

GAZETTE No.

No.R.

ELECTRICITY ACT, 2007 (ACT No. 3 of 2007)
ELECTRICITY LICENCING BYLAWS

The Minister for Natural Resources and Energy, acting in terms of section 21(3) of the Electricity Act, 2007 (Act No. 3 of 2007), hereby –

- (a) make the bylaws set out in the Schedule;
- (b) determine that the said bylaw shall come into effect on the date of publication hereof.

1. Definitions

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

“Authority” means the Energy Regulatory Authority established under the Energy Regulatory Authority Act, 2007;

“bylaw” means these bylaws, as amended from time to time;

“dispute” means a dispute between licensees, or between a licensee and a consumer;

“exemption” means an exemption to apply for or hold a licence;

“Licence Fee Regulations” means the regulations made by the Minister on the fees payable by an applicant for or the holder of a licence issued or deemed to have been issued under the Act

“licence” means a generation, transmission, system operation, distribution, supply, import or export licence or a combination of any of these activities, and includes a condition to which a licence is made subject;

“mediation” means mediation proceedings contemplated in section 40(2) of the Act;

“nationality” means the nationality of an applicant or person objecting to the issue of a licence;

“SZNS 026 and SZNS 027” means the Swaziland National Standards, standards published by the Swaziland Standards Authority relating to the service standards and quality of electricity supply to be maintained by licensees;

“off grid and mini-grid supply scheme” means an off-grid or mini grid supply scheme contemplated in section 67(1)(j) of the Act;

“own use” means a person who generates, transmits or distributes electricity for his or her exclusive own use at one site or a site contiguous thereto;

“party” means a party to a dispute;

“Quality of Supply and Service Standards” means the quality of supply and service standards set out in bylaw 24;

“regulated tariff” means a regulated tariff as contemplated in section 32(1) of the Act, and includes any rate, charge or fee subject to tariff regulation;

“re-seller” means a person who obtains a supply of electricity from a licensed supplier and on-sells less than 1GWh of that electricity per annum to an end consumer of that electricity;

“tariff methodology” means a tariff methodology approved by the Authority in terms of section 32(4) to (10) of the Act;

“the Act” means the Electricity Act, 2007 (Act No. 3 of 2007); and

“Tribunal” means the electricity disputes tribunal as defined in the Act.

PART ONE: LICENCE APPLICATION PROCEDURE

2. . Application for licence

(1.) An application for the issue, renewal, amendment, transfer or revocation of a licence shall be made in the form determined by the Authority and shall be accompanied by the appropriate licence application fee imposed under the Licence Fee Regulations, which fee is non-refundable.

(2.) At the least the following information, in so far as it is applicable to a particular application, shall be included in an application contemplated in subsection (1) –

- (a) a full description of the applicant,
- (b) all vertical and horizontal relationships with other persons engaged in generation, transmission, distribution or supply activities, or the import or export of electricity;
- (c) the physical and postal address of the applicant, provided that 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;
- (d) the type of application, namely an application for the issue, renewal, amendment, transfer or revocation of a licence or part thereof;
- (e) a description of the proposed the type of activity to which the application applies, namely generation, transmission, system operator, distribution, supply, importation or export of electricity including maps and diagrams where appropriate;
- (f) a general description of the type of customer(s) to be served;
- (g) in the event that the applicant will be performing activities subject to tariff regulation, a detailed list of the tariffs to be applied for consideration by the Authority;
- (h) the plans and the ability of the applicant to comply with applicable labour, health, safety and environmental legislation, grid codes or standards applicable ;
- (i) a detailed specification of the services that will be rendered under the licence;

- (j) an outline of the intended operational and business plan of the applicant, including an estimate of the expected income and expenditure of the relevant undertaking to be carried on by the applicant under the licence during the licence period, or such shorter period as the Authority may determine;
- (k) in the event of an application for the amendment of a licence condition, a motivation why the licence condition should be amended, deleted or substituted;
- (l) a copy of the advertisement referred to in section 3; and
- (m) such other particulars the Authority may require in general or in the case of a particular type of or particular licence, or as may be required in terms of the Act or any regulations or bylaws made there under.

(3.) The applicant may, as part of its application, request the Authority that the consideration of the application and any information identified by it and contained in its application must be dealt with by the Regulator on a confidential basis:

Provided that the Authority shall not be obliged to deal with such information on a confidential basis unless the applicant demonstrates to the satisfaction of the Authority that the rights of the applicant or any third party impacted by the application will be materially affected if the application or the identified information becomes public or is dealt with in a public manner.

(4.) Prior to considering an application formally, the Authority may discuss the submission of a license application with an applicant and request an applicant to -

- (a) submit a draft application for preliminary scrutiny;

- (b) submit to the Authority such additional or complimentary information as the Authority may require in order to properly consider such application and rule thereon;
 - (c) re-consider its proposal and present alternative proposals in conformance with such terms as the Authority may direct.
- (5.) If the Authority finds the content of the draft application sufficient to commence the licensing procedure, the applicant must send a final application to the Authority together with an advertisement as contemplated in section 3(4).
- (6.) Nothing in subsection (3) and (4) shall be taken as bestowing any rights on an applicant or binding the Authority in any manner to approve an application.
- (7.) In order to comply with its obligations to generate, transmit or distribute, the applicant shall be required to conclude a power purchase agreement with the systems operator for approval by the Authority.
- (8.) The Authority shall have the oversight role in the negotiations of the power purchase agreement to ensure that the parties are placed at balanced positions and their logistical issues are honoured by either party during such negotiations.

3. Advertising

- (1.) An applicant applying for the issue, amendment, transfer or revocation of a licence shall submit proof of an advertisement dealing with such proposed issue, amendment, transfer or revocation of a licence that has been published for at least two weeks before the submission of such application to the Authority.
- (2.) An advertisement referred to in subsection (1) must be published –

- (a) in at least one national newspaper circulating in the area where the licensed activities will be performed; and
- (b) at least twice a week for two consecutive weeks.

(3.) The advertisement must–

- (a) provide a brief summary of the activity to be performed, by whom it will be performed and over what period of time, or in the case of a cessation of activities, when the licensee will cease activities;
- (b) specify that any interested person may provide comment on or object to issue of the licence to the Authority in writing within 30 days of such publication;
- (c) specify or reference the information required in terms of section 2 and indicate clearly the physical address and/or website where such complete information can be obtained and/or inspected during normal business hours by any interested person.

(4.) The applicant must together with its application form submit a copy of the newspaper in which the application was advertised to the Authority as proof that such application has been advertised.

(5.) The Authority may –

- a. upon a written and fully motivated request by an applicant; or
- b. where an amendment in the opinion of the Authority is of an administrative nature or does not materially affect the rights of third parties; or
- c. if circumstances in the opinion of the Authority otherwise justify it,

exempt an applicant from the requirement to advertise an application or from one or more of the provisions of Section 2.

4. Objections

- (1.) Any person desiring to object against an application advertised in terms of section 3 may, within 15 days from the date of the last publication of an advertisement, comment on or lodge a written objection against such application with the Authority.
- (2.) An objection must be submitted in the form determined by the Authority and must include at least the following information –
 - (a) the name, nationality and identity number of the person objecting, 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, the name of such authority, as well as the postal and physical address of the person objecting;
 - (b) a copy of the newspaper editions in which the advertisement was placed;
 - (c) the nature of the interest entertained by the person objecting; and
 - (d) detailed substantiated reasons for the objections.
- (3.) The Authority must provide the applicant to whom the objection relates with a complete copy of the objection within 7 days of such objection being lodged with the Authority.
- (4.) The Authority must afford the applicant at least 14 days after receipt of any objections to respond thereto to the Authority in writing.

(5.) Objections submitted after the closing date will not be allowed: Provided that , the Authority may upon good cause shown extend the period within which objections may be lodged and extend the closing date accordingly.

5. Consideration of licence applications

(1) The Authority must consider an application for the issue, renewal, amendment, transfer or revocation of a licence within 120 days from the publication of an advertisement contemplated in section 3.

(2) The Authority may hold a public hearing or hearings at such venues and times as it considers appropriate to canvass the opinion of interested parties on the application for the issuing, renewal, transfer or revocation of a licence: Provided that the Authority is not obliged to hold a public hearing –

(a) where it is of the opinion that any objections received are of a purely administrative nature or would not materially impact on the interests of any affected party; or

(b) if it is otherwise satisfied that it will be able to properly decide on an application without holding a public hearing.

(3) The Authority must, in deciding on an application and setting the conditions to which a licence is subject –

(a) act in a manner that is transparent and fair, with due regard to the rights of the applicant to be heard;

(b) promote an efficient, reliable and economic system of electricity generation, transmission, supply and distribution within and importation into and export of electricity from Swaziland;

- (c) issue licences and conditions to which licences are subject 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;
- (d) have regard to the need of licensees to be able to finance the carrying out of their licensed activities;
- (e) encourage efficiency, economy and safety in the use of electricity;
- (f) regulate the quality of supply and service tariffs, fees and charges payable for electricity keeping in view both the interests of consumers and of licensees;
- (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 provisions of the Act.

(4) The Authority is not obliged to approve an application or may approve an application with such changes, as it deems necessary in the circumstances and in so doing must take into account the merits of any objections made to the grant of a licence in pursuance of an application

(5) The Authority must keep written record of its proceedings and must, in the event that an application is not approved or approved with changes, at the request of the applicant provide written reasons there for.

6. Issuing of licence

- (1) The Authority may issue, amend, transfer or revoke a licence subject to the conditions and provisions set out in sections 15 to 20 of the Act.
- (2) Any conditions to which a licence is made subject shall be set out in the licence concerned and have to be complied with by a licensee.
- (3) The Authority may, at any stage, amend the conditions of a licence whenever necessary to cater for developments that may occur in the course of the implementation of the project.
- (4) The Authority is not obliged to issue a licence and may, if it deems it desirable for the electricity market model adopted at that point in time in Swaziland, issue only one licence per applicant for one or more of the activities that need to be licensed in terms of the Act.
- (5) The Authority may issue separate or combined licences for any licensed activity or combination of activities.
- (6) The Authority 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 licensee in terms of the licence, including the list of tariffs, rates or charges charged by the licensee at that point in time;
 - (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 be determined by the Authority.

(7) The register must, during normal office hours, be open for inspection by any interested person at the place of business of the Authority.

7. Amendment or revocation of licence or licence conditions

(1) The Authority may amend or revoke a licence or licence conditions –

- a. on application by a licensee;
- b. upon material non-compliance by a licensee with the Act, the regulations, the bylaws or its licence or a condition of its licence;
- c. if it is deemed necessary to further the purposes of the Act.

(3) The provisions of section 20 of Part 4 shall apply and be followed with regard to the amendment or revocation of a licence or licence condition upon non-compliance by a licensee.

PART TWO: EXEMPTION TO HOLD A LICENCE

8. Exemption from obligation to hold a licence

- (1) Any generator who generates electricity with a plant of less than 100 kilowatt exclusively for own use does not need to apply for or hold a licence, provided that such person complies to the requirements set out in section 11.
- (2) Any owner or operator of an off grid and mini-grid supply scheme exempted by the Minister by regulation does not need to apply for or hold a licence.
- (3) Any generator who generates electricity with a plant of more than 100 kilowatt exclusively for own use shall apply for exemption to hold a licence in accordance with sections 9 and 10.
- (4) Any re-seller of electricity shall apply for exemption to hold a licence in accordance with sections 9 and 10.
- (5) Any person other than a person contemplated or exempted in terms of subsection (1) to (4) who carries on the activities of generation, transmission, transmission system operation, distribution, supply or the import or export of electricity must apply for and hold a licence

9. Application for exemption to hold licence

- (1) An application for exemption by a person referred to in section 8(5) must contain –
 - (a) the full names and physical and postal address of the person applying for exemption;

- (b) the fuel source of the generator;
- (c) the output of the generator;
- (d) the period for which electricity will be generated;
- (e) an acknowledgment and undertaking that electricity generated may only be supplied for own use; and
- (f) an undertaking that all applicable health, safety and environmental standards regarding the construction, operation and maintenance of the generator and any associated transmission or distribution infrastructure will be complied with.

(2) An application for exemption by a person referred to in section 8(6) must contain -

- (a) the full names and physical and postal address of the person applying for exemption;
- (b) the source of the electricity re-sold;
- (c) the names of the customers to whom electricity are re-sold or proposed to be sold;
- (d) a letter of permission or other proof acceptable to the Authority by customers or prospective customers authorising the applicant to supply them with electricity;
- (e) the total amount of electricity that are on-sold or proposed to be on-sold;
- (f) an acknowledgment and undertaking by the applicant that electricity re-sold may not be sold at higher prices than the prices at which a licensee

would have sold such electricity if the customers were directly supplied with electricity by such licensee;

- (g) an undertaking that all applicable health, safety and environmental standards regarding the supply of electricity will be complied with.

10. Approval of exemption

- (1) On receipt of a complete and satisfactory application contemplated in section 9, the Authority shall provide an applicant with an exemption on such conditions and for such period, not exceeding 24 months, as it may determine.
- (2) Exemption conditions for an applicant contemplated in section 8(5) may relate to –
 - (a) ensuring that the generating plant is not used for the commercial production and sale of electricity, including co-generation;
 - (b) the keeping of statistical data on fuel sources, fuel usage and electricity produced by the plant;
 - (c) the connection of the generating plant to any transmission or distribution infrastructure ;
 - (d) the availability of and purchase of electricity by the owner of the generating plant in the event that the plant is not available for own generation purposes;
 - (e) compliance with applicable health, safety, quality of supply and service standards;
 - (f) any other condition relevant to the construction, operation and use of the generating plant.

(3) Exemption conditions for an applicant contemplated in section 8(6) may relate to –

- (a) obliging the re-seller to sell electricity to an end consumer at a price that is not higher than the price of electricity if the end consumer was directly supplied by the person from whom the on-seller acquired the electricity for sale to the end consumer;
- (b) compliance with applicable health, safety, quality of supply and service standards;
- (c) the keeping of records of customers to whom electricity is supplied, the quantity of electricity supplied to such customers on a monthly basis, and the price at which electricity is thus supplied;
- (d) any other condition relevant to the supply of electricity to end consumers by such re-seller.

(4) The Authority shall not be obliged to issue an exemption if –

- (a) the application is not complete;
- (b) the applicant provided false or misleading information; or
- (c) it has reason to believe that the applicant will not abide to the conditions under which it was issued.

(5) An exemption granted in terms of this section may at any time be revoked by the Authority on transgression by the holder thereof to any conditions to which the exemption is subject.

11. General obligations for exempted persons

The holder of an exemption shall –

- (1.) from time to time provide such information to the Authority as it may reasonably require; and
- (2.) at the request of any licensee, partake in such actions as may be necessary to facilitate co-ordination between the activities of the holder of that exemption and a licensee.

12. Renewal of exemption

- (1) The holder of an exemption may, prior to such exemption lapsing, apply for the renewal thereof.
- (2) An application for renewal of an exemption shall be done in the same manner as a new application for exemption.

13. Application fee

An application for exemption shall be accompanied by the licence application fee imposed under the Fee Regulations, which fee is non-refundable.

PART THREE: INFORMATION

14. Rendering of Information

- (1) A licensee must submit to the Authority all information that may be required in terms of its licence.
- (2) In addition to any other information that may be required in a licence, a licensee must provide –

- (a) detailed audited annual financial statements consisting of a balance sheet, income statement and cash flow statement for each licensed activity;
 - (b) the business plan and projections of the licensee for the forthcoming financial year;
 - (c) an updated plan of generating plant, transmission networks, distribution networks and associated infrastructure, and proposed amendments or additions thereto; and
 - (d) details of electricity suppliers or consumers, including total capacity and energy purchased or sold by supplier or consumer class.
- (3) The information required in terms of subsection (2) must be submitted annually within six months of a licensee's financial year end, except for information contemplated in subsection (2)(b), which must be supplied within one month of the approval of the business plan by the board of directors of that licensee.

PART FOUR: DISPUTES, INVESTIGATIONS AND NON-COMPLIANCE

15. Mediation

A request to the Authority to act as mediator in terms of section 40(2) of the Act must be made in writing and must set out the nature of the dispute between the parties.

- (1) A person appointed in terms of section 40(3) of the Act must –
- (a) be a person suitable to deal with the matter at hand with no conflict of interest in the matter; and
 - (b) be so appointed within ten working days of receipt of the application for mediation.

(2) At the commencement of mediation, the appointed mediator must-

- (a) inform the parties that he or she does not have any conflict of interest;
- (b) inform the parties about the procedure and manner in which the mediation will be conducted;
- (c) inform the parties how the fees contemplated in section 40(4) must be paid and to whom payments should be made; and
- (d) secure agreement from the parties to the dispute with regard to paragraphs (a) to (c) before proceeding with the mediation.

16. Arbitration

A request to the Authority to act as arbitrator in terms of section 40(1) of the Act must be made in writing and must set out the nature of the dispute between the parties.

(1) A person appointed in terms of section 40(3) of the Act must –

- (a) be a suitable person with no conflict of interest in the matter; and
- (b) be so appointed within ten working days of receipt of the application for arbitration.

(2) At the commencement of arbitration, the appointed arbitrator must –

- (a) inform the parties that he or she does not have any conflict of interest;
- (b) inform the parties about the procedure and manner in which the arbitration will be conducted;
- (c) inform the parties how the fees contemplated in section 40(4) must be paid and to whom payments should be made; and
- (d) inform the parties that any award made will be final and binding.

- (3) The claimant party initiating a dispute must submit to the arbitrator and to the respondent party against whom the claim is being made a written statement containing the following information -
- (a) the name and address of the person who will represent the claimant at the proceedings;
 - (b) a detailed description of the dispute; and
 - (c) the relief or remedy sought and the amount claimed, if applicable.
- (4) The respondent shall, after receipt of the statement referred to in subsection (4), submit a written statement of defence to the arbitrator and the claimant before or on the date determined by the arbitrator.
- (5) During arbitration proceedings, any party may amend or supplement its claim, counterclaim or defence, unless the arbitrator considers it inappropriate to allow such amendment or supplement -
- (a) because of the party's delay in making it;
 - (b) if it would be prejudicial to the other party; or
 - (c) because of any other circumstances deemed relevant by the arbitrator.
- (6) A party may not amend or supplement a claim or counterclaim if the amendment or supplement would fall outside the scope of the agreement to arbitrate.
- (7) Any party to arbitration may be represented in arbitration.
- (8) The names, addresses and telephone numbers of party representatives shall be communicated in writing to the other parties and to the arbitrator.
- (9) The parties or their representatives may communicate in writing directly with the arbitrator: Provided that copies of such documents are also provided to all the other parties to the dispute.

- (10) The arbitrator must conduct the arbitration in a manner that ensures that the parties are treated with equality and that each party has the right to be heard and is given a fair opportunity to present its case.
- (11) A arbitrator may proceed *ex parte* in case any party after reasonable notice neglects or refuses to attend on the reference without having previously shown good and sufficient cause for such non-attendance.
- (12) Documents or information supplied to the arbitrator by one party shall at the same time be supplied by that party to all other parties.
- (13) Each party shall have the burden of proving the facts relied on to support its claim or defence.
- (14) At any time during the proceedings, the arbitrator may summon any person to testify before it or order parties to produce documents, exhibits or other evidence that it deems necessary or appropriate.
- (15) The oral evidence of any witness shall be recorded by the arbitrator before whom it is given, and if not recorded by him personally it shall be recorded in such manner as he may from time to time direct.
- (16) The arbitrator may appoint one or more independent experts to report to it, in writing, on specific issues designated by the arbitrator and communicated to the parties.
- (17) The parties shall provide an appointed expert with any relevant information or produce for inspection any relevant documents or goods that such expert may require.
- (18) Any dispute between a party and the appointed expert as to the relevance of the requested information or goods shall be referred to the arbitrator for decision.

- (19) Upon receipt of an appointed expert's written report, the arbitrator shall send a copy of the report to all parties to the dispute and shall give the parties to the dispute an opportunity to express, in writing, their opinion on the report.
- (20) A party may examine any document on which the appointed expert has relied in such a report.
- (21) At the request of a party, the arbitrator shall give the parties an opportunity to question the appointed expert at a hearing and to present expert witnesses to testify on the points at issue.
- (22) Awards by an arbitrator shall be made in writing and shall be final and binding on the parties and may be made an order of the Tribunal or other competent court, and the parties must carry out any such award without delay.
- (23) The arbitrator shall make his award within two month after the last day of hearing the parties or collecting an evidence in such manner he has decided.
- (24) The arbitrator must state the reasons for the award.
- (25) An award may be made public only with the consent of the parties to the dispute, or as required by law.
- (26) In addition to making a final award, the arbitrator may make interim, interlocutory, or partial orders and awards.
- (27) The arbitrator must, upon request of the parties, terminate the arbitration if the parties settle the dispute before an award is made: Provided that the arbitrator may at the request of the parties make such settlement an arbitration order.
- (28) If in the opinion of the arbitrator, the continuation of the proceedings becomes unnecessary or impossible for any reason, the arbitrator must inform the parties of its intention to terminate the proceedings and must thereafter issue an order terminating the arbitration.

- (29) Confidential information disclosed during the proceedings by the parties or by witnesses shall not be divulged by the arbitrator.
- (30) The arbitrator shall keep confidential all matters relating to the arbitration or the award, unless otherwise agreed by the parties or required by applicable law.
- (31) The arbitrator shall not be liable for any act or omission in connection with any arbitration conducted under these sections, except for the consequences of conscious and deliberate wrongdoing.

17. Costs of mediation and arbitration

- (1) The Authority shall charge fees for mediation and arbitration services.
- (2) The fees referred to in subsection (1) must be-
- (a) sufficient to recover all or part of the costs incurred by the Authority including, if applicable, the costs of a mediator or arbitrator, as the case may be; and
 - (b) paid by one or more of the parties to the dispute as is determined by the mediator or arbitrator, taking into account the circumstances of and parties to the dispute.
- (3) The fees contemplated in these sections must be paid within thirty calendar days of receipt of an invoice detailing the fees payable, unless the Authority determines otherwise.
- (4) The authority, may at its discretion exempt a party from paying the mediation and arbitration costs.

18. Tribunal

Nothing in this bylaw shall be read as to impact on the rights of a person to refer a dispute to the Tribunal in accordance with the Act, and a person is not obliged to follow a mediation or arbitration procedure prior to such referral.

19. Complaints, Enquiries and Investigations

(1) Any licensee shall have procedures approved by the Authority for dealing with complaints relating to the provision of the licensed activities of such licensee.

(2) Any person who, on demonstrable grounds believes that –

- a. a licensee has contravened or does not comply to its licence, the conditions to which its licence is subject, the Act or any regulations or bylaws made thereunder; and
- b. after having followed a procedure contemplated in subsection (1) with no satisfactory outcome,

may on the prescribed form lodge a formal complaint with the Authority.

(3) The Authority may, either in its own right, or on receipt of a formal complaint in terms of subsection (2), if it is of the opinion –

- a. that the complaint has merit; or
- b. that a transgression or non-compliance of a licence, licence condition or a provision of the Act, regulations or bylaws have occurred,

initiate an inquiry against a licensee or institute a formal investigation against such licensee if it has *prima facie* evidence of such transgression or non-compliance.

- (4) On receipt of the results of an inquiry, the Authority shall institute a formal investigation if it is *prima facie* of the opinion that a condition of the licence or provision of the Act has been transgressed.
- (5) The investigation shall be chaired by a person appointed by the Authority and as many persons as may be needed to assist him.
- (6) The investigation shall be entitled to summon witnesses, hear evidence and conduct the investigation in the manner determined by the chairperson.
- (7) On completion of the investigation the chairperson shall submit his written report and recommendations thereon, including recommendations as to the suggested penalties or other sanctions to be imposed.
- (8) On receipt of a report from the chairperson as contemplated in subsection(5) the Authority must decide thereon and may implement the recommendations with or without changes, with due regard to the provisions of section 19 of the Act.

20. Non-compliance and rectification

- (1) The Authority may, upon a licensee failing to comply with or transgressing a condition of its licence or a provision of the Act, serve on that licensee a notice in writing to rectify such deficiency within 30 (thirty) days or such longer period as may be determined by the Authority.
- (2) Upon the licensee not rectifying a deficiency within the period determined by the Authority, the Authority may –
 - (a) impose a fine not exceeding 10 per cent of the turnover of that licensee or person;

(b) if the transgression or failure to comply is material, in addition to or in the place of such monetary penalty –

(i) terminate the licence;

(ii) revoke the licence;

(iii) direct another licensee to meet the obligations of that licensee.

(3) A licensee may request the Authority to extend the period of rectification provided for in subsection (1), which permission shall not unreasonably be refused: Provided that –

(a) the Authority is convinced that the licensee is taking sufficient steps towards rectifying the transgression or non-compliance; and

(b) extension may only be provided for a maximum of 30 (thirty) days at a time.

(4) The Authority is not obliged to provide a period of rectification or may provide a shorter period of rectification in the event that the transgression or non-compliance of a licence condition or the Act is of a serious nature, or follows from an investigation contemplated in section 19.