter or other apparatus, and seal such cut-outs with an approved seal bearing the licensee's distinguishing brand or mark impressed thereon. <li data-bbox="548 1640 1308 1915">(4) Where any seal affixed under subsections (2) and (3) of this section is broken without the authority of the licensee, the consumer upon whose premises the seal was placed shall be guilty of an offence and liable to a fine not exceeding five thousands shillings: Provided that, where it can be proved that the offence was committed by some person other than the consumer, that person shall be punishable as if he were the consumer upon whose premises the breach occurred.

Certification of meters	79	<p>A meter shall be considered to be duly certified under the provisions of this Act and of the licence if it is certified by the Board to be a meter capable of ascertaining the value of the supply within such limits of error as may as respects meters of the class to which the meter belongs be allowed by any rules made under this Act, and every such meter is hereinafter referred to as a certified meter:</p> <p style="padding-left: 40px;">Provided that, where any alteration is made in any certified meter, that meter shall cease to be a certified meter unless and until it is again certified under this Act.</p>
Board to certify meters	80	<p>The Board, on being required to do so by the licensee or any consumer, and on payment of the prescribed fee by the party so requiring him, shall examine any meter used or intended to be used for ascertaining the value of the supply or any check meter, and shall certify it as a certified meter if he considers it entitled to be so certified, and the Board shall on the like requisition and payment examine the manner in which any such meter has been fixed and connected with the supply system in some manner approved by the Board if it considers that it is entitled to be so certified.</p>
Licensee to supply meters	81	<p>Where the value of the supply is under this Act required to be ascertained by means of an appropriate meter or meters, such meter or meters shall be supplied on hire by the licensee, who shall fix it or them upon the premises of the consumer and connect the supply system therewith, and if so required cause the meter or meters to be duly certified under this Act, and for those purposes he may authorize and empower any officer or person to enter upon the premises (if not in his sole occupation) at all reasonable times and execute all the necessary work and do all necessary acts: and the consumer shall pay to the licensee for the hire of any such meter or meters such remuneration in money as may be approved by the Board, and such remuneration shall be civil debt recoverable summarily:</p> <p style="padding-left: 40px;">Provided that</p> <ul style="list-style-type: none"> <li style="margin-bottom: 10px;">(i) A consumer shall be entitled to install in his premises a check meter or meters, which may be his own property, for the purpose of checking the value of electricity supplied to him; the registrations of such check meter shall not be taken into account in determining the value of the supply, and no such check meter shall fixed and connected with the supply system except in such manner and subject to such conditions as the Board may approve; (ii) The licensee may, at his sole discretion, agree to the value of the supply to any consumer being ascertained by a private meter belonging to consumer.

- (1) In any case where the maximum demand of any consumer equals or exceeds two hundred kilovolt amperes, it is so desired by the consumer, two or three appropriate meters shall be employed or used for ascertaining the value of the supply, which shall be the number of kilovolt amperes represented by the mean of the readings of such meters:

Provided that, where the last described method of measurement of the value of the supply is desired as aforesaid, the consumer shall only be liable to pay the licensee for the hire of each of such two or three meters one half of the amount which the licensee would have been entitled to charge had only one meter been employed.

- (2) If the reading of each of the two or three times meters employed or used to ascertain the valued of the supply is within three per centum of the mean of the readings of the two or three meters, each meter shall be considered correct for the purposes of the accounts; but if, if the reading of any meter at any time shows a difference from the mean of the readings of the two or three meters of more than three per centum, then the mean of the readings of the two or three meters shall be taken for the time being, pending the correctness of each of the meters being determined, which shall be done forthwith, and any meter which is found to have an error or more than three per centum shall be readjusted or replaced.
- (3) In any case where three meters are used for ascertaining the value of the supply in accordance with this section, if at any time and for any reason two only of the meters are in service the mean of the readings of these two meters shall be accepted by both parties, provided such mean is within three per centum of the readings of both meters; but, if the mean of the readings of the two meters is found not to be within three per centum of the readings of both meters, the same procedure shall be adopted with regard to the determination of the accuracy and for the readjustment of the meters, as is prescribed by subsection (2); and in the case of dispute, the matter may be referred by either party to the Board , as provided by section 87.

Meters not to be connected or disconnected without notice	83	The licensee shall not connect or disconnect any meter to be used for ascertaining the value of the supply, or any consumer's check meter; with or from any electric supply line through which electrical energy is supplied by the licensee, unless he has obtained the written consent of the consumer, or alternatively unless he has given to the consumer not less forty-eight hours' notice in writing of his intention to do so, and if the licensee acts in contravention of this section he shall be liable for each default to a penalty not exceeding ten thousand shillings.
Meters not to be adjusted without notice	84	The licensee shall not, nor shall any consumer, make any alteration, adjustment or readjustment in any meter being used for ascertaining the value of the supply, whereby the action of such meter as a measuring instrument is or may be affected, unless the one has given to the other not less than forty-eight hours' notice in writing of the intention to do so or unless otherwise mutually arranged, and the licensee or any consumer acting in contravention of this section shall be liable for each default to a penalty not exceeding ten thousand shillings.
Consumer to keep meter in proper order	85	<p>(1) Every consumer shall at all times at his own expense keep all meters belonging to him, whereby the value of the supply is to be ascertained, in proper order for correctly registering that value, and, default of his so doing, the licensee may cease to supply electrical energy through the meter.</p> <p>(2) The licensee shall have access to, and be at liberty to take off, remove, test, inspect and replace, any such meter at all reasonable times, subject to such notice being give to the consumer as aforesaid: Provided that all reasonable expenses of, and incidental to, any such taking off, removing, testing, inspecting and replacing of the meter and of having the meter again duly certified, where the recertifying is thereby rendered necessary, shall, if the meter is found by the Board to be not in proper order, all expenses connected therewith shall be paid by the licensee.</p>
Licensee to keep meters in repair	86	<p>The licensee shall, at all times, at his own expense, keep all meters let for hire by him to any consumer, whereby the value of the supply is or should be ascertained, in proper order for correctly registering that value, and in default of his doing so the consumer shall not be liable to pay any remuneration or hire for the meter during such time as the default continues; and the licensee shall, subject to the provisions of section 83, for the purposes aforesaid, have access to, and be at liberty to remove, test, inspect and replace any such meter at all reasonable times: Provided that the expense of having any such meter again duly certified, where that recertifying is thereby rendered necessary, shall be paid by the licensee.</p>
Disputes as to accuracy of meter to be settled by Board	87	<p>(1) If any dispute arises between any consumer and the licensee as to whether any meter whereby the value of the supply is ascertained (whether belonging to the consumer or to the licensee), is or is not in proper order for correctly registering that value, or as to whether that value has been correctly registered in any case by any meter, that difference shall be determined upon the application of either party by the Board, and the Board shall also order by which of the parties the costs of and incidental to the proceedings before it shall be paid, and the decision of the</p>

Board shall be final and binding on all parties ; and in determining the said costs the Board may take into account any fee paid under section 80.

- Licensee to pay expenses of providing meters where methods of charge is altered 88
- (2) Subject as aforesaid, the reading of the meter shall be conclusive evidence, in the absence of fraud, as to the value of the supply.
- Where any consumer who is supplied with electrical energy by the licensee from any electric supply line has provided, under section 81, his own private meter for the purpose of ascertaining the value of the supply, and the licensee changes the method of charging for electrical energy supplied by him from the electric supply lines, the licensee shall pay to that consumer the reasonable expenses to which he may be put in providing a new meter for the purpose of ascertaining the value of the supply according to the new method of charging, and those expenses shall be a civil debt recoverable summarily.
- Licensee may install meters to measure supply or check measurement 89
- (1) In addition to any meter which may be placed upon the premises of any consumer to ascertain the value of the supply, the licensee may place upon such consumer's premises such meter or other apparatus as he may desire for the purpose of ascertaining or regulating either the amount of electrical energy supplied to the consumer or the number of hours during which the supply is given, or the maximum demand taken by the consumer, or any other quantity or time connected with the supply:
- Provided that the meter or apparatus shall be one of some construction and pattern, and shall be fixed and connected with the supply system in some manner, approved by the Board, and shall be supplied and maintained entirely at the cost of the licensee, and shall not, except by agreement, be placed otherwise than between the source of supply and the consumer's existing supply terminals.
- (2) Such meter or other apparatus may be sealed by the licensee with an approved seal bearing the licensee's distinguishing brand or mark impressed thereon.,
- (3) Where any such seal is broken without the authority of the licensee, the consumer upon whose premises the seal was placed shall be guilty of an offence and liable to a fine not exceeding five thousand shillings:
- Provided that, where it can be proved that the offence was committed by some person other than the consumer, that person shall be punishable as if he were the consumer upon whose premises the breach occurred.
- Modification of certain provisions of the Act by agreement 90
- All or nay of the provisions of sections 80 to 89 both inclusive, may be disregarded or modified in respect of any particular consumer in such manner and to such extent as may be agreed in writing between such consumer and the licensee.
- Licensee to keep meter-testing apparatus and records of test 91
- (1) The licensee shall set up and keep upon suitable premises suitable and proper instruments and apparatus of such pattern and construction as may be approved or prescribed by the Board, for the purpose of testing the accuracy of meters used or to be used for ascertaining the value of the supply given, or to be given, by the licensee.

- (2) No meter for ascertaining the value of the supply shall be used unless it is in a condition for ascertaining the value of the supply within the limits of error which may, as respects meters of the class to which the meter belongs, be for the time being allowed by any rules made under this Act,
- (3) The records of the tests made under this section at the various loads specified in any rules made under this Act, showing the percentage of error above and below normal, shall be made and kept by the licensee.
- (4) If the licensee makes default in complying with any of the provision of this section, or fails to produce any records required to be kept by him on the demand within reasonable hours of an electrical inspector, he shall be liable to a penalty not exceeding thirty thousand shillings and to a daily penalty not exceeding ten thousand shillings.

<p>Power to enter premises for ascertaining quantities of electricity consumed or to remove fittings, etc</p>	<p>92</p>	<p>(1) Any officer appointed by the licensee may at all reasonable time enter any premises to which electrical energy is or has been supplied by the licensee, in order to inspect the works for the supply of electrical energy belonging to the licensee, and for the purpose of ascertaining the maximum demand or amount of electrical energy consumed or supplied, or where a supply of electrical energy is no longer required, or where the licensee is authorized to take away and cut off the supply of electrical energy from any premises, for the purpose of removing any works belonging to the licensee, repairing all damage caused by such entry, inspection or removal.</p> <p>Provided that no officer appointed by the licensee shall enter such premises without the permission of the occupier first had and obtained. Such permission shall not be refused.</p> <p>(2) In any case where such permission is refused, the licensee may, additional or any penalty to which the occupier, lessee or owner of any premises to which the electrical energy is or has been supplied by the licensee may be liable under this Act in respect of such refusal, cut or disconnect any electric supply line or other works through which electrical energy may be supplied, and may, until such permission is given and any expenses incurred by the licensee in cutting or disconnecting any electric supply line or other works as aforesaid are fully paid, but no longer, discontinue or refuse to supply electrical energy to such occupier, lessee or owner.</p>
<p>Works not to be subject to distress</p>	<p>93</p>	<p>Where any works belonging to the licensee are placed in or upon any premises, not being in the possession of the licensee, for the purpose of supplying electrical energy under this Act or any license, such works shall not be subject to distress or to the landlord's remedy for rent of the premises where the same may be, nor be taken in execution under the process of any court or any proceedings in bankruptcy against the person in whose possession the same may be.</p>
<p>Electric lines and works let on hire to remain property of the licensee</p>	<p>94</p>	<p>(1) All electric supply lines, fittings, apparatus and appliances let by any licensee on hire or belonging to any licensee, but being in or upon premises of which the licensee is not in possession, shall, whether they are or are not fixed or fastened to any part of any premises in or upon which they may be situated, or to the soil under any such premises, at all times continue to be the property of , and to be removable by, the licensee, provided such electric supply lines, fittings, apparatus or appliances mentioned in this section and in section 93 have upon them respectively a distinguishing metal plate affixed to a conspicuous part thereof, or a distinguishing brand, or other mark conspicuously impressed or made thereon, sufficiently indicating the licensee as the actual owner thereof.</p> <p>(2) For the purposes of this section, electric supply lines, fittings, apparatus and appliances disposed of by the licensee on terms of payment by the instalments shall, until the whole of the instalments have been paid, be deemed to be the electric supply lines, fittings, apparatus and appliances let on hire by the licensee.</p> <p>(3) Nothing in this section shall affect the amount of the assessment</p>

Unauthorised
connection or
disconnection
, and
fraudulent or
improper use
of electrical
energy.

95

- for rating of premises upon which any electric supply lines, fittings, apparatus or appliances are or shall be fixed.
- (1) Whoever
 - (a) connects, or permits to be connected, any meter referred to in section 78, or any meter, indicator or apparatus referred to in section 89, with any electric supply line through which electrical energy is supplied by a licensee, or disconnects, or permits to be disconnected, any such meter, indicator or apparatus from any such electric supply line, without the consent of the licensee; or
 - (b) lays, erects or installs, or permits to be laid, erected or installed, any conductor or apparatus and connects it, or permits it to be connected, with any electric supply line through which electrical energy is supplied by a licensee,, without the consent of the licensee; or
 - (c) disconnects, or permits to be disconnected, any conductor or apparatus from any electric supply line belonging to a licensee, without the consent of the licensee; or
 - (d) makes or permits to be made any alteration in his permanent installation without the previous approval of the licensee; or
 - (e) in any case where the value of the supply of electrical energy is not ascertained by meter, uses any apparatus or lamp other than he has contracted to pay for or uses such apparatus or lamp at any other time than the time specified and for which he has contracted to pay; or
 - (f) uses the electrical energy supplied to him for purposes other than that for which it is supplied for; or

(g) supplies any other person with any part of the electrical energy supplied to him by the licensee, without the consent of the licensee,

shall be guilty of an offence and liable to a fine not exceeding thirty thousand shillings or to imprisonment for a period not exceeding two years, or to both such fine and imprisonment, and in any case where the person so offending is the consumer, the licensee may also discontinue the supply of electrical energy to the premises of such consumer and abstain from resuming such supply if already discontinued for such period as the court may direct, notwithstanding any contract which may have been previously entered into.

(2) The existence of artificial or unlawful means for making such connection or disconnection as is referred to in paragraphs (a), (b) and (c) of subsection (1), or making such alteration as is referred to in paragraphs (d) of that subsection, or facilitating such use or supply as referred to in paragraphs (e), (f) and (g) of that subsection, shall, where the meter, indicator or apparatus is under the custody or control of the consumer, whether it is his property or not, be prima facie evidence that such connection or disconnection, alteration, improper use or supply, as the case may be, has been fraudulently, knowingly and wilfully caused or permitted by the consumer.

96 Wilful extinguishing of public lamps, waste of energy and accidental damage.

(1) Any person who wilfully extinguishes or causes to be extinguished any public lamps or wastes or improperly uses any of the electrical energy supplied by the licensee shall for each default forfeit to the licensee any sum not exceeding thirty thousand shillings, in addition to the amount of the damage done.

(2) Any person who carelessly or accidentally breaks, throws down or damages any works of or under the control of the licensee shall pay such sum of money to the licensee, by way of satisfaction for the damage done, as the court may award.

97 Wilful injury to works, tampering with meter and fraudulent use of energy

(1) Any person who wilfully or fraudulently injures or permits to be injured any works of the licensee, or alters the index or any meter for ascertaining the value of supply, or prevents any such meter from duly registering the value of supply, or fraudulently abstracts, consumes or uses the electrical energy of the licensee, shall be guilty of an offence and (without prejudice to any other right or remedy for the protection of the licensee) liable to a fine not exceeding ten thousand or to imprisonment for a period not exceeding one year, or to both such fine and such imprisonment.

(2) The existence of artificial or unlawful means for causing such alteration or prevention (when such meter is under the custody or control of the consumer), or for abstracting, consuming, or using the electrical energy of the licensee, shall be prima facie evidence that such alteration, prevention, abstraction or consumption, as the case may be, has been fraudulently, knowingly and wilfully caused for permitted by the consumer.

(3) In any case in which any person has wilfully and fraudulently injured or permitted to be injured any works of the licensee, or altered the index of any meter for ascertaining the value of the

Licensee may cease supply if used detrimentally to system	98	supply, or prevented any such meter from duly registering the value of the supply, the licensee may also, until the matter complained of has been remedied, but no longer, discontinue the supply of electrical energy to the person so offending (notwithstanding any contract previously existing).
		<p>(1) In any case where any consumer receiving a supply of electrical energy from a licensee uses or permits be used such supply for any purpose or deals of permits it to be dealt with in any manner so as to interfere unduly or improperly with the efficient supply of electrical energy by the licensee to any other consumer or endangers public safety, the licensee may, if he thinks fit, discontinue to supply electrical energy to such consumer so long as the electrical energy is so used or deal with.</p> <p>(2) If any difference arises as to any improper use of electrical energy, or as to any alleged defects in or as to unsuitable or as to necessary apparatus or protective devices, that differences shall be referred to the Board.</p>
Standardisation	99	A public or local authority or any combination of any such authorities, company, person or body of persons shall not use or employ for or in connection with any of the purposes of generating, transforming, converting, transmitting, distributing, supplying, or using electrical energy any mode, material or apparatus other than that which complies with the specification or standard relating to any such purpose or to any such mode, material, or apparatus of the Kenya Bureau of Standards or where no such standard of the Kenya Bureau of Standards exists, any international standard approved by the Kenya Bureau of Standards, or in any case where the said specification or standard permits more than one mode, material or apparatus for any of the said purposes, or, in any case where no such specifications or standard has been made by the said Institution, as the Board may by rule prescribe.
Map of area of supply to be made	100	<p>(1) The licensee shall, forthwith after commencing to supply electrical energy under the licence cause a map to be made of the area of supply, and shall cause to be marked thereon the positions of all his then existing overhead electric supply lines and other works, and the position, and the depth below the surface, of all his then existing underground electric supply lines and other underground works and street boxes, and shall once in every year cause that map to be duly corrected so as to show the then existing electric supply lines and other works.</p> <p>(2) The licensee shall also, if so required by the Board or the Kenya Posts and Telecommunications Corporation, cause to be made sections showing the level of all his existing underground electric supply lines, and works other than service lines.</p> <p>(3) Every map and section so made or corrected, or a copy thereof, marked with the date when it was so made or last corrected, shall be kept by the licensee at his principal office within the area of supply and shall at all reasonable times be open to the inspection of all applicants, and those applicants may take copies of it or any part of it; and the licensee may demand and take from every such applicant such reasonable fees as shall be determined by the licensee for each copy of it taken by the applicant, as he may prescribe.</p> <p>(4) The licensee shall if required by the Board or the Managing</p>

Director of the Kenya Posts and Telecommunications Corporation, or, where a public or local authority is not the licensee, by such authority, supply a copy of any such map or section, and cause that copy to be duly corrected so as to agree with the original or originals thereof as kept for the time being at the office of the licensee.

(5) If the licensee fails to comply with any of the requirements of this section, he shall for each default be liable to a penalty not exceeding thirty thousand shillings, and to a daily penalty not exceeding ten thousand shillings.

Notices may be printed or written 101 Notices, orders and other documents under this Act, or under the license, may be in writing or in print, or partly in writing and partly in print, and where any notice, order or document requires authentication by the public or local authority the signature thereof by the director, engineer or clerk of such public or local authority shall be sufficient authentication.

Service of notices 102 (1) Any notice, order or document required or authorized to be served upon or furnished to any public or local authority, company, person or body of persons under this Act, or under the licence, may be served or furnished by being addressed to that authority, company, person, or body of persons, and being left at or sent by registered post to the following addresses respectively:

- (i) in the case of the Minister, the office of the Minister;
- (ii) in the case of the Board, the office of the Board;
- (iii) in the case of any officer deputed by the Minister to exercise the powers vested in the Minister under this Act, the office of such officer;
- (iv) in the case of the Kenya Posts and Telecommunications Corporation, the Office of the Corporation, Nairobi;
- (v) in the case of any public or local authority, the office of such public or local authority;
- (vi) in the case of the licensee, when the licensee is not a public or local authority or a company, the office of the licensee in the area of supply;
- (vii) in the case of a licensee, when the licensee is a company, the registered office if in the area of supply, or otherwise the principal office of the company in the area of supply;
- (viii) in the case of any other company or body of persons, the principal office of such company or body of persons in the area of supply or, if there is no such office in the area of supply, the office of such company or body of persons nearest thereto;
- (ix) in the case of any person, the usual or last known place of abode of that person;

and every notice, order or document relating to any matter arising under this Act, or under the licensee, so served or furnished, shall be deemed to be full and lawful service on the licensee, or such other company, person or body of persons, as the case may be.

(2) A notice, order or document required or authorized by this Act, or by the licence, to be served on the owner or occupier of any premises shall be deemed to be properly addressed if addressed

by the description of "the owner" or "the occupier" of the premises (naming the premises), without further name or description.

- (3) A notice, order or document required or authorized by this Act, or by the licence, to be served on the owner or occupier of premises may be served by delivering it or a true copy thereof to some person on the premises, or, if there is no person on the premises to whom the same can with reasonable diligence be delivered, by fixing it on some conspicuous part of the premises.
- (4) Subject to the provisions of this Act and of the licence as to cases of emergency, where the interval of time between the service of any notice or document under the provisions of this Act or of the licence and the execution of any works or the performance of any duty or act is less than seven days, Sundays and public holidays shall not be reckoned in the computation of that time.

Revocation of licence where licensee is insolvent 103 If the Minister, in any case at any time after the commencement of the licence, has reason to believe that the licensee has made any default in executing works or supplying electrical energy in accordance with provisions of that licence, and that that default is in consequence of the insolvency of the licensee, and that by reason of that insolvency the licensee is unable fully and efficiently to discharge the duties and obligations imposed upon him by that licence, the Minister may, after such enquiry as he may think necessary, revoke that licence.

Revocation of licence where undertaking cannot be carried on with profit 104 If, in any case where the licensee at any time after commencement of the licence represent to the Minister that the undertaking cannot be carried on with profit, and ought to be abandoned, the Minister shall inquire into the truth of the representation, and, if upon that inquiry the Minister is satisfied at the truth of the representation, he may, if in his discretion he thinks fit, revoke the licence.

If licensee discontinues supply, Minister may operate same 105 (1) If at any time any licensee, without the authority of the Minister being first had and obtain in writing, discontinues, or makes default in, he supply of electrical energy as incumbent on him by his licence, or, after having received notice to remedy or make good any defects, fails or neglects to make such provisions as will ensure a regular and sufficient supply of electrical energy, or for any other cause or reason whatsoever makes, or continues to make, such default in the supply of electrical energy as to cause or be liable to cause danger or loss to the public, the Minister upon advise by the Board may enter and forthwith to do all such things, deeds and works as it may consider necessary for the maintenance and continuation of the supply of electrical energy from the works, plant and apparatus of the licensee.

- (2) Any person obstructing, or causing obstruction to the Minister or any person authorised by him in the carrying out of such duties and works shall be guilty of an offence and liable to a fine not exceeding three hundred thousand shillings.
- (3) In any case where the Minister takes action under this section, the licence, together with all rights, powers and authorities, of the licensee in the area concerned shall forthwith cease and determine, or otherwise as the Minister thinks fit.
- (4) The Minister may continue the operation of such works, plant and apparatus for such period as it deems expedient and take the measures or proceed as described in section 107 and any compensation to which the licensee is entitled shall be that which may be determined in the manner therein provided.
- (5) Where the generation or supply of electrical energy under any licence may be interrupted or affected to the detriment of the public or the consumers, by the demise of an individual or other disability not provided for by this Act, then, on any such occurrence and only if necessity arises for any immediate action it shall be lawful for the Minister and incumbent upon him to exercise such authority and give such instructions as may be necessary in the public interest for the proper continuance or resumption of the generation or supply of such electrical energy.

Revocation
not to
absolve
licensee from
liability for
damage and
penalties

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- (1) The revocation by the Minister of any licence shall not indemnify the licensee against the infliction of any penalties to which he may have become liable under the licence or this Act by reason of any default, or against the recovery from him by any consumer of any damages sustained by such consumer by reason of the default of the licensee in the performance of his obligations under the licence.
- (2) The amount of any penalties or damages for which the licensee may be liable under this section shall rank as a charge against any purchase money to which such licensee may be entitled in respect of any of his works, and a court may interdict the payment to such licensee of such purchase money or part thereof, pending the result of any legal action in respect of such penalties or damages, or otherwise until such claims have been agreed or settled.

- Provisions where licence is revoked
- 107 If the Minister at any time revokes a licence under any of the provisions of this Act or the licence, the following provisions shall unless otherwise provided for have effect:
- (a) the Minister shall serve a notice of the revocation upon the licensee and upon the public or local authority or authorities in the area of supply, and shall in that notice fix a date at which the revocation shall take effect, and from and after that date all the rights, powers and authorities of the licensee under this Act or the licence shall absolutely cease and determine;
 - (b) within sixty days after the service of the notice by the Minister upon the licensee, any other person, body of persons or company, may apply to the Minister for a licence authorizing them to operate the undertaking, with or without modification, and the Minister may after consulting the Board grant such application upon such terms and conditions as he sees fit, or he may refuse the application;
 - (c) where any purchase is so effected, the undertaking when purchase shall vest in the company, person or body of persons making the purchase, freed from any debts, mortgages or similar obligations of the licensee or attaching to the undertaking; and the revocation of the licence of the licensee shall be absolute;
 - (d) should any purchase be effected in consequence of any such action of the Minister, the value to be agreed or estimated and the revocation of the licence and the investment of the purchaser with such licence and the rights, powers, duties and obligations thereof, together with such land, buildings, works, material and plant, shall be as if such purchaser were the original licensee;
 - (e) Where no purchase has been effected under the preceding provisions of this section, the public or local authority, and any body or person who may be liable for the reinstatement, maintenance or repair of any site on which, or for the repair of any street or part of a street in which, any works of the licensee have been placed, may (subject however to any agreement between the public or local authority or that body or person and the licensee providing for the removal of those works by the licensee) forthwith remove those works with all reasonable care, and the licensee shall pay to the public or local authority, or other such body or person as aforesaid, such reasonable costs of the removal and of the reinstatement or repair of any site or for the repair of any street or part of a street as may be specified in a notice to be served on the licensee by the public or local authority or other body or person, or (if so required by the licensee, within one week after the service of the notice upon him) as may be determined by arbitration;
 - (f) If the licensee fails to pay such reasonable costs as aforesaid within one month after the service upon him of

the notice, or the delivery of the award of the arbitrator, as the case may be, the public or local authority, or other such body or person as aforesaid, may, without previous notice to the licensee (but without prejudice to any other remedy which they may have for the recovery of the amount), sell and dispose of any such works as aforesaid, either by public auction or by private sale, and for such sum or sums and to such person or persons as they may think fit; and may, out of the proceeds of the sale, pay and reimburse themselves the amount of the costs so specified or settled as aforesaid and of the costs of sale, and the balance (if any) of the proceeds of the sale shall be paid over by them to the licensee;

- (g) in case the public or local authority or any body or person may be entitled to compensation for any damage sustained by them by reason or in consequence of the execution of any works as aforesaid, or the exercise of any powers of the licensee, or for any expenses to which that public or local authority, body or person may have been put in removing any works of the licensee under this Act, that compensation shall be a first charge on any money that may have been deposited or secured by the licensee under this Act, and which may not have been repaid or released to the licensee, and that money shall be applied rateably in satisfying claims, and in every such case the amount of compensation to be paid in respect of the various claims, and the persons to whom it is to be paid, shall be determined by arbitration.

- Delegation of Powers to the Board 108
- (1) Any powers under this Act vested in the Minister, except the powers of licensing may be delegate by the Minister to the Board provided for by section 119 and all things required or authorized by these enactments or a licence to be done by, to or before the Minister may, in respect of the power so deputed, be done by, to or before the Board.
 - (2) Any of the powers under this Act vested in the Minister may be delegated by the Minister to any officer appointed or nominated by him for that purpose, and all things required or authorized by either of such Acts or a licence to be done by, to or before the Minister may, in respect of the power so deputed, be done by, to or before the officer so appointed or authorized.
 - (3) All documents purporting to be orders made by the Minister, or the Board, or the officer authorized by the Minister, as the case may be, shall be received in evidence and shall be deemed to be those orders without further proof unless the contrary is shown.
 - (4) A certificate signed by the Minister that any order made or act done is his order or act, as the case may be, shall be conclusive evidence of the order or act so certified.
- Price of works may be determined by arbitration 109
- Subject to any provisions of the Act to the contrary or in a licence to the contrary, where under any of the provisions of the Act or a licence it is provided that any of the works of any licensee shall or may be purchased for the purposes of any licence under this Act, all questions relating to the suitability of any such works or to the price to be paid therefor, if not agreed upon between the parties, shall be determined by arbitration.
- Procedure when land to be acquired compulsorily 110
- (1) In addition to any other notices to be given concerning the purposes of an intended application, any intending applicant for a licence (or for an order for any authority of the Minister) by which it is proposed to obtain powers for the compulsory acquisition of land for any of the purposes of a generating station, substation or switch station must give notice by public advertisement not more than ninety days and not less than sixty days before the date of the intended application.
 - (2) Every such advertisement shall be published in each of two successive weeks in the Gazette and once at least in each of two successive weeks in some and the same newspaper circulating in the area or proposed area of supply, and in any other area concerned in the application, and shall contain the following particulars:
 - (a) a short title descriptive of the application;
 - (b) the date of the intended application;
 - (c) the name, address and description of the applicant;
 - (d) a description of the land proposed to be acquired; and
 - (e) a statement of the reasons why the land so described should be acquired by the intending applicant.
 - (3) The intending applicant shall also serve a notice in writing upon the owners or reputed owners, lessees or reputed lessees and occupiers of all lands to be so acquired as shown on the plan to be deposited with the notice describing in each case the

particular lands proposed to be so acquired.

- (4) Every such notice must state that any of such owners or reputed owners, lessees or reputed lessees and occupiers of all the lands so described, or any public or local authority, company, person or body of persons desirous of making any representation on or objection to the application or to the grant of the powers applied for must do so by letter addressed to the Minister and marked on the outside of the cover enclosing it "Electric Power Act", on or before the expiration of sixty days from the date of the application as stated in the notice, and that a copy of the representation or objection must be forwarded to the applicant.
- (5) The application may be printed or typed, and must be signed or sealed, as may be legally necessary, by or on behalf of the applicant and delivered to the Minister, together with a copy of the plans attached to the notice and with proofs of the publication of the notices by advertisement and of the services of the notices in writing on or before the date stated in the notices as being, and which shall be, the date of the application.
- (6) The Minister, after the expiration of sixty days from the date of the application, shall consider the application together with all representations or objections which have been made respecting the same, and after such further inquiry (if any) as he thinks necessary may refuse or may grant the application on such terms or conditions as he may think fit.
- (7) Where the Minister authorises the compulsory acquisition of any land by a licensee for of a generating station, substation or switch station the authority shall constitute:
 - (a) an acknowledgement that the Government is satisfied, in terms of the Land Acquisition Act that the acquisition is needed for the work and that the work is likely to prove useful to the public; and
 - (b) an undertaking on the part of the Government that, at any time within a period specified in the authority, which period shall not exceed three years from the date on which the authority is given, the Government will, at the request of licensee and on completion by the licensee of an agreement under the Land Acquisition Act, effect or procure the compulsory acquisition or setting apart of such land in accordance with the laws for the time being in force in that respect, and the vesting of such land in the licensee, for such purposes, either permanently or for such period as may be specified in the authority.
- (8) Assessment of compensation to be paid for any land acquired or set apart under this section shall not take into account any outlay or improvements on, or disposal of, such land commenced, made or effected without the sanction of the Minister after the date of publication of the authority.
- (9) The compulsory acquisition of land for any of the purposes of any generating station, substation or switch station shall not be lawful unless application is made in accordance with the provisions of this section.

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make the consent or approval of the Board necessary to the validity or effect of any such mortgage:

Provided that every mortgage of the undertaking shall be deemed to comprise all purchase money which may be paid to the licensee in the event of any sale or transfer of the undertaking or any part thereof, and that any mortgage granted by the licensee shall not be a charge upon the undertaking, or any part thereof, in the event of the undertaking or that part being sold or transferred as aforesaid, and that every mortgage deed granted by the licensee shall be endorsed with notice to that effect.

Recovery of
penalties

112

Any penalty, fee, expenses or other moneys recoverable under this Act or a licence, the recovery of which is not otherwise specially provided for, shall be a civil debt recoverable summarily.

- Saving of
general Acts 113 Nothing in this Act or a licence shall exempt the licensee or his undertaking from the provisions of, or deprive of the licensee of the benefits of, any general Act relating to electrical energy or to the supply of, or price to be charged for, electrical energy which may be enacted after the granting of a licence.
- Saving
concerning
shores and
land under
water 114 (1) Although any shore, bed of the sea, river, channel, creek, bay or estuary is included in the area of supply, nothing in the licence shall authorize the licensee to take, use or in any manner interfere with any portion of that shore or bed of the sea, or of the river, channel, creek, bay or estuary, or any right in respect thereof, or of the water thereof, without the previous consent in writing of the Board, neither shall anything in the licence or this Act contained extend to take away, prejudice, diminish or alter any of the estates, rights, privileges, powers or authorities vested in or enjoyed or exercisable by the Government.
- (2) Notwithstanding anything contained in the Act to the contrary, all works for the diversion, abstraction, obstruction or use of water from any body of water in Kenya shall be subject to the provisions of the Water Act:
Provided that, wherever under this Act any such works are to be purchased for the purposes of any licence, the provisions of the Water Act shall not apply to such purchase, but the provisions of the Act shall apply in lieu thereof, and such purchase shall take effect in accordance with the provisions of this Act.
- Rules 115 (1) The Board may make rules to regulate the generation, transmission, distribution, supply and use of electrical energy, or which may be necessary or expedient for carrying out the objects and purposes of this Act, and without prejudice to the generality of the foregoing for all or any of the following purposes: The purpose of the rules shall be to:
- (a) providing for the securing of a regular, constant and sufficient supply of electrical energy by a licensee to consumers, and for testing at various parts of the system the regularity and sufficiency of such supply;
 - (b) providing for the protection of persons and property from injury, shock or fire or otherwise by reason of contact with, or the proximity of, or by reason of the defective or dangerous condition of, any installation, appliance, apparatus or works used in the generation, transmission, supply or use of electrical energy..
 - (c) Providing means to be adopted, whether by prohibition or otherwise, for preventing or abating any nuisance likely to arise or arising from the working of any installation, appliance, apparatus, or works;
 - (d) Prescribing the fees to be paid in respect of any matter or thing prescribed by this Act;
 - (e) Empowering the Board to exempt any installation, appliance, apparatus or works from any or all of the provisions of such rules,
 - (f) Prescribing all matters which are authorized by this Act to be prescribed.
- (2) All such rules may impose conditions, require acts or things to be performed or done to the satisfaction of the Board, empower the Board to issue orders either verbally or in writing requiring

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acts or things to be performed or done, prohibiting acts or things from being performed or done, and may prescribe periods or dates upon, within or before which such acts or things shall be performed or done or such conditions shall be fulfilled.

(3) In making any rule under this Act, the Board may provide that every breach thereof shall be punishable with a fine not exceeding thirty thousand shillings or a term of imprisonment not exceeding three months or both.

(4) A licensee, person or body of persons, consumers or public or local authorities may propose certain rules to be made by the Board.

Procedure for
making rules 116

(1) Before making any rules under this Act, the Board shall publish, in such manner as it may think best adapted for informing the body or person affected, notice of the proposal to make, amend or repeal any rules and of the place where copies of the draft rules may be obtained, and of the place where copies of the draft rules may be obtained, and of the time (which shall not be less than twenty-eight days) within which any objection made with respect to the draft rules by or on behalf of persons affected must be sent to the Board.

(2) Every objection must be printed, typed or written, and state:

- (a) the draft rules or portions of such rules objected to;
- (b) the specific grounds of objection; and
- (c) the omissions, additions or modifications asked for.

- (3) The Board shall consider any objection made by or on behalf of any person appearing to him to be affected which is sent to it within the required time, and it may, if it thinks fit, amend the draft rules.
- (4) Where the Board has received an objection to any draft rule, it may, provided the objection does not appear to it to be frivolous, immaterial or opposed to the public interest, before making the rule, direct an inquiry to be held in the manner hereinafter provided.
- Inquiries on proposed Rules 117
- (1) The Board may appoint a competent person to hold an inquiry with regard to any draft rules, and to report to it thereon.
- (2) The inquiry shall be held in public, and any person deputed by the Board and any objector, and any other person who, in the opinion of the person holding the inquiry is affected by the draft rules, may appear at the inquiry either in person or by agent.
- (3) The witnesses on the inquiry may, if the person holding it thinks fit, be required to make their statements on oath, which oath the person holding the inquiry is hereby authorized to administer.
- (4) Subject as aforesaid, the inquiry and all proceedings preliminary and incidental thereto shall be conducted in accordance with procedure prescribed by the Board.
- (5) The fee to be paid to the person holding the inquiry shall be such as the Board may direct, and shall be deemed to be part of the expenses of the Board in the execution of this Act.
- Licensee to keep certified copy of rules 118
- (1) The rules for the time being in force shall, within one month after they have come into force, as made or last altered, be printed at the expense of the licensee, and a true copy thereof, certified by or on behalf of the licensee, and a true copy thereof, certified by or on behalf of the licensee, shall be kept by the licensee at his principal office within the area of supply, and supplied to any person demanding them at such price as the Board may approve for each copy, and, where a public or local authority is not the licensee, a like copy shall also be forthwith served upon the public or local authority or authorities within the area of supply.
- (2) If the licensee makes default in complying with the provisions of this section, he shall be liable to a penalty not exceeding thirty thousand shillings, and to a daily penalty not exceeding ten thousand shillings.

PART IV THE ELECTRICITY REGULATORY BOARD

- The Electricity Regulatory Board 119
- (1) There is hereby established a Board to be known as the Electricity Regulatory Board.
- (2) The Board shall be a body corporate with perpetual succession and a common seal and shall be capable of suing and being sued in its corporate name and of doing all such other things as a body corporate may lawfully do.

Objects of the Board	120	The Board shall perform the function of regulating the generation, transmission and distribution of electric power in Kenya.
Functions of the Board	121	<p>(1) The functions of the Board are to:</p> <p>(a) Set, review and adjust tariffs for all persons who transmit or distribute electrical energy;</p> <p>(b) Investigate tariff structure even when no specific application for a tariff adjustment has been made;</p> <p>(c) Enforce environmental and safety regulations in the power sub-sector;</p> <p>(d) Investigate complaints made by parties with grievances over any matter required to be regulated under this act;</p> <p>(e) Ensure that there is genuine competition where this is expected; and</p> <p>(f) Approve electric power purchase contracts and transmission and distribution service contracts between and among electric power producers, public electricity suppliers and large retail customers.</p> <p>(2) In the discharge of its functions the Board shall ensure that no particular person or body is given undue preference or subjected to any undue disadvantages</p>
Funding of the Board and Maintenance of Accounts	122	<p>(1) The funding of the Board shall be obtained through a levy which the Minister may impose on electricity sales for that purpose.</p> <p>(2) Approval of the Board's Budget shall be made by the Minister after due consultations with the Minister for the time responsible for finance.</p> <p>(3) The Board shall keep accounts and records of its transactions and shall ensure that all moneys received are properly brought to account, all payments out of its funds are correctly made and properly authorised and that adequate control is maintained over its property and liabilities under this Act.</p> <p>(4) The annual accounts for the Board shall be audited by a firm of registered auditors and such audited accounts shall be submitted to the Minister for consideration.</p>
Powers of the Minister	123	The Minister shall direct the Board on policy relating to the power sector and also issue licences for the generation, transmission and distribution of electric power.
Proceedings of the Board	124	The provisions of the Schedule shall have effect as to the membership of the Board and its proceedings and otherwise in relation to the Board.

PART V MISCELLANEOUS

Appointment of Licensing Officer or Licensing Committee	125	The Minister may depute a special officer or in his discretion establish a committee (to be known as the Licensing Officer or the Licensing Committee, as the case may be) for the purpose of issuing generation and, transmission and distribution licences.
General Penalty	126	Where any default in or contravention of any of the provisions of this Act is made for which no penalty is expressly stated, the authority, company, person or body of persons so defaulting or

		contravening shall be liable to a penalty not exceeding thirty thousand shillings.
Licensee to furnish statistics	127	It shall be the duty of every licensee to furnish to the Minister and or the Board at such times and in such form and manner such statistics as the Minister or the Board may require.
Domestic resources vested in the State	128	All domestic natural resources for generation of electricity, not vested in Government through other Acts, are vested in Government through this Act.
Electricity sales Levy	129	The Minister may impose a levy of up to 5% on all electricity consumed in the country, the proceeds of which shall go into Rural Electrification Programme Fund, set up under section 130 of this Act.
Rural Electrification Fund	130	(1) The Minister may under this Act establish a fund to be known as the Rural Electrification Programme Fund to support the electrification of rural areas and other areas, considered economically unviable for electrification by public electricity suppliers. (2) The Rural Electrification Programme Fund, in addition to receiving the proceeds of the electricity levy established under section 129, may also benefit from annual exchequer budgetary support and from both donations and loans by local and external institutions.
Validity of licences	131	Any licence validly issued prior to the commencement of this Act shall be deemed to be a licence issued by the Minister under the provisions of this Act.
Repeal of Cap314, Cap 315.	132	The Electric Power Act and the Electric Supply Lines Acts are repealed

SCHEDULE

Membership	1	(1) The membership of the Board shall comprise persons with a university degree or its equivalent and not less than fifteen (15) years practical experience in matters related to industry, finance, economics, engineering, energy or law, and shall consist of the following persons: (a) A Chairman appointed by the President; (b) The Permanent Secretary to the Ministry for the time being responsible for energy policy and development; (c) Five members appointed by the Minister as follows: (i) Two members to represent the private sector in general; (ii) Three members each appointed from a panel of three (3) nominees submitted by each of the national bodies for the time being recognized by the Government as representing organizations for:
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- (aa) workers;
- (bb) employers; and
- (cc) manufacturers

(2) The member mentioned in paragraph (b) above may depute an officer from his Ministry or department to sit on the Board on his behalf.

(3) (a) The Chairman shall hold office for a term of four years and shall be eligible for reappointment for a further term of three years, while the other members of the Board other than the ex-officio member shall hold office for a term of three years after which they shall be eligible for reappointment for a further term of three years

(b) The chairman and members described in (a) above shall serve on the Board for a maximum of two terms.

(4) The members of the Board appointed by the Minister shall be appointed in such a manner that the respective expiry dates of their terms of office may fall at different times.

Termination of Appointment 2 The appointment of a member of the Board other than one who is member by virtue of section 1(1) (b) of this schedule shall be terminated on the advice of the Board, in the case of the Chairman, by the President, and in the case of any other member, by the Minister, if the member:

(b) Is unable to perform the functions of his office by virtue of mental or physical infirmity.

(c) Is declared or becomes insolvent;

(d) Is convicted of a criminal offence involving dishonesty, fraud or moral turpitude;

(e) Is absent from three consecutive meetings of the Board without reasonable cause to the satisfaction of the Minister; or

(f) In any particular case fails to comply with the provisions of paragraph 5 of this Schedule.

Remuneration 3 The Board shall pay to its members and staff salaries and allowances at rates comparable to those obtaining in other public sector institutions performing similar regulatory functions.

Qualifications of Staff and Board Secretariat 4 (1) The Board may for the efficient discharge of its functions engage on such terms and conditions as it deems fit, employees who shall be in possession of appropriate qualifications in engineering, law, finance economics or energy, and not less than five (5) years' post graduate experience in the relevant fields.

(2) There shall be a secretary to the Board who shall be appointed by the Board upon such terms and conditions as the Board may think fit, and who shall be the head of the Board's secretariat and responsible for the arranging the business of the Boards' meetings and of keeping records thereof, and shall perform such other duties as the Board may direct.

Disclosure of interest 5 (1) A member of the Board who has a direct or indirect personal interest in a matter being considered or to be considered by the Board shall as soon as possible after the relevant facts

		concerning the matter have come to his knowledge disclose the nature of his interest to the Board, and shall not be present during any deliberations on the matter by the Board to take part in decision of the Board on the matter.
		(2) A member of the Board or the members of the immediate family of such a member shall not have any pecuniary interests in companies regulated under this Act, appear or represent clients before the Board during the member's tenure of office and for a period of not less than one year after the member's departure from office.
Hearings before the Board	6	<p>(1) Any interested person may request a hearing before the Board regarding any matter related to the functions of the Board, and the Board shall have power to proceed with the proposed hearing.</p> <p>(2) Notice of the time and place of hearing shall be served at least fifteen (15) days prior to the hearing upon all persons affected and published in the Gazette.</p> <p>(3) Any party to a hearing before the Board may appear either in person or by advocate.</p> <p>(4) The decision of the Board shall be in writing and the order so given and reasons thereof shall be served upon all parties to the proceedings, and published in the Gazette.</p> <p>(5) All orders of the Board shall become effective on the date of entry thereof, and shall be complied with within the time prescribed therein.</p> <p>(6) Subject to paragraph 9 of this Schedule it shall be an offence for any person to fail to comply with any order of the Board made under this Act.</p>
Decisions of the Board	7	All questions proposed at a meeting of the Board shall be decided by any majority of the votes of the members present and voting, and in the event of an equality of Votes, the person presiding shall have a casting vote in addition to his deliberative vote.
Minutes of Proceedings	8	The Board shall cause the minutes of all proceedings of its meetings to be recorded and kept, and the minutes of each meeting shall be confirmed by the Board at the next meeting of the Board and signed by the Chairman or the person presiding at the meeting.
Appeals	9	<p>(1) Any person aggrieved by decision of the Board may appeal within thirty days to the Minister and an appeal against the Minister's decision shall be to the High Court.</p> <p>(2) In cases where the Government is the appellant, the appeal shall be made to the High Court.</p>
Regulations	10	The Board may make regulations for the better carrying out of its functions under this Act.
Meetings of the Board	11	<p>(1) The first meeting of the Board shall be convened by the Chairman and, subsequently, the Board shall meet as often as necessary for the transaction of business at such places and at such times as may be decided upon by the Board but it shall meet at least once every month.</p> <p>(2) The Chairman shall preside at every meeting of the Board and in his absence the members present may appoint a member from among themselves to preside at that meeting.</p> <p>(3) The Chairman or, in his absence a member appointed by the Board to act in his place, may at any time call a special meeting</p>

upon a written request by a majority of the members.

(4) Adequate notice of every meeting of the Board shall be given in writing to each member to be received at least five days before the day of the meeting.

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| Quorum | 12 | <p>(1) Subject to subparagraph (2). 4 members shall constitute a quorum for the conduct of business at any meeting of the Board.</p> <p>(2) When there is no quorum at, or for the continuation of, a meeting of the Board only because of the exclusion of a member under paragraph 5 of this schedule from the deliberations on the matter in which he has disclosed a personal interest, the other members present may, if they deem it expedient to do so:</p> <ul style="list-style-type: none">(a) Postpone the consideration of that matter until there is a quorum without that member, or(b) Proceed to consider and decide the matter as if there was quorum. |
| Board to regulate Procedure | 13 | <p>Subject to the provisions of this Act, the Board may regulate its own procedure.</p> |

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