



**PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA**

**SRI LANKA SUSTAINABLE ENERGY
AUTHORITY ACT, No. 35 OF 2007**

[Certified on 18th September, 2007]

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*Sri Lanka Sustainable Energy Authority
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L.D.—O. 40/2006

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF THE SRI LANKA SUSTAINABLE ENERGY AUTHORITY; TO DEVELOP RENEWABLE ENERGY RESOURCES; TO DECLARE ENERGY DEVELOPMENT AREAS; TO IMPLEMENT ENERGY EFFICIENCY MEASURES AND CONSERVATION PROGRAMMES; TO PROMOTE ENERGY SECURITY, RELIABILITY AND COST EFFECTIVENESS IN ENERGY DELIVERY AND INFORMATION MANAGEMENT; TO REPEAL THE ENERGY CONSERVATION FUND ACT, NO. 2 OF 1985 AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows :—

1. This Act may be cited as the Sri Lanka Sustainable Energy Authority Act, No. 35 of 2007, and shall come into operation on such date as may be appointed by the Minister by Order published in the *Gazette* (hereinafter referred to as the “appointed date”).

Short title and date of operation.

PART I

ESTABLISHMENT OF THE SRI LANKA SUSTAINABLE
ENERGY AUTHORITY

2. (1) There shall be established an authority which shall be called the Sri Lanka Sustainable Energy Authority (hereinafter referred to as the “Authority”).

Establishment of the Sri Lanka Sustainable Energy Authority.

(2) The Authority shall by the name assigned to it by subsection (1), be a body corporate and shall have perpetual succession and a common seal and may sue and be sued in such name.

- (x) the Secretary to the Ministry of the Minister in charge of the subject of Finance or his nominee;
- (xi) the Secretary to the Ministry of the Minister in charge of the subject of Science and Technology or his nominee; and
- (xii) the Director-General of the Public Utilities Commission of Sri Lanka:

Provided that where two or more of the subjects specified in sub-paragraphs (i) to (xi) of this paragraph are assigned to or remain in charge of a single Minister, the Secretary to the Ministry of that Minister or where more than one Secretary is appointed to such Ministry, then one of such Secretaries alone, shall become a member of the Board under this paragraph;

- (b) the following persons to be appointed by the Minister (hereinafter referred to as “appointed members”)-
 - (i) a representative of the Sri Lanka Energy Managers Association, nominated by such Association;
 - (ii) a person to represent the development finance banks in Sri Lanka, nominated by the Governor of the Central Bank of Sri Lanka ;
 - (iii) a person to represent the renewable energy industry;
 - (iv) a representative of the Ceylon Chamber of Commerce, nominated by such Chamber;

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- (v) three persons who are qualified and have proven knowledge and experience in the field of business, engineering, finance, management or law;
- (vi) a person to represent the rural energy service sector; and
- (vii) a person having experience in the area of renewable energy development or energy conservation and efficiency, who shall be the Chairman of the Board.

(2) The provisions of the Schedule to this Act shall apply to and in relation to the members of the Board, its meetings and the seal of the Board.

Objects of the Authority.

4. The objects of the Authority shall be to —

- (a) identify, assess and develop renewable energy resources with a view to enhancing energy security and thereby derive economic and social benefits to the country;
- (b) identify, promote, facilitate, implement and manage energy efficiency improvement and energy conservation programmes for use of energy in domestic, commercial, agricultural, transport, industrial and any other relevant sector;
- (c) promote security, reliability and cost-effectiveness of energy delivery to the country, by policy development and analysis and related information management; and
- (d) ensure that adequate funds are available for the Authority to implement its objects, consistent with minimum economic cost of energy and energy security for the nation.

PART II

POWERS, DUTIES AND FUNCTIONS OF THE BOARD

5. The Board shall exercise, perform and discharge the following powers, duties and functions :—
- Powers, duties and functions of the Board.
- (a) assist the Minister in the formulation of the national policy on energy;
 - (b) identify, conserve and manage all renewable energy resources and appropriate conversion technologies, conversion and utilization norms and practices, including the :—
 - (i) preparation, maintenance and updating of an inventory of all renewable energy resources in Sri Lanka, indicating the geographical location of sites, exploitable potential, land ownership and existing infrastructure facilities; and
 - (ii) preparation, maintenance and updating of an inventory of all renewable energy technologies, indicating their level of maturity for commercial deployment and typical performance data;
 - (c) develop a conducive environment for encouraging and promoting investments for renewable energy development in the country, including :—
 - (i) development of guidelines on renewable energy projects and disseminating them among prospective investors;
 - (ii) development of guidelines in collaboration with relevant state agencies, on evaluation and approval of on-grid and off-grid renewable energy projects;

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- (iii) entertainment of applications for carrying on of on-grid and off-grid renewable energy projects;
 - (iv) providing assistance to investors by formulating project proposals in new types of renewable energy resources and technologies; and
 - (v) exploring avenues and facilitating the process of overcoming technical or any other limitations that retard the growth of renewable energy development, in accordance with the national policy on energy;
- (d) analyse and recommend policies and prepare plans aimed at promoting and developing renewable energy resources, including :—
- (i) preparing long-term development plans with interim targets for specific technologies and promotion and facilitation of the implementation of such plans; and
 - (ii) devising incentive mechanisms based on principles of competitiveness and specific technologies based on actual energy production;
- (e) develop a conducive environment for the encouragement and promotion of investments in renewable energy development, energy efficiency improvement and conservation, rural energy services and for ensuring the sustainability and well-being of the energy sector in the country, including :—
- (i) the promotion of programmes to mobilise funds for renewable energy development, promotion of energy efficiency, improvement

and conservation and rural energy services through credit enhancement and other facilities ; and

- (ii) the provision of funds, including subsidies and seed capital for pilot projects in renewable energy development, energy efficiency improvement, conservation and rural energy services that reduce the dependence on imported energy;
- (f) provide technical and financial assistance for capacity building of the energy sector stakeholders and for research and development activities carried out by any stakeholder, consistent with the objects of the Authority;
- (g) function as a National Technical Service Agency of Clean Development Mechanism (CDM) in Sri Lanka that provides technical assistance to the Designated National Agency for Clean Development Mechanism and project developers, on energy sector clean development project activities, including —
- (i) design, develop and implement innovative schemes that assist project developers to overcome barriers and access commercial financing; and
 - (ii) facilitate and assist project developers to access concessionary finances made available under any environment protection initiative by any organisation;
- (h) conduct preliminary studies and investigations in any geographical area to ascertain the renewable energy potential;

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- (i) collect necessary data and carry out renewable energy resource planning and assessment within any Development Area, subject to any directions that may be given by the Minister;
- (j) obtain relevant data required for renewable energy planning and assessment, from any public or private institutions or any other sources;
- (k) monitor, refine and follow up the approval process of on-grid and off-grid renewable energy projects in consultation with relevant agencies and to provide technical and other logistical assistance and facilities to such agencies to simplify the procedural requirements and to accelerate the project approving mechanism;
- (l) facilitate the access to green funds for investors in on-grid and off-grid renewable energy projects, for energy efficiency improvement and conservation measures and rural energy services;
- (m) provide funds and design, develop and implement credit enhancement facilities, such as loan guarantee schemes and access to commercial credit for investors in on-grid and off-grid renewable energy projects, investments in energy efficiency improvement and conservation and knowledge management in the energy sector;
- (n) enter into joint schemes with any person approved by the Minister, to achieve the objects of the Authority;
- (o) render professional services and undertake projects connected with the development of renewable energy resources and the improvement of energy efficiency, energy conservation and demand

management for and on behalf of state and private sector organizations, and charge as fees such amounts as may be determine by the Board; and

- (p) initiate and implement any other programmes and do any other acts as may be necessary or conducive to the attainment of the objects of the Authority.

6. (1) The Board may subject to such conditions as may be specified in writing, delegate to the Chairman of the Board or to any officer or employee of the Authority, any of its powers, duties or functions under this Act, and the Chairman or such officer or employee shall exercise, perform or discharge such power, duty or function subject to any special or general directions that may be issued by the Board.

Delegation of powers, duties and functions of the Board.

(2) Notwithstanding any delegation made under subsection (1), the Board may exercise, perform or discharge any such power, duty or function so delegated.

7. (1) The Director-General shall within six months of the appointed date, cause a survey and a resource assessment to be commenced of all renewable energy resources in the country and prepare a renewable energy resources inventory and a renewable energy resource map in respect of each Development Area.

Preparation of resource maps and renewable energy resources inventory.

(2) In preparing the renewable energy resource map and the renewable energy resource inventory under subsection (1), the Director-General shall have regard to relevant data, information, maps, documents or reports collected or compiled by Government Departments, Institutions and any other agencies or persons and it shall be the duty of the Heads of such Departments, Institutions or other agencies or persons to furnish any such data, information, maps, documents or reports as may be reasonably required by the Director-General for the purpose of preparing renewable energy resource maps and renewable energy resource inventories.

Renewable
Energy
Resource
Development
Plans.

8. (1) The Director-General shall not later than three years after the appointed date, submit to the Board a comprehensive Renewable Energy Resource Development Plan (hereinafter referred to as “the Plan”) based on the results of the survey and the renewable resource assessment carried out under section 7.

(2) The Board shall, within thirty days from the date of receipt of such Plan, make modifications, if any, to such Plan and submit the same to the Minister.

(3) The Minister shall by a notice published in one newspaper each in the Sinhala, Tamil and English languages, notify the place and times at which the Plan submitted to him under subsection (2) is available for inspection by the public and invite the public to make its comments, if any, thereon, within thirty days of the publication of such notice.

(4) At the end of the period of thirty days referred to in subsection (3), the Minister may, having regard to any comments submitted to him by the public under that subsection, provisionally approve the Plan subject to such modifications, if any, as he may consider necessary and shall submit the same to the Cabinet of Ministers for its approval.

(5) Upon approval of the Plan by the Cabinet of Ministers, the Minister shall cause such Plan to be published in the *Gazette* and it shall come into operation on the date of such publication or on such later date as may be specified therein.

(6) The Plan shall be revised by the Board once in every three years commencing from the date of coming into operation of the Plan, and the provisions of subsections (2), (3), (4) and (5) shall, *mutatis mutandis*, apply to and in respect of every such revision.

(7) The Minister may on the recommendation of the Board, prescribe such measures as may be necessary to give effect to the Plan and to the strategies referred to therein.

PART III

PROJECT APPROVING COMMITTEE AND ADVISORY COMMITTEES

9. (1) The Board may from time to time establish such Advisory Committees as it may consider necessary or appropriate, consisting of such persons selected from among persons having academic or professional qualifications or representing professional institutions or non-governmental organizations, to assist it in the exercise, discharge and performance of its powers, duties and functions under this Act.

Appointment of
Advisory
Committees.

(2) The Board may assign to an Advisory Committee established under subsection (1), such of its powers, duties or functions as it may consider necessary, but however the Board shall not be divested of any such power, duty or function so assigned. The Board shall have the power to amend or revoke any decision made by an Advisory Committee.

(3) The members of an Advisory Committee appointed under subsection (1) may be paid out of the Fund of the Authority, such allowances as the Minister may determine with the concurrence of the Minister in charge of the subject of Finance.

10. (1) There shall be established a Project Approving Committee which shall consist of the following members :—

Project
Approving
Committee.

- (a) Director-General of the Central Environmental Authority appointed under the National Environmental Act, No. 47 of 1980;
- (b) Conservator-General of the Forest Conservation Department appointed under the Forest Ordinance (Chapter 451);
- (c) Director-General of the Wild life Conservation Department Appointed under the Fauna; and Flora Protection Ordinance (Chapter 469);

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- (d) Director-General of the Irrigation Department appointed under Irrigation Ordinance (Chapter 453);
- (e) Director-General of the Mahaweli Authority of Sri Lanka established by the Mahaweli Authority of Sri Lanka Act, No. 23 of 1979;
- (f) General-Manager of the Ceylon Electricity Board appointed under the Ceylon Electricity Board Act, No. 17 of 1969;
- (g) Land Commissioner appointed under the Land Development Ordinance (Chapter 464);
- (h) Director-General of the Board of Investment of Sri Lanka appointed under the Lanka Board of Investment of Sri Lanka Law No. 4 of 1978;
- (i) Director-General of the Coast Conservation Department appointed under the Coast Conservation Act, No. 57 of 1981;
- (j) Director-General of the Authority;
- (k) Divisional Secretary of the Divisional Secretary's Division within which a development project is to be implemented; and
- (l) Chief Secretary of the Provincial Council established for the province within which a development project is to be implemented.

(2) The Minister may nominate one person from among the members of the Committee, other than the member referred to in paragraph (k) of subsection (1), as the Chairman of the Committee.

(3) The Director-General of the Authority shall function as the convenor of all meetings of the Committee.

11. The functions of the Committee shall be to — Functions of the
Committee.
- (a) advise the Board on the formulation of technical, environmental and economic guidelines for subsequent adoption by the Committee, in granting provisional approval and final approval in respect of on-grid and off-grid renewable energy projects ;
 - (b) evaluate and assess the possible environmental hazards and other consequences that may arise due to the implementation of on-grid and off-grid renewable energy projects;
 - (c) impose conditions to be fulfilled by an applicant as measures to mitigate such environmental hazards, technical and other socio-economic consequences, in the event of a final approval being granted for an on-grid renewable energy project or approval being granted for an off-grid renewable energy project;
 - (d) grant provisional and final approval on applications made for the implementation of on-grid renewable energy projects and approval for off-grid renewable energy projects;
 - (e) monitor and supervise the implementation of on-grid and off-grid renewable energy projects with a view to prevent any environmental hazards and other socio-economic consequences being caused as a result of the implementation of such project; and
 - (f) review and examine periodically the renewable energy policy, the renewable energy resource plans and renewable energy development strategy in operation and where necessary, to recommend to the Board changes in such policy, plans and strategies.

PART IV

DECLARATION OF ENERGY DEVELOPMENT AREA

Declaration of a
Energy
Development
Area.

12. (1) The Minister may, subject to the provisions of subsection (3) and having taken into consideration the recommendations made by the Board that any area is suitable for the conservation and management of renewable energy resources or is suitable for the promotion of renewable energy development projects, by Order published in the *Gazette*, declare such area as an Energy Development Area (in this Act referred to as “Development Area”).

(2) The Minister shall prior to the declaration of any area as a Development Area under sub-section (1), consult such Minister or Ministers or any Minister of any Provincial Council, whom he considers necessary or appropriate to consult in the declaration of such area as a Development Area.

(3) An Order made under subsection (1) declaring an area as a Development Area, shall define that area by setting out the metes and bounds of such Area.

Authority
responsible for
conserving
renewable
energy resources
within a
Development
Area.

13. The Authority shall be responsible for conserving and managing all renewable energy resources within a Development Area and take all necessary measures to promote and develop such energy resources, with a view to obtaining the maximum economic utilization of those resources.

Owner or
occupier
prohibited from
certain acts.

14. Notwithstanding anything to the contrary contained in any written law, an owner or occupier of any land situated within a Development Area shall not, except with the written approval of the Authority and subject to any terms and conditions that may be imposed by the Authority for that purpose, do any act or permit any other person to do any act, which may change the form of any renewable resource situated within such Development Area or cause the depletion of any such resource in such a manner or to such an extent, that the economic viability of developing that resource is substantially reduced.

15. (1) Subject to as hereinafter provided and the rights granted to any person by a permit issued under section 18 or section 25, the absolute ownership of all renewable energy resources on or below the surface of the land or the air space of the land within a Development Area, is hereby vested in the Republic, notwithstanding any right of ownership or otherwise which any person may have to such renewable energy resources within that Area.

Republic to have ownership to renewable energy resources within a Development Area.

(2) Notwithstanding the provisions of subsection (1), any person who is deprived of his right of ownership or otherwise to a renewable energy resources on or below the surface of his land or the air space of such land by virtue of the provisions of that subsection, shall be entitled to the payment of compensation as may be determined by an Advisory Committee, appointed by the Board for that purpose under section 9 of this Act. In the computation of the amount of compensation payable under this subsection, the person concerned shall be given an opportunity of being heard by such Advisory Committee.

PART V

ON-GRID AND OFF-GRID RENEWABLE ENERGY PROJECTS

16. (1) Notwithstanding the provisions in any other law to the contrary and subject to the provisions of section 71, no person shall engage in or carry on an on-grid renewable energy project for the generation and supply of power within a Development Area, except under the authority of a permit issued in that behalf by the Authority.

On-grid renewable energy projects.

(2) A person who is desirous of engaging in and carrying on an on-grid renewable energy project within a Development Area, shall make an application to the Director-General for the same in the prescribed form together with the prescribed fee and the following documents :—

- (a) a copy of a map of the geographical location of the proposed project;

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- (b) a brief description of the project, including the amount of power to be generated;
- (c) the total estimated cost and financial model, including optimization criteria adopted;
- (d) proof of availability of adequate finances or the manner in which the required finances for the project are to be obtained;
- (e) project location *i. e.* Weir and Power House relative to river or stream system if it is a Hydro Power project, Wind Turbine and Structures if it is a Wind power project, Energy Plantation, Power House and Water Source if it is a Biomass Project and Conversion Facility relative to energy resource, if it is any other project ; and
- (f) a statement explaining how the applicant intends to evacuate electricity generated and the point at which the generator will be connected to the national grid and the geographical area traversed by the power line constructed for this purpose.

(3) On receipt of an application under subsection (2), the Director- General shall forthwith register such application along with the documents in a register maintained for that purpose, and issue a registration number to the applicant.

Provisional approval to be granted.

17. (1) The Director-General shall after carrying out such preliminary screening of the proposed project as he considers necessary and in consultation with the Ceylon Electricity Board, submit the registered application together with his observations on the proposed project, to the Committee for its approval.

(2) The Committee shall where it considers it appropriate :—

- (a) grant provisional approval for the project which shall be communicated forthwith by the Director- General

to the applicant in the prescribed form, with a request to submit such documents and other information as shall be prescribed for the purpose, within six months of such communication being received by the applicant; or

- (b) refuse to grant provisional approval for the project which shall be communicated forthwith by the Director-General to the applicant, stating the reasons for such refusal.

(3) An extension of the period given for the submission of documents and information under paragraph (a) of subsection (1) may be granted by the Director-General where requested for, upto a maximum of another six months period.

(4) A provisional approval granted under paragraph (a) of subsection (1) shall be valid for a period of one year from the date on which such approval is granted and shall stand cancelled automatically, if the documents and other information requested for is not submitted prior to the expiry of the period of one year.

18. (1) The Director-General shall upon receiving the documents and other information requested for, forthwith place before the Committee such documents and information together with the registered application and his recommendations, to be considered by the Committee for the purpose of granting the final approval for the proposed project.

Final approval.

(2) It shall be the duty of the Committee not later than one month of the receipt of the documents and information sent by the Director-General under subsection (1), to make its decision on the same, by—

- (a) approving the application and requesting the Director-General to forthwith communicate to the applicant their approval by the issue of a permit in the prescribed form and subject to such terms and conditions as may be prescribed; or

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(b) refusing to approve the application and requesting the Director-General to forthwith communicate to the applicant of such refusal, stating the reasons for the same.

(3) The Committee shall record its reasons for arriving at its decision under subsection (2) in the register maintained by the Director-General under subsection (3) of section 16.

(4) A permit issued on approval of an application under paragraph (a) of subsection (2) shall be valid for a period of twenty years, provided that the developer commences the project and begins to generate electricity within two years of being issued with the permit.

(5) At the end of the period of twenty years, the Board may at the request of the developer and in consultation with the Committee, extend the period, of validity of the permit by a further period, not exceeding twenty more years.

Payment of
royalty.

19. (1) A developer shall, for the period during which the permit issued is in operation, be liable to pay annually to the Authority as a royalty on renewable energy resources being utilized for the project, such charge as shall be determined by the Minister in consultation with the Minister in charge of the subject of Finance.

(2) All sums of money paid as a charge under subsection (1), shall be credited by the Authority to the Energy Fund established under section 46.

Authority not to
be liable to pay
damages or cost
of any
expenditure
incurred.

20. Where —

(a) provisional approval for a project is refused by the Committee under paragraph (b) of subsection (2) of section 17;

(b) grant of final approval for a project is refused by the Committee under paragraph (b) of subsection (2) of section 18; or

(c) a permit is cancelled under section 21,

the Authority shall not be liable to pay any damages or reimburse the cost of any expenditure that may have been incurred by an applicant or the developer, as the case may be, in providing the documents and other information requested for under paragraph (a) of subsection (2) of section 17, or any expenses incurred by a developer on any work commenced in the project after the permit was granted under paragraph (a) of subsection (2) of section 18.

21. (1) A permit issued under paragraph (a) of subsection (2) of section 18 may be cancelled by the Director-General with the approval of the Board, where the developer —

Cancellation of a permit.

- (a) fails to commence the project in respect of which such permit was issued and begin generation of power within two years of its issue; or
- (b) acts in contravention of or fails to comply with, any terms and conditions subject to which such permit was issued.

(2) The Board may before it approves the cancellation of a permit issued, grant an opportunity to the developer concerned to show cause why the permit should not be cancelled and may, where it considers appropriate and reasonable, grant time within which the developer may be required to comply with any requirement or any terms or conditions of the permit or refrain from acting in contravention of any term or condition, as the case may be, which has given rise to the proposed cancellation of the permit.

22. (1) Any person who is aggrieved by:—

- (a) a refusal to grant provisional approval to an application;
- (b) a refusal to grant final approval to an application; or

Appeals against refusal to grant approval or cancellation of a permit.

(c) the cancellation of a permit under section 21,

may, within one month of the receipt of the communication informing him of such refusal or the date of the cancellation, as the case may be, appeal against such refusal or cancellation to the Board.

(2) The Board may prior to arriving at a decision on any appeal made under subsection (1), obtain the advice and observations of an Advisory Committee established for that purpose by the Board under section 9.

(3) Any person who is aggrieved by the decision of the Board given on any appeal made to it under subsection (1), may appeal against such decision to the Court of Appeal within fourteen days of the date on which such decision was communicated to such person.

(4) Until rules are made under Article 136 of the Constitution pertaining to appeals under this section, the rules made under that Article pertaining to an application by way of revision to the Court of Appeal, shall apply in respect of every appeal made under subsection (3) of this section.

Off-grid
renewable
energy projects.

23. (1) Notwithstanding the provisions in any other law to the contrary, no person shall engage in or carry on an off-grid renewable energy project for the generation and supply of power, except under the authority of a permit issued in that behalf by the Authority.

(2) Any person who is desirous of engaging in an off-grid renewable energy project shall make an application to the Director-General for the same in the prescribed form, together with the prescribed fee and the following documents :—

(a) a copy of a map of the geographical location of the proposed project;

(b) a brief description of the project, including the amount of power to be generated and its total estimated cost;

- (c) the total estimated cost and the financial model, including optimization criteria adopted;
- (d) proof of availability of adequate finances or the manner in which the required finances for the project are to be obtained;
- (e) project location i.e. Weir and Power House relative to river or stream system if it is a Hydro Power project, Wind Turbine and Structures if it is a Wind power project, Energy Plantation, Power House and Water Source if it is a Biomass Project and Conversion Facility relative to energy resource, if it is any other project ;
- (f) detailed feasibility study report of the project, along with the following :—
 - (i) a detailed engineering design of the project;
 - (ii) a socio-economic survey of those who will benefit from the project;
 - (iii) a report from Central Environment Authority, established by the National Environmental Act, No. 47 of 1981 pertaining to the likely environmental consequences of the project; and
 - (iv) a time bound action plan as to the manner in which the project is to be implemented;
- (g) a copy each of the applications submitted by the prospective beneficiaries of the project, for the purpose of being registered as an “Off-Grid Energy Consumers Society” with the relevant Provincial Ministry in charge of energy;
- (h) a copy of the Order published in the *Gazette* by which an exemption was granted from the requirement of obtaining a generation licence under the Electricity Reform Act, No. 28 of 2002;

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- (i) a copy of the Order published in the *Gazette* by which an exemption was granted from the requirement of obtaining a distribution licence under the Electricity Reform Act, No. 28 of 2002, to distribute generated power to the premises of those consumers living within the geographical location referred to in paragraph (a) ;
- (j) a statement explaining how the applicant intends to distribute the power generated and the names of such consumers who have consented to obtaining a power supply from the applicant and a schematic diagram of the distribution system relative to the geographical area in which the respective premises of such consumers are located, for conveying the generated power to such premises; and
- (k) any other information which the Committee may require.

(3) On receipt of an application made under subsection (1), the Director-General shall forthwith register such application along with the documents received in a register maintained for the purpose and issue a registration number to the applicant.

Procedure for obtaining relevant concurrence and confirmation for off-grid renewable energy projects.

24. (1) The Director-General shall within thirty days of the registration of an application under subsection (3) of section 23, :—

- (a) obtain the concurrence of the relevant Provincial Ministry and the Divisional Secretary of the Divisional Secretary's Division within which such project is to be implemented; and
- (b) carry out such preliminary screening of the project and obtain confirmation from the entity responsible for power distribution in the area, that a grid extension is not planned for the particular location for the next five years.

(2) The Director-General shall submit to the Committee for its consideration, the application along with the concurrence and confirmation obtained by him under subsection (1) and his observation on the availability of the site for construction, technical aspect of the project and the technical and financial capability of the applicant.

(3) The Committee shall make a decision on the application submitted to it under subsection (2) as expeditiously as possible, but not later than thirty days from the date of receipt of such application and communicate its decision to the Director-General, giving reasons for the same. The Director-General shall record the decision of the Committee in the register maintained under subsection (3) of section 23.

25. The Director-General shall on receipt of the decision made by the Committee under subsection (3) of section 24:—

Decision of the Committee to be communicated to the applicant.

- (a) where the Committee approves the application, issue forthwith to the applicant a permit in the prescribed form, subject to such terms and conditions as may be prescribed; or
- (b) where the Committee does not approve the application, forthwith inform the applicant of such refusal stating the reasons for the same.

26. (1) The period of validity of a permit issued under paragraph (a) of section 25 of this Act on approval of an application shall, having regard to the nature of the project and the capacity of power generated, be as prescribed.

Period of validity of a permit and charges to be paid.

(2) The permit holder shall be required to pay annually such charge as may be determined by the Minister in consultation with the Minister in charge of the subject of Finance, during the period of validity of the permit issued.

(3) All sums of money paid as a charge under subsection (2), shall be credited by the Authority to the Energy Fund established under section 46.

Cancellation of a permit.

27. (1) A permit issued under paragraph (a) of section 25 may be cancelled by the Director-General with the approval of the Board, where the permit holder —

- (a) fails to commence the project in respect of which such permit was issued and begin generation of power within two years of its issue; or
- (b) acts in contravention of or fails to conform with, any terms or conditions subject to which such permit was issued.

(2) The Board may before it approves the cancellation of a permit issued, grant an opportunity to the permit holder concerned to show cause why the permit should not be cancelled and may, where it considers appropriate and reasonable, grant time within which the permit holder may be required to comply with any requirement or any terms or conditions of the permit or refrain from acting in contravention of any term or condition, as the case may be, which has given rise to the proposed cancellation of the permit.

Appeals against refusal or cancellation of a permit.

28. (1) Any person who is aggrieved by —

- (a) the refusal of the Committee to grant a permit for an off-grid renewable energy project; or
- (b) the cancellation under section 27 of a permit issued,

may appeal against such decision to the Board.

(2) Any person who is aggrieved by the decision of the Board on any appeal made under subsection (1), may appeal against such decision to the Secretary to the Ministry of the Minister, whose decision thereon shall be final.

Developer or permit holder to exercise due diligence.

29. (1) It shall be the duty of every developer or permit holder to whom a permit is issued under this Part of this Act, to take all measures necessary to use the renewable energy resource being utilized for the project, with due diligence and extreme care.

(2) Where any damage is caused to a renewable energy resource utilized for any project due to the negligence or lack of due diligence of a developer or permit holder, as the case may be, such developer or permit holder shall be liable to pay to the Authority as compensation, such amount as may be determined by the Minister in consultation with the Minister in charge of the subject of Finance.

PART VI

ACQUISITION AND LEASING OF IMMOVABLE PROPERTY FOR PROJECTS

30. (1) Where any land or any interest in a land situated in an area declared as a Development Area under section 12 is required by the Authority for any purpose of the Authority, such purpose shall for the purposes of the Land Acquisition Act (Chapter 460) be deemed to be a public purpose, and the land or interest therein may accordingly be acquired under the Land Acquisition Act by the Government for the Authority, and the provisions of that Act shall, save as otherwise provided in subsection (2) of this section, apply for the purposes of the acquisition of that land or the interest therein.

Compulsory acquisition of land for the Authority under the Land Acquisition Act.

(2) In the case of any acquisition under subsection (1) where the public notice of the intention to acquire that land or interest therein is published as required by the Land Acquisition Act, at any time within a period of five years commencing from the date of declaring an area as a Development Area, notwithstanding anything to the contrary in the Land Acquisition Act, the market value of the land or the interest therein for the purpose of determining the amount of compensation to be paid in respect of that land or the interest therein, shall be deemed to be the market value which that land or the interest therein would have had on the date of declaring such area as a Development Area, increased by fifty *per centum* of the difference between that market value and—

- (a) in the case of any land or interest therein in respect of which an Order under the proviso to section 38 of the Land Acquisition Act has not been made, the market value of the land or interest therein as on the

date of publication in the *Gazette* of the notice under section 7 of that Act; or

- (b) in the case of any land or interest therein in respect of which an Order under the proviso to section 38 of the Land Acquisition Act has been made, the market value of the land or interest therein as on the date of publication of such Order in the *Gazette*.

State property to be made available to the Authority.

31. Where any immovable property of the State is required for any purpose of the Authority, such purpose shall be deemed to be a purpose for which a special grant or lease of property may be made under section 6 of the Crown Lands Ordinance (Chapter 454) and accordingly the provisions of that Ordinance shall apply to a special grant or lease of such property made to the Authority.

Lease of land or interest in land held by Authority.

32. (1) the Authority may with the approval of the Minister, grant to a developer or a permit holder, as the case may be, by way of a lease, any land or interest in land held by the Authority for the purpose of any project for which a permit has been issued under Part V of this Act, subject to such terms and conditions as may be determined by the Minister, including the amount to be paid as lease rental, and in particular, but without prejudice to the generality of the foregoing provisions of this section, a condition to the effect that the lease agreement may be cancelled or amended in the event of a failure to comply with any term or condition specified in such agreement, or in the event of any money due to the Authority under such lease agreement remaining unpaid, for any such period as may be specified therein.

(2) Nothing in the Crown Lands Ordinance shall affect or be deemed or construed to affect the grant of a lease of any state land, held by the Authority.

(3) In the event of a cancellation of a permit issued to a developer or a permit holder to whom any land or interest in any land was granted under a lease agreement under subsection (1) of this section, such lease agreement shall,

notwithstanding anything to the contrary in the lease agreement or in any other law, be deemed to be cancelled with effect from the date of the cancellation of such permit.

33. Notwithstanding the provisions of any other law to the contrary, no action shall lie against the Authority or any officer or employee of such Authority in respect of the cancellation of a lease agreement under subsection (3) of section 32.

No action to lie in respect of the cancellation of a lease agreement.

34. (1) A developer or a permit holder, as the case may be, to whom any land has been leased by the Authority under section 32 of this Act, shall be required within six months of the expiry of the period of validity of such permit or where the permit is cancelled, within six months of the date of such cancellation, to remove all movable property, including any fixtures attached to the land, which belongs to such developer or permit holder, from the location or site in which the project was commenced or carried on, in such manner as may be prescribed.

Removal of movable property from location or site.

(2) The developer or the permit holder, as the case may be, shall be liable to pay to the Authority such compensation as may be determined by the Minister, for any damage caused to the renewable energy resource or to the land leased, due to the negligence of such developer or the permit holder, as the case may be, in removing his property from the location or site under subsection (1).

PART VII

ENERGY EFFICIENCY AND CONSERVATION PROGRAMMES

35. (1) The Board shall be responsible for the adoption and implementation of measures to conserve energy and improve efficiency in harnessing energy, processing, conversion, transportation, storage, co-generation and heat recovery techniques, in the use of energy in all consumer sectors.

Energy efficiency and conservation programmes.

(2) For the purpose of carrying out its responsibilities under subsection (1), the Board shall :—

- (a) identify, analyse, develop and recommend policy measures which can be implemented by all consumer sectors, to prevent wastage of energy used by them in their various activities;
- (b) promote and facilitate the implementation of energy efficiency and energy conservation policy measures, by organizing seminars, workshops and courses in energy efficiency, demand management or conservation;
- (c) educate and provide information to the public regarding energy demand management and conservation;
- (d) improve any or all aspects of energy demand management which promotes rational use of energy and reduces the use of non-renewable energy sources in Sri Lanka;
- (e) identify the available technologies and facilitate deployment of such technologies for improving efficiency in the harnessing of energy, processing, conversion, transportation, storage and use of energy;
- (f) implement energy labeling programs for appliances and devices and establish benchmarks;
- (g) specify and enforce standards, norms, codes, measurement and verification protocols and building codes, for the efficient use of energy and for reduction of wastage of energy in buildings; and
- (h) initiate, promote, conduct and co-ordinate research, surveys and investigations in regard to specific aspects of energy efficiency, conservation and demand management.

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36. (1) The Board may from time to time by regulations made in that behalf, establish specific energy consumption benchmarks to be complied with by all energy consumers.

Establishment of energy consumption benchmarks.

(2) For the purpose of ensuring that the benchmarks established under subsection (1) are being complied with, the Board may, where it considers it necessary:-

- (a) enter and inspect with the consent of relevant persons concerned, any premises, compound or facility, collect information, verification of information and conduct any other investigations;
- (b) direct any person to furnish information relating to energy utilization, production, procurement and sales;
- (c) monitor, with the consent of all relevant persons concerned, energy consumption in buildings and industrial premises and monitor fuel efficiency of land vehicles, ships and aircrafts, in association with relevant agencies;
- (d) specify in association with relevant agencies, energy consumption limits and energy performance standards of appliances and direct the display of such particulars on labels attached to appliances, in such manner as may be prescribed from time to time;
- (e) control the manufacture, import, sale or purchase of appliances which do not conform to the specifications prescribed under paragraph (d);
- (f) enforce limits and codes of practices for existing and proposed buildings, industrial premises, land vehicles, ships and aircraft, in association with relevant agencies; and
- (g) develop educational material and recommend educational curricula, on efficient and rational use of energy and conservation of energy.

Consumption of energy beyond acceptable limits.

37. (1) Where the Board is of the view that any person or categories of persons (including any public body), is consuming unacceptable levels of energy in their respective premises or installations, over and above the benchmarks established by the Board under section 36 of this Act, such person or category of persons may be called upon to submit to the Board a detailed audit report compiled by an accredited energy auditor and a detailed plan of action on remedial measures that are proposed to be taken by such person or category of persons, as the case may be, to reduce the energy consumption to acceptable levels.

(2) The failure to submit a detailed audit report and a detailed plan of action when called upon to do so by the Board under subsection (1) and to implement such plan on approval by the Board, shall be an offence under this Act.

(3) Where any person or category of persons who has been called upon to submit to the Board a detailed plan of action under subsection (1), incurs in the course of the implementation of such plan, any expenses which is beyond the anticipation of a reasonable person, such person or category of persons shall be entitled to the payment of a reasonable amount as compensation, which shall be determined by the Board in agreement with the person or category of persons concerned.

Accreditation of energy managers, energy auditors etc.,

38. (1) The Board shall appoint and rank persons having such qualifications as prescribed, to be –

- (a) Energy Managers, who shall assist in promoting practices relating to efficient energy management;
- (b) Energy Auditors, who shall be qualified to conduct energy audits; and
- (c) Energy Service Providers,

and issue to those appointed, a Certificate of Accreditation.

(2) Every person who is issued with a Certificate under subsection (1) shall be required to sit for such examinations periodically held by the Board from time to time and where the Board so requests, submit performance reviews at such intervals as specified by the Board. The Board shall maintain a register of all accredited Energy Managers, Energy Auditors and Energy Service Providers, appointed by it.

39. (1) The Board shall from time to time by rules made in that behalf, specify :—

Conduct of energy audits.

- (a) the persons or categories of persons including public bodies, who shall be required to have an energy audit carried out in their respective installations or premises; and
- (b) the manner and the periods during which an energy audit shall be required to be carried out.

(2) An energy audit shall be conducted by an Accredited Energy Auditor, who shall be required to submit a report to the Board on the result of the energy audit carried out by such auditor.

40. The Board shall in collaboration with the relevant provincial authorities, take such measures as may be necessary to :—

Delivery of rural energy services.

- (a) provide for basic domestic energy needs of the rural population, by making available affordable energy services to rural and remote areas of the country which have no access or a limited access to modern and commercial energy services;
- (b) prepare a long term plan for delivery of energy services to rural and remote areas of the country, by identifying un-served areas, their energy needs and available resources and promoting suitable technologies; and

- (c) develop a conducive environment for the promotion of investments on rural energy delivery, including the development of guidelines in collaboration with relevant state agencies on rural energy project development and to disseminate them among prospective investors.

Energy policy development and information management.

41. The Board shall be responsible for promoting security and reliability and ensuring cost effectiveness of energy delivery within Sri Lanka, and for that purpose :—

- (a) examine the energy sector performance, review and integrate institutional and sub-sectoral plans, conduct policy analysis, review compliance with national energy policy and strategies and make policy recommendations to the Ministry on the energy sector in general, and more specifically on renewable energy resources and energy efficiency;
- (b) conduct surveys and investigations, collect and compile data in collaboration with the Department of Census and Statistics, publish national energy balance reports and other documents providing information relating to the energy sector in general, and more specifically to energy resources, conversion, supply, utilization, conservation and economics;
- (c) identify and analyse policy measures and recommend to the Ministry and other relevant agencies, specific policy measures pertaining to fiscal incentives and disincentives, including pricing policies, taxation and institutional arrangements;
- (d) obtain information relating to energy resources, research, reserves, conversion facilities and conversion levels, storage facilities and storage levels, transmission and distribution systems, sales, customers, costs, prices, income from sales, losses,

employees and development plans of any institution, company or individual engaged in the business of energy or having jurisdiction over resources that possess an energy value; and

- (e) inspect and obtain information about potential or existing energy supply facilities and their utilization and consumption.

42. (1) The Board shall be required to submit annually to the Minister, a report on the performance of energy sector in Sri Lanka during the preceding year and the Minister shall table such report in Parliament for its consideration.

Annual report on energy consumption.

(2) In the preparation of its annual report under subsection (1), the Board shall obtain the services of any persons appointed under section 38.

PART VIII

FINANCE

43. The initial capital of the Authority shall be five hundred million rupees which shall be paid out of the Consolidated Fund in such installments as the Minister in charge of the subject of Finance may determine, in consultation with the Minister.

Capital of the Authority.

44. (1) The Authority shall have its own Fund. There shall be credited to the Fund of the Authority, all such sums of money :—

Fund of the Authority.

- (a) received as initial capital of the Authority;
- (b) voted from time to time by the Parliament for the use of the Authority;
- (c) received by the Authority by way of fees imposed for the issue of permits under this Act; and

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(d) received by the Authority by way of loans, donations, gifts, or grants from any source whatsoever, whether in or outside Sri Lanka ; and

(e) received by the Authority, by way of lease rentals under section 32.

(2) There shall be paid out of the Fund of the Authority all such sums of money required to defray expenditures incurred by the Authority in the exercise, discharge and performance of its powers, functions and duties under this Act.

Levy of cess on imports of fossil fuel products.

45. (1) There shall be charged, levied and paid a cess on all fossil fuel products imported, calculated at such rate as may be determined by the Minister from time to time with the concurrence of the Minister in charge of the subject of Finance, by Order published in the *Gazette*.

(2) The amount imposed as a cess under subsection (1), may be varied or rescinded by a like Order.

(3) Every Order made by the Minister under this section shall come into force on the date of its publication in the *Gazette* and be brought before Parliament for approval within four months of the date of its publication .Any Order which is not so approved shall be deemed to be revoked as from the date of its disapproval, but without prejudice to the validity of anything previously done thereunder.

(4) This section shall have effect as though if formed part of the Customs Ordinance (Chapter 235) and the provisions of that Ordinance shall apply accordingly.

(5) The proceeds of the cess recovered under this section shall be paid monthly by the Director-General of Customs to the credit of the Energy Fund established by section 46 of this Act.

(6) The cess levied under this section shall be in addition to any import duty or any other cess levied under any other written law.

46. (1) There shall be established a Fund called the “Sri Lanka Sustainable Energy Fund” (in this Act referred to as “Energy Fund”).

Sri Lanka
Sustainable
Energy Fund.

(2) There shall be credited to the Energy Fund:—

- (a) an initial grant of five hundred million rupees to be paid out of the Consolidated Fund;
- (b) the proceeds of the cess imposed under section 45;
- (c) fees chargeable from developers for managing the carbon asset of Sri Lanka;
- (d) amounts paid as royalty or charges by developers and permit holders under section 19 and section 26 of this Act;
- (e) fees charged by the Board for rendering any professional services;
- (f) money received as lease rentals from the lease of land or interest in land for carrying on of any on-grid and off-grid renewable energy project;
- (g) fees charged for entertaining applications submitted to the Director-General for engaging in on-grid and off-grid renewable energy projects; and
- (h) fees and shared savings earned from undertaking projects connected with the development of renewable energy resources and the improvement of energy efficiency, energy conservation and demand management, for and on behalf of State and private sector organizations.

(3) There shall be paid out of the Energy Fund, such sums of money required for the payment of :—

- (a) subsidies to selected renewable energy based energy conversion plants;

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- (b) subsidies for promoting the use of energy efficient appliances and technologies;
- (c) capital subsidy for fuel switching, including industrial thermal applications;
- (d) expenses incurred in conducting awareness programmes through mass media on improving energy security of Sri Lanka; and
- (e) incentives or other similar financial assistance to any society or community based organization to encourage the adoption of energy conservation measures and for the development of rural energy services in all areas of the country.

(4) The Board may invest monies lying to the credit of the Energy Fund in such manner as may be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance, and all income accruing from any such investments shall be credited to such Fund.

(5) The Board shall be responsible for the regulation and maintenance of the Energy Fund and the maintenance of proper books of accounts pertaining to the same.

(6) The provisions of sections 50 and 51 of this Act shall apply in regard to the audit of accounts of the Energy Fund.

Sustainable
Energy
Guarantee
Fund.

47. (1) There shall be established a fund called the “Sustainable Energy Guarantee Fund” (in this Act referred to as the “Guarantee Fund”) for the purpose of providing guarantees on behalf of investors who apply for loans to carry on any project relating to energy efficiency.

(2) There shall be credited to the Guarantee Fund:—

- (a) an initial capital grant of fifty million rupees to be paid out of the Consolidated Fund;

- (b) an annual premium of not less than 0.5 *per centum* of the guarantee offered to investors;
- (c) interest, service charges and penalties recovered from investors to whom guarantees are provided; and
- (d) all such sums of money as may be received from the Fund of the Authority.

(3) The amount to be paid as a guarantee and the manner of the guarantee, qualifications required to be entitled to a guarantee and all other matters connected with the management of the Guarantee Fund, shall be as prescribed by the Minister, with the concurrence of the Minister in charge of the subject of Finance.

(4) The provisions of sections 50 and 51 of this Act shall apply in regard to the audit of accounts of the Gurantee Fund.

48. (1) The Board may with the consent of the Minister given in concurrence with the Minister in charge of the subject of Finance, borrow temporarily by way of overdraft or otherwise, such sums of money as the Board may require for covering expenditure incurred by it in the exercise, performance and discharge of its powers, duties and functions:

Borrowing
powers of the
Board.

Provided that the aggregate of the amounts outstanding in respect of any temporary loans raised by the Board under this subsection, shall not at any time exceed such sum as may be determined by the Minister in consultation with the Minister in charge of the subject of Finance.

(2) The Board may with the consent of the Minister given with the concurrence of the Minister in charge of the subject of Finance, borrow money for the provision of the working capital of the Authority otherwise than by way of temporary loans under subsection (1), by the issue of debentures, referred to as the “Sustainable Energy Authority Debentures”.

(3) Sustainable Energy Authority Debentures shall be issued, transferred, dealt with, redeemed and cancelled in accordance with such terms as may be determined by the Board with the approval of the Minister, given with the concurrence of the Minister in charge of the subject of Finance.

Government
guarantee.

49. (1) The Minister in charge of the subject of Finance shall guarantee the repayment of the principal and of the interest due on Sustainable Energy Authority Debentures issued under section 48.

(2) Any sum required for the fulfillment of a guarantee provided for under subsection (1) may, with the prior approval of the Parliament, be paid out of the Consolidated Fund.

(3) Any sum paid out of the Consolidated Fund in fulfillment of a guarantee provided under subsection (1), shall be repaid by the Authority together with interest thereon, at such rate and in such manner and over such period of time as the Minister in charge of the subject of Finance may determine, with the concurrence of the Minister.

(4) Immediately upon a guarantee being given under subsection (1), the Minister in charge of the subject of Finance shall lay before the Parliament, a statement pertaining to such guarantee.

(5) Where any sum is paid out of the Consolidated Fund in fulfillment of a guarantee provided under subsection (1), the Minister in charge of the subject of Finance shall forthwith lay before the Parliament a statement on such sum paid as a guarantee.

Financial
year and
audit of
accounts.

50. (1) The financial year of the Authority shall be the calendar year.

(2) The Board shall cause proper books of accounts to be kept of the income and expenditure, assets and liabilities and all other transactions of the Authority.

(3) The provisions of Article 154 of the Constitution relating to the audit of the accounts of public corporations shall apply to and in relation to the audit of the accounts of the Authority.

51. The provisions of Part II of the Finance Act, No. 38 of 1971, shall *mutatis mutandis*, apply to and in respect of the financial control and accounts of the Authority.

Application of Part II of the Finance Act, No.38 of 1971.

PART IX

STAFF OF THE AUTHORITY

52. (1) There shall be appointed by the Minister with the concurrence of the Board, a person to be the Director-General of the Authority, who shall be its chief executive officer.

Director-General of the Authority.

(2) The Director-General shall be entitled to be present at all meetings of the Board and to speak at such meetings, but shall not be entitled to vote at any such meetings.

(3) The Director-General shall, subject to the general direction and control of the Board, be responsible for the conduct of all affairs of the Authority, including the administrative control of the officers and employees of the Authority.

(4) The Director-General shall be paid such remuneration as may be determined by the Board in consultation with the Minister.

(5) The Minister may with the concurrence of the Board and for reasons assigned therefor remove from office the Director-General appointed under subsection (1).

53. The Director-General may with the approval of the Board and whenever he considers it necessary to do so, delegate to any officer of the Authority, any function or duty

Director-General may delegate his functions.

imposed on or assigned to him by this Act and such officer shall discharge and perform such function or duty, subject to the direction and control of the Director-General.

Temporary absence of the General Manager.

54. Whenever the Director-General is by reason of illness or absence from Sri Lanka or for any other cause unable to discharge or perform any of his functions or duties, the Minister may with the concurrence of the Board, appoint any other senior officer of the Authority to act in his place during such absence.

Appointment of staff of the Authority.

55. (1) The Board may appoint such officers and other employees as it considers necessary for the efficient exercise, discharge and performance of its powers, functions and duties under this Act.

(2) The officers and other employees appointed under subsection (1) shall be remunerated in such manner and at such rates and shall be subject to such conditions of service, as may be determined by the Board by rules made in that behalf.

Appointment of public officers to the staff of the Authority.

56. (1) At the request of the Board any officer in the public service may, with the consent of that officer and the Secretary to the Ministry of the Minister in charge of the subject of Public Administration, be temporarily appointed to the staff of the Authority for such period as may be determined by the Board or with like consent, be permanently appointed to such staff.

(2) Where any officer in the public service is temporarily appointed to the staff of the Authority, the provisions of subsection (2) of section 14 of the National Transport Commission Act, No. 37 of 1991, shall, *mutatis mutandis* apply to and in relation to him.

(3) Where any officer in the public service is permanently appointed to the staff of the Authority, the provisions of subsection (3) of section 14 of the National transport Commission Act, No. 37 of 1991, shall, *mutatis mutandis* apply to and in relation to him.

(4) Where the Authority employs any person who has agreed to serve the Government for a specified period under any agreement, any period of service to the Authority by that person shall be regarded as service to the Government for the purpose of discharging the obligations of such agreement.

57. (1) At the request of the Board, any officer or servant of a public corporation may, with the consent of such officer or servant and the governing body of such public corporation, be temporarily appointed to the staff of the Authority for such period as may be determined by the Board or with like consent, be permanently appointed to such staff on such terms and conditions, including those relating to pension or provident fund rights, as may be agreed upon by the Board and the governing body of the public corporation concerned.

Appointment of officers in public corporations or Higher Educational Institutions to the staff of the Authority.

(2) At the request of the Board, any officer or other employee of any Higher Educational Institution may, with the consent of that officer or the employee and the principal executive officer of that Higher Educational Institution, be temporarily appointed to the staff of the Authority for such period as may be determined by the Board or with like consent be permanently appointed to such staff, on such terms and conditions, including those relating to pension or provident fund rights, as may be agreed upon by the Board and such principal executive officer.

(3) Where any person is temporarily appointed to the staff of the Authority under subsection (1) or subsection(2), as the case may be, such person shall be subject to the same disciplinary control as any other member of the staff of the Authority.

PART X

GENERAL

Special and
General
directions to be
issued by the
Minister.

58. The Minister may from time to time issue such special or general directions to the Board relating to the exercise, performance and discharge of its powers, duties and functions under this Act, and it shall be the duty of the Board to give effect to such directions.

Power to require
maintenance of
records and the
furnishing of
returns.

59. (1) The Board may for the purpose of the exercise, performance and discharge of its powers, duties and functions under this Act, require all developers and permit holders to whom it has issued a permit:—

- (a) to maintain records in respect of such matters as the Board may consider necessary and in such form as may be determined by the Board; and
- (b) to furnish to the Board returns in respect of such matters as it may consider necessary and at such intervals and in such form as may be determined by the Board.

(2) It shall be the duty of all developers and permit holders who are required under paragraph (a) of subsection (1) to maintain records, to preserve the records so maintained for a period not exceeding six years after the expiry of the period of validity of the permit issued to such developer or permit holder, as the case may be.

Power of
Authority to call
for information.

60. (1) Any officer of the Authority authorized in that behalf by the Board may by notice in writing, require any person within such period as shall be specified in the notice, to furnish information on the acquisition, storage, transport, transmission and use of energy in any form and cost incurred in doing so and to produce such document as shall be specified in the notice. It shall be the duty of the person who receives a notice under this subsection, to comply with such requirement within the time specified in such notice:

Provided however, nothing in this subsection shall be read and construed as enabling the Board or any person authorized in that behalf by the Board, to require any person to furnish such information or to produce such document, if the disclosure of such information or the production of such document is prohibited by any provision in any law.

(2) The information contained in a return furnished under section 59 and any information furnished or the contents of a document produced in compliance with the terms of a notice issued under this section, shall not be published or communicated by the Board to any other person, except with the consent of the person furnishing such return or information or producing such document, as the case may be, or in the course of the exercise, performance and discharge of its powers, duties and functions under this Act.

61. (1) It shall be lawful for any member of the Board or any officer or other employee of the Authority specifically authorized in writing in that behalf, at any reasonable time to enter any building, installations or premises for the purpose of carrying out any search, survey, examination or investigation for the purpose of exercising, performing or discharging any of its powers, duties or functions under this Act.

Entry and inspection of buildings and premises.

(2) For the purpose of carrying out any search, survey, examination or investigation under subsection (1), consent to enter the building, installation or premises shall be obtained from the owner or the occupier or the person in charge of the building, installation or the premises, as the case may be.

(3) Where the consent required to be obtained under subsection (2) is being unfairly refused, the Authority may obtain from the Magistrate having jurisdiction over the area in which such building, installation or the premises, as the case may be, is situated, a search warrant authorizing an officer named therein to enter such building, installation or the premises, as the case may be, to carry out the required search, survey, examination or investigation.

(4) Every person who obstructs any member of the Board or any officer or employee of the Authority in the discharge of his duty under this section, shall be guilty of an offence under this Act.

Offences.

62. Every person who —

- (a) acts in contravention or fails to comply with any provisions of this Act or any regulation or rule made thereunder;
- (b) fails or refuses to furnish any return when required to do so by the Board under section 59;
- (c) fails or refuses to furnish any information or produce any document when required by the Board under section 60; or
- (d) knowingly makes any false statement in any return furnished under section 59 or knowingly furnishes any false information under section 60,

shall be guilty of an offence under this Act and shall on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one hundred thousand rupees or to an imprisonment of either description for a term not exceeding two years or to both such fine and imprisonment, and in the case of a continuing offence, to a fine of one thousand rupees for each day on which the offence is continued to be committed after the conviction.

Offences
committed by a
body of persons.

63. Where an offence under this Act is committed by a body of persons, then :—

- (a) if that body of persons is a body corporate, every person who at the time of the commission of such offence was a Director, Chief Executive Officer, Secretary or other similar officer of that body; or

- (b) if that body is not a body corporate, every person who at the time of commission of the offence was the President, Manager, Secretary or other similar officer of that body,

shall be deemed to be guilty of that offence, unless he proves that such offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

64. (1) All expenses incurred by the Authority in any suit or prosecution brought by or against it before any court, shall be paid out of the Fund of the Authority and any costs paid to or recovered by the Authority in any such suit or prosecution, shall be credited to the Fund of the Authority.

Expenses to be paid out of the Fund of the Authority.

(2) Any expenses incurred by a member of the Board, a member of the Committee or an Advisory Committee or by the Director-General or any officer or other employee of the Authority, in any suit or prosecution brought by or against such person before any court in respect of any act which is done or purported to be done by such person under this Act or on the directions of the Minister or the Board, as the case may be, shall, if the court holds that such act was done in good faith, be paid out of the Fund of the Authority, unless such expenses are recovered by him in such suit or prosecution.

65. The Authority shall be deemed to be a Scheduled Institution within the meaning of the Bribery Act (Chapter 27) and the provisions of that Act shall be construed accordingly.

Authority deemed to be a Scheduled Institution.

66. The members of the Board, Committee and Advisory Committees and the Director-General and officers and other employees of the Authority, shall be deemed to be public servants within the meaning of and for the purposes of the Penal Code (Chapter 19).

Members, officers etc., deemed to be public servants.

- Regulations. **67.** (1) The Minister may make regulations in respect of any matters required by this Act to be prescribed or in respect of which regulations are authorized to be made.
- (2) Every regulations made by the Minister shall be published in the *Gazette* and shall come into operation on the date of such publication or on such later date as may be specified in the regulation.
- (3) Every regulation shall as soon as convenient after its publication in the *Gazette* be brought before Parliament for approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of its disapproval, but without prejudice to anything previously done thereunder.
- (4) The notification of the date on which any regulation shall be deemed to be rescinded, shall be published in the *Gazette*.
- Rules. **68.** (1) The Board may make rules in respect of all or any matters for which rules are authorized or required to be made under this Act.
- (2) A rule made by the Board under this section shall not have any effect, until it has been approved by the Minister and thereafter published in the *Gazette*.
- Repeal and saving. **69.** (1) The Energy Conservation Fund Act, No.2 of 1985 is hereby repealed.
- (2) Notwithstanding the repeal of the aforesaid Act :—
- (a) all contracts, agreements and other instruments entered into or executed by the Energy Conservation Fund and subsisting on the day immediately prior to the appointed date, shall be deemed to be contracts, agreements or instruments entered into or executed by the Authority;

- (b) all suits and prosecutions instituted by or against the Energy Conservation Fund and pending before any court or tribunal on the day immediately prior to the appointed date, shall be deemed to be suits and prosecutions instituted by or against the Authority;
- (c) all debts, liabilities and obligations of the Energy Conservation Fund shall be deemed to be debts, liabilities and obligations of the Authority;
- (d) every decree, order or judgment entered in favour of or against the Energy Conservation Fund by any competent court in any action or proceeding, shall with effect from the appointed date, be deemed to be a decree, order or judgment entered in favour of or against the Authority and may be enforced accordingly; and
- (e) every officer and servant of the Energy Conservation Fund holding office on the day immediately preceding the appointed date, and:—
 - (i) who is offered employment with the Authority and accepts such offer, shall be employed therein on such terms and conditions as are not less favourable than the terms and conditions of employment that were applicable to him on the day immediately preceding the appointed date; or
 - (ii) who are not offered employment with the Authority or who are offered such employment and who do not accept such offer, shall be entitled to the payment of such compensation as may be determined by the Minister, in consultation with the Board.

Interpretation.

70. In this Act, unless the context otherwise requires :—

“biomass energy” means the energy that can be derived out of converting the form of material that is generated out of a biological process, by processes such as combustion, fermentation and digestion;

“Committee” means the Project Approving Committee established by section 10 of this Act;

“developer” means a person to whom a permit is issued under paragraph (a) of subsection (2) of section 18 of this Act, to carry on an on-grid renewable energy project;

“energy conservation” means the foregoing of certain non-essential services delivered to a user, by either complete stoppage of the service or the curtailed delivery of the service;

“energy efficiency improvement” means the adoption of efforts to decrease the actual energy consumption required to deliver a particular service, without affecting the quality of the service so rendered;

“green funds” means the funding available for initiatives taken to preserve the environment and the ecology of the planet, which may or may not be available at concessionary terms;

“hydro energy” means the energy that can be derived from a moving body of water, through processes such as reaction and impulse;

“off-grid renewable energy project” means an installation which converts one form of renewable energy to another form of energy for

consumption within a local area and which may or may not be carried on within any Development Area;

“off-grid energy consumer society” means any organization representing the energy user community duly registered with the relevant Provincial Council, for the development and utilization of renewable energy resources within a particular geographical area, with the object of generating and distributing electricity to its members, through a distribution network not connected to the national grid;

“on-grid renewable energy project” means an installation which converts any form of renewable energy to electricity and feeds electricity thus generated to the national electricity grid operated by Ceylon Electricity Board and which is carried on within any Development Area;

“permit holder” means a person to whom a permit is issued under paragraph (a) of section 25 of this Act to engage in an off-grid renewable energy project;

“Public Utilities Commission of Sri Lanka” means the Public Utilities Commission of Sri Lanka established by the Public Utilities Commission of Sri Lanka Act, No. 35 of 2002;

“renewable energy resource” means the sources of kinetic or thermal energy stemming from either solar or geothermal activity, which can be harnessed within the territory of the Republic of Sri Lanka, without affecting the ability of the future generations to harness it for their use, and includes biomass energy, hydro energy, solar energy and wind energy;

“rural energy services” means the basic energy requirements of a rural community or a rural enterprise, which cannot be met by modern commercial energy supply channels, such as the national electricity grid or petroleum products distribution channels;

“solar energy” means the energy that can be derived from solar radiation, by intercepting, concentrating and focusing or by any other means;

“sustainable energy” means any energy resource which can be harnessed for useful work, without affecting the ability of the resource to provide the same level of utility in the future; and

“wind energy” means the energy that can be derived from a moving mass of air through processes such as reaction and impulse.

Existing projects.

71. (1) All persons engaged in carrying on any renewable energy project which is an on-grid renewable energy project or an off-grid renewable energy project within the meaning of this Act as on the appointed date, shall be entitled to be issued with a permit to enable such persons to continue to carry on such project, within one year of such appointed date, on application made in that behalf to the Board

(2) Every permit issued under subsection (1) shall be subject to the provisions of this Act, and shall be valid—

(a) in the case of an on- grid renewable energy project, for the balance period remaining after deducting from the period of twenty years referred to in section 18, the period during which the project was in operation from the date of its commissioning; and

(b) in the case of an off-grid renewable energy project, for such period as may be prescribed.

72. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

Sinhala text to prevail in the event of any inconsistency.

SCHEDULE [Section 3(2)]

Disqualification for appointment.

1. A person shall be disqualified from being appointed or continuing as an appointed member of the Board —

- (a) if he is or becomes a Member of Parliament, a Provincial Council or any local authority;
- (b) if he is not or ceases to be a citizen of Sri Lanka;
- (c) if he is under any law in force in Sri Lanka or in any other country, found or declared to be of unsound mind;
- (d) if he is serving or has served a sentence of imprisonment imposed by any court in Sri Lanka or any other country; or
- (e) if he had been removed from membership of the Board for misconduct.

Term of office of members.

2. Every appointed member shall, unless he vacates office earlier by death, resignation or removal, hold office for a term of three years from the date of his appointment and unless he has been removed from office, be eligible for re-appointment.

Termination of office of members.

3. (1) The Minister may by Order published in the *Gazette*, remove from office the Chairman or any other appointed member of the Authority for physical or mental incapacity or for any act or thing which in the opinion of the Minister, is likely to bring disrepute to the Authority.

(2) In the event of the vacation of office by the Chairman or any other appointed member, the Minister may appoint another person to succeed such member.

Proceedings, act or decision not to deemed invalid by reason of any defect in the appointment.

8. No act, decision or proceeding of the Board shall be invalid by reason only of the existence of a vacancy among its members or any defect in the appointment of a member.

Seal of the Authority.

9. The seal of the Authority :—

- (a) shall be in the custody of such persons as the Board may from time to time determine;
- (b) may be altered in such manner as may be determined by the Board; and
- (c) shall not be affixed to any instrument or document except with the sanction of the Board, and in the presence of two members of the Board who shall sign the instrument or document in token of their presence.

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