



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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No. 2371

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Government Notices

MINISTRY OF MINES AND ENERGY

No. 167 2000

COMMENCEMENT OF ELECTRICITY ACT, 2000

Under section 43 of the Electricity Act, 2000 (Act No. 2 of 2000), I hereby determine that the said Act shall come into operation on the date of publication of this notice.

J. NYAMU
MINISTER OF MINES AND ENERGY

Windhoek, 5 July 2000

MINISTRY OF MINES AND ENERGY

No. 168 2000

ELECTRICITY REGULATIONS: ADMINISTRATIVE ELECTRICITY ACT, 2000

The Minister of Mines and Energy has under section 39 of the Electricity Act, 2000 (Act No. 2 of 2000) made the regulations set out in the Schedule which shall come into effect on the date of publication of this notice.

J. NYAMU
MINISTER OF MINES AND ENERGY

Windhoek, 5 July 2000

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Definitions

1. In these Regulations, unless the context otherwise indicates, a word or expression defined in the Act has the same meaning, and -

“plant” means, when used in the context of works to be established, maintained or dismantled by a licensee, any structure or building or part thereof attached or to be attached to the soil and includes all fittings, implements, equipment, appliances and anything else which is used for any purpose in connection therewith and which the work or services to be rendered from it is or are required to be licensed in terms of the provisions of this Act;

“the Act” means the Electricity Act, 2000 (Act No. 2 of 2000);

“these Regulations” mean these Regulations as amended from time to time.

Functions of Board

2. (1) Subject to the provisions of the Act, the Board must in performing its functions -

- (a) promote an efficient, reliable and economic system of electricity generation, transmission, supply and distribution within and importation into and export from Namibia;
- (b) regulate licensees in a manner that maintains and improves efficiency, economy and reliability on the part of licensees so as to enable all reasonable demands for electricity to be met, in accordance with prevailing Government policy;
- (c) have regard to the need of licensees to be able to finance the carrying out of their licensed activities;
- (d) encourage efficiency, economy and safety in the use of electricity;
- (e) regulate the quality of service and the tariffs, fees and charges payable for electricity keeping in view both the interests of consumers and of licensees;
- (f) act in a manner that is transparent and fair;
- (g) have regard to promotion of health, safety and the environment;
- (h) oversee the effectiveness of the mechanisms, processes and forces prevalent in the electricity sector to ensure that there is a reasonable balance between

the demand for electricity and the supply thereof; and

- (i) act in a manner consistent with the objects of the Act and any regulations made thereunder.

(2) The Board must during each financial year, but not later than 28 February, submit to the Minister a business plan and statement of the Board's estimated income and expenditure during the next ensuing financial year, for approval.

Applications

3. (1) An application for the issue, renewal, amendment or transfer of a licence shall be made in the form determined by the Board and shall be accompanied by the appropriate application fee imposed by Annexure A, which fee is non-refundable.

(2) At the least the following information, in so far as it is applicable to an application, shall be included in an application under subregulation (1):

- (a) The name, nationality and identity number, or, in the case of a body corporate, the country of registration and its registration number, or, in the case of an authority created by law, only the name of such authority, and postal and business address of the applicant, and in the case of an application for a transfer of a licence, this information must be provided with regard to both the licensee and the proposed transferee;
- (b) the type of application, namely an application for the issue, renewal, amendment or transfer of a licence;
- (c) the type of activity to which the application applies, namely generation, transmission, supply, distribution, importation or export of electricity;
- (d) in the case of an application for the issue or amendment of a licence -
 - (i) a map showing the proposed location where the applicant intends to erect or alter plant;
 - (ii) a description of the technical design, including a one-line diagram of the proposed plant, and its surrounding electrical system, which the applicant intends to erect or alter;
 - (iii) a description, including a site layout, of the area within which the applicant intends to carry out the activities to be authorised under the licence;
 - (iv) a calculation of the net present value of the proposed plant and any alternative plants which calculation must be in accordance with the guidelines determined by the Board; and
 - (v) such other information as the Board may deem necessary regarding the plant and design;
- (e) in the case of an application for the issue of a licence, a complete list of the standard tariffs which the applicant intends charging to be specified in the schedule of approved tariffs to be contained in the relevant licence;
- (f) in the case of the issue, renewal, amendment or transfer of a licence, an outline of the intended operational and business plan, unless such plan has already been submitted during a previous application and has not changed in which case such previous plan must be attached;

- (g) in the case of an application for the issue or renewal of a licence, the desired licence period and an estimate of the expected income and expenditure of the relevant undertaking to be carried on by the applicant under the licence during such licence period or such shorter period as the Minister may determine;
 - (h) in the case of an application for the issue, amendment or transfer of a licence, the proposed advertisement referred to in regulation 4; and
 - (i) such other particulars the Board may require in general or in the case of a particular type of or particular licence, or in terms of the Act or any regulations made thereunder, in order to enable the Board to make a recommendation on such application or on conditions to be imposed on a licence in terms of the Act.
- (3) When considering an application, the Board may request an applicant to -
- (a) submit to the Board such further information as the Board may require in order to enable it to make a recommendation on such application;
 - (b) present alternative proposals in conformance with requirements presented by the Board to a proposal submitted by the applicant in the applicant's application.

Advertising

4. (1) An applicant applying for the issue, amendment or transfer of a licence must advertise the application in the form approved by the Board.

(2) An advertisement referred to in subregulation (1) must be published in at least one national newspaper circulating in Namibia or one local newspaper circulating in the relevant local area.

(3) The advertisement must -

- (a) specify the information required in terms of regulation 3(2)(a), (b), (c) and (d)(i); and
- (b) list the information required in terms of regulation 3(2)(d)(ii), (iii), (iv) and (v), (e), (f), (g) and (i) and indicate clearly the physical address where such complete information can be inspected during normal business hours by any interested person.

(4) The applicant must submit a copy of the newspaper in which the application was advertised to the Board as proof that such application has been advertised in accordance with this regulation within 14 days of such publication.

Objections

5. (1) Any person desiring to object against an application advertised in terms of regulation 4 may, within a period of 30 days after the date of publication of an advertisement, lodge a written objection against such application with the Board.

(2) An objection must be submitted in the form determined by the Board and the objector must include at least the following information in the objection -

- (a) the name, nationality and identity number, or, in the case of a body corporate, the country of registration and its registration number, or, in the case of an authority created by law, only the name of such authority, and postal and physical address of the objector;

- (b) a copy of the newspaper in which the advertisement was placed;
- (c) the nature of the interest entertained by the objector in the application;
- (d) detailed reasons for the objector's objection.

(3) The Board must provide the applicant to whom the objection relates with a complete copy of the objection within seven days of such objection being lodged with the Board.

(4) If no public hearing is to be held with regard to an application, the Board must afford the relevant applicant at least 14 days after the closing date for objections to respond to the Board in writing to an objection lodged in terms of this regulation.

Fee for issue, renewal, amendment and transfer of licence

6. If an application for the issue, renewal, amendment or transfer of a licence, has in terms of the Act been granted by the Minister, the applicant must, prior to the issue, renewal, amendment or transfer of such licence, pay the appropriate fee imposed by Annexure A.

Register of licences

7. (1) The Board must keep and maintain a register, in which must be recorded in respect of every licence issued under the Act -

- (a) the name of every licensee;
- (b) the type of licence issued;
- (c) the area in respect of which the licence has been issued;
- (d) the conditions imposed on the licence;
- (e) the liabilities and obligations of every licensee in relation to the payment of any fees in terms of this Act;
- (f) such other particulars as may from time to time be determined by the Board or the Minister.

(2) The register must, during normal office hours, be open for inspection by any interested person at the place of business of the Board, and any such person may request copies or extracts of any entry in the register and must be provided with such copies or extracts on payment at cost to the Board.

(3) No person may -

- (a) make or cause to be made any entry in the register which is false;
- (b) prepare and submit a false copy of any entry in the register, or cause a false copy of such entry to be prepared and submitted.

Appeals

8. (1) An appeal contemplated in section 34 of the Act must be lodged in writing to the Board, in the form determined by the Board, and must set out concisely and clearly all the grounds for the appeal.

(2) If the Board is satisfied that the appeal has so been lodged within the period of 30 days mentioned in section 34(2) of the Act, the Board must forthwith forward the documentation for consideration to the Minister and request the Minister to set a date for

the hearing of the appeal should the Minister decide on such a hearing to be conducted, and shall in writing inform the appellant and all other persons or bodies (if any) involved in the subject-matter of the appeal of the date so set for the hearing (if any), and provide them with a copy of the notice of appeal.

(3) After consideration of the documentation referred to in subregulation (2), the Minister may allow the appeal in its entirety or in part or dismiss the appeal and confirm the decision of the Board or, before arriving at a decision on the appeal, remit any issue in connection with the matter to the Board and direct it to report thereon.

(4) Both the appellant and the Board -

(a) are entitled to legal representation or, if they so decide, may appear in person, and in such case the Board may authorise any person to appear on behalf of the Board;

(b) may question any person giving evidence during the appeal hearing.

(5) The Minister may direct any person to appear before the Minister at the hearing of an appeal and may direct such person to give evidence which, in the opinion of the Minister, relates to the matter being considered.

(6) The Minister may direct any person appearing before the Minister at the hearing of an appeal to give evidence on oath or affirmation and may administer an oath to, or accept an affirmation from, such person.

(7) The Minister determines the procedures to be followed during the appeal.

(8) Upon the determination of the appeal the Minister must in writing inform the parties to the appeal of his or her decision and the reasons therefor.

(9) On the lodging of an appeal as envisaged in subregulation (1), the operation or execution of the relevant decision of the Board is suspended pending the outcome of the appeal.

(10) An appeal under this regulation is not open to the public, but the Minister may in his or her discretion allow members of the public to attend.

(11) Nothing contained in this regulation shall be construed -

(a) as preventing the reaching of a settlement between a person who has noted an appeal and the Board, provided that the terms of the settlement must be disclosed to and approved by the Minister; or

(b) as affecting the right of an appellant or the Board to take a final decision by the Minister on an appeal, on review to a court of law having jurisdiction.

(12) The Board, any appellant or other person contemplated in subregulations (5) and (6), may not refuse or fail to comply with a direction under those subregulations or give an answer to a question put under subregulation (6) which to the Board's or such appellant's or person's knowledge is incorrect.

Offences

9. (1) Any person who -

(a) contravenes a provision of regulation 7(3) or 8(12);

(b) furnishes false or misleading information, or make any false or misleading statement knowing such information or statement to be false or misleading, in connection with any application, statement, record or other document submitted to any authority in terms of these Regulations,

is guilty of an offence and on conviction liable to a fine not exceeding N\$8 000,00 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

(2) In any legal proceedings in terms of these Regulations, any statement or entry contained in any book, register or document kept by any licensee or found on or in any premises or installation occupied or used by that licensee, and any copy or reproduction of any such statement or entry, shall be admissible in evidence as an admission of the facts set forth in that statement or entry, unless it is proved that the statement or entry was not made by the licensee.

ANNEXURE A

FEES

Regulation	Nature of Fee	Fee
3.	Application fee for: (a) Issue of licence (b) Renewal of licence (c) Amendment of licence (d) Transfer of licence	 N\$500,00 N\$500,00 N\$250,00 N\$500,00
6.	Fee for: (a) Issue of licence (b) Renewal of licence (c) Amendment of licence (d) Transfer of licence	 N\$1000,00 N\$1000,00 N\$ 500,00 N\$1000,00