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## Electricity Act, 1963

Act 10 of 1963

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# Electricity Act, 1963

## Contents

Part I – Preliminary .....	1
1. Short title .....	1
2. Interpretation .....	1
Part II – Swaziland Electricity Board .....	3
3. Establishment of Electricity Board .....	3
4. Constitution of Board, etc. ....	3
5. Meetings and procedure of Board .....	4
6. Board to be body corporate, etc. ....	4
7. Functions of Board .....	5
8. Revenue to exceed outgoings .....	5
9. General powers of the Board .....	5
10. Chief executive officer .....	6
11. Acquisition of land .....	6
12. Powers of the Minister .....	7
13. Tariffs and contracts .....	7
14. Funds and investments .....	8
15. Borrowing powers of Board .....	8
16. Accounts and annual reports .....	8
17. Board's right in relation to the generation, etc. of electricity .....	9
Part III – Supply .....	10
18. Board's duty to supply .....	10
19. Supply for temporary purposes .....	11
20. Supply for stand-by purposes, etc. ....	11
21. Maximum power .....	12
22. Use of transformers .....	12
23. Special fittings .....	12
24. Use of meters .....	12
25. Removal, etc., of meters .....	13
26. Notice to be given to Board prior to removal .....	13
27. Payment in arrears .....	14
28. Security for payment .....	14
29. Discontinuance of supply .....	14
30. Interruption of supply .....	15
31. Entry on premises .....	15

Part IV – Works .....	16
32. Servitudes .....	16
33. Power to cut trees, enter on land, etc. ....	17
34. Moving of lines, etc. ....	18
35. Power to break up roads, etc. ....	18
36. Alteration of pipes, etc. ....	20
37. Works which affect other lawful works .....	20
Part V – Inspection, testing, etc. ....	21
38. Application of Mines, Works and Machinery Act, 1960 .....	21
39. Accidents .....	21
Part VI – Miscellaneous and supplemental .....	22
40. Offences .....	22
41. Board's lines not subject to execution, etc. ....	22
42. Protection of certain persons from personal liability .....	22
43. Service of documents .....	22
44. Stamp duty .....	23
45. Exemption from income tax and trading licences .....	23
46. Prescription and limitation of certain actions against the Board .....	23
47. Regulations .....	23
48. Saving .....	24



## eSwatini

# Electricity Act, 1963

## Act 10 of 1963

Commenced on 26 April 1963

*[This is the version of this document at 1 December 1998.]*

*[Repealed by [Electricity Act, 2007 \(Act 3 of 2007\)](#) on 1 March 2007]*

**An Act to establish a Swaziland Electricity Board, to make provision for the exercise and performance by the Board of functions relating to the generation, transmission, distribution and supply of electricity and certain other matters; for the inspection and testing of electrical plant and the safe use of electricity.**

### Part I – Preliminary

#### 1. Short title

This Act may be cited as the Electricity Act, 1963.

#### 2. Interpretation

In this Act, unless the context otherwise requires—

“**Board**” means the Swaziland Electricity Board established under the provisions of [section 3](#);

“**bulk supply**” means a supply of electricity to be used for the purpose of distribution;

“**case of emergency**”, with reference to a right of entry on or to land or premises conferred under this Act, means a case in which the person requiring entry to the land or premises in question has reasonable cause to believe that circumstances exist which are likely to endanger life or property, and that immediate entry to such land or premises is necessary to verify the existence of those circumstances or to ascertain their cause or to effect a remedy;

“**consumer**” means a person supplied or entitled to be supplied with electricity by the Board;

“**distributing main**” means the portion of any main which is used for the purpose of giving origin to service lines for the purpose of general supply;

“**electrical fittings**” means electric lines, fittings, apparatus and appliances designed for use by consumers of electricity for lighting, heating, motive power and other purposes for which electricity can be used;

“**electrical plant**” means any electrical line, plant, equipment, apparatus and appliances used for the purposes of generation, transmission or distribution of electricity, but does not include electrical fittings;

“**electricity**” means electrical energy generated, supplied or used for any purpose except the transmission of a message;

“**electric line**” means a wire or wires, conductor or other means used for the purpose of conveying, transmitting or distributing electricity with any casing, coating, covering, tube, pipe or insulator enclosing, surrounding or supporting the same or any part thereof, any apparatus connected therewith for the purpose of conveying, transmitting, distributing or transforming electricity and any pole, standard, guard, stay-wire, danger plate or other apparatus or appliance required in connection therewith;

**“emergency works”** means works whose execution at the time when they are executed are requisite—

- (a) in order to put an end to, or to prevent the arising of, circumstances then existing or imminent which are calculated to cause danger to persons or property, interruption of a supply or service afforded by the Board or substantial loss to the Board; or
- (b) in order to enable the Board to afford a supply of electricity or a service to satisfy an obligation created by this or any other Act within a time fixed by or under such Act,

and in relation to works comprising items whereof some fall within this definition and other do not, includes only such of them as fall within it and such others of them as cannot be reasonably severed therefrom;

**“financial year”** means a period of twelve months ending on the 31st March;

**“general supply”** means the supply of electricity to consumers in general and includes, unless otherwise specially agreed with an urban authority, the supply of electricity to public lamps, traffic signals, traffic bollards or other traffic signs or apparatus maintained and controlled by such authority, but does not include the supply of electricity to a consumer or consumers in particular under special agreement;

**“inspector of machinery”** means an inspector appointed as such under the Mines, Works & Machinery Act, [No. 61 of 1960](#);

**“land”** includes land covered by buildings and land covered by water;

**“licence”** and **“licensee”** mean respectively a licence granted under the provisions of [section 17](#) and the holder of such a licence;

**“main”** means any electric line through which electricity may be supplied or be intended to be supplied by the Board for the purposes of general supply;

**“Minister”** means the Minister for Natural Resources;

**“minor works”** means works executed solely for the purpose of erecting or placing service lines (not being works which relate to the placing or intended placing of a service line or a part of a service line for a continuous length of one hundred yards or more in or along a public road) or works executed solely for the purpose of maintaining, repairing or altering electric lines or apparatus;

**“occupier”** includes the person receiving or entitled to receive the rents payable by a lodger or tenant, whether on his own account or as agent for any other person entitled or interested therein;

**“owner”** means—

- (i) the person or persons in whom from time to time is vested the legal title to any immovable property;
- (ii) in any case where the property has been leased for 10 years or more the lessee of such property;
- (iii) in any case where the legal administration of such property is vested in a person as trustee, executor, curator, assignee or administrator of such property, the person in whom the legal administration is so vested;
- (iv) in any case where the owner as above described is absent, the agent or person receiving the rent of the property in question;

**“occupier”**, **“owner”** or **“person”** in the case of a firm or partnership includes all or any one or more of the members of such firm or partnership, and in the case of a company or any body of persons not being a firm or partnership in the ordinary meaning of these terms, the secretary or manager of such company or body of persons, or should there be no secretary or manager, then any member of the board of directors, managing board or committee of such company or body of persons;

**“premises”** means any buildings, room, tenement, hut, shed, tent or other erection, above or below the ground, together with the land upon which the same is situated and any adjoining land

used in connection therewith, and any land without buildings or tents, and includes any vehicle or conveyance, and includes open air premises;

“**road**” means any road, whether public or private, together with the kerbs, stormwater drains and supporting banks thereof, and any street, square court, alley, lane, bridge, footway, trace, track, path, passage or highway, whether a thoroughfare or not;

“**roadworks**” means the reconstruction, widening, diversion or alteration of the level of any road or part thereof or any alteration in the relative widths of the carriageways or footways thereof;

“**service line**” means any electric line through which electricity may be supplied or be intended to be supplied by the Board to a consumer either from any main or directly from the premises of the Board;

“**undertaking**” means any installation for the generation and supply of electricity which is owned or operated by the Board or under the authority of a licence issued by the Board under [section 17](#), and “**undertaker**” bears a corresponding meaning; and

“**value of the supply**” means the amount of electricity supplied by the Board to any consumer or the maximum power demand of a consumer in any given period (according to the method by which the Board elects to charge).

## Part II – Swaziland Electricity Board

### 3. Establishment of Electricity Board

There is hereby established a Board to be known as the Swaziland Electricity Board.

### 4. Constitution of Board, etc.

- (1) Subject to this section, the Board shall consist of a chairman and not less than three nor more than five other members who shall—

- (a) be appointed by the Minister and shall be persons who, in his opinion, are qualified for membership by reason of their having had experience and shown ability in electricity supply, local government or industrial, agricultural, commercial, financial, scientific or administrative matters;
- (b) be eligible for re-appointment; and
- (c) hold office for three years subject to such conditions (including conditions as to payment by the Board of salary or other remuneration), as the Minister may direct at the time of appointment or, with the consent of the person appointed, at any time thereafter:

Provided, however, that of the members first appointed not less than one shall be appointed for only one year and not less than one for only two years subject always to each being eligible for reappointment at the termination of the period of his office.

- (2) A person shall be disqualified from being appointed to or remaining a member of the Board—

- (a) if he is an unrehabilitated insolvent;
- (b) if he has been convicted of an offence and sentenced to imprisonment without the option of a fine:

Provided that where the conviction is in respect of an offence committed outside Swaziland it shall, for the purposes of this paragraph, be disregarded, unless such offence is also an offence by whatever name known, within Swaziland;

- (c) if he has any interest, direct or indirect, in an undertaking otherwise than as a payer of dues for electricity supplied by a local authority or as a consumer from a general supply;

- (d) if he is an employee of the Board appointed under [section 9](#).
- (3) (a) The Minister may summarily terminate the appointment of the chairman or any other member of the Board who has become disqualified on any of the grounds set out in subsection (2) or for misconduct, inefficiency or negligence in the carrying out of, or the failure to carry out, his duties.
- (b) the chairman or any other member of the Board may terminate his office on the Board by giving to the Minister one month's notice in writing.
- (4) The Board may reimburse the chairman and other members of the Board for expenses reasonably incurred in, or incidental to or in connection with, the exercise and performance of their powers and duties under this Act.

## 5. Meetings and procedure of Board

- (1) Subject to the provisions of this section the Board shall regulate its own procedure.
- (2) The Board shall appoint a member of the Board to be deputy chairman thereof.
- (3) The Chairman, or in his absence the deputy chairman, shall preside at meetings of the Board and shall have a casting as well as a deliberative vote.
- (4) In the absence of the chairman and the deputy chairman from any meeting of the Board, the members present shall elect one of their number to preside at that meeting and the member so elected shall in respect of that meeting have the power and perform the duties of the chairman, save that he shall not have a casting vote.
- (5) The quorum at a meeting of the Board shall be three and, subject to the provisions of this section relating to the casting vote of the chairman or deputy chairman, every question before any such meeting shall be decided by a majority of the members present and voting.
- (6) The Board shall under the powers conferred by [section 9\(g\)](#) appoint and employ a secretary, who shall not be a member of the Board.
- (7) If a member of the Board has or acquires a direct or indirect pecuniary interest either personally or through any company or partnership or through any person who is related to him within the third degree of consanguinity or affinity in any contract for the supply of materials to or the execution of work for the Board or any other contract in which the Board is interested or if the Board is considering an application for any such contract in which he would have any such interest, he shall forthwith make full disclosure of that interest to the Board and shall not take part in the Board's consideration or discussion of any question relating to such contract or application or vote thereon without the prior consent of the chairman.
- (8) If the chairman of the Board, in his capacity as a member of the Board, falls within the ambit of subsection (7), the deputy or acting chairman of the Board shall exercise the powers given to the chairman in relation to the grant or refusal of the consent necessary to enable the chairman to discuss or vote upon any question relating to any contract aforementioned.

## 6. Board to be body corporate, etc.

- (1) The Board shall be a body corporate having perpetual succession and may in its corporate name sue and be sued and, for and in connection with the purposes of this Act, may perform and be capable of doing all such acts as a body corporate may by law perform.
- (2) An order or decision of the Board may be signified on behalf of the Board under the hand of the chairman of the Board, or any other member of the Board authorised by the Board to act in that behalf or the secretary to the Board.
- (3) An instrument or contract may be executed or entered into on behalf of the Board by any member, officer or servant of the Board generally or specially authorised by the Board in that behalf.



- (4) A document purporting—
- (a) to be an instrument executed or issued by the Board; or
  - (b) to be an order or decision of the Board and to be signified in the manner provided in subsection (2), or
  - (c) to be an instrument or contract of the kind mentioned in subsection (3) and to be executed or entered into on behalf of the Board in the manner therein provided,
- shall be received in evidence and shall be deemed to be so executed or issued by the Board, if so signified on behalf of the Board without further proof, unless the contrary is shown.

## 7. Functions of Board

The functions of the Board shall be—

- (a) to generate, transmit, distribute and supply electricity and to establish, acquire, maintain and operate undertakings, transmission lines and appurtenant works for that purpose;
- (b) to secure, so far as practicable, the development, extension and cheapening of supplies of electricity;
- (c) to make such provision as appears to it to be appropriate, either by itself or in consultation with any other organisation, for advancing the skill of its employees by education, training or otherwise;
- (d) to conduct either itself, or jointly with any other person research, experiments or trials for the improvement of methods of generation, transmission, distribution or use of electricity and incur such expenditure for that purpose as the Board may think fit, and make contributions to the expenditure of any other person engaged on such research, experiments or trials with the object of achieving such improvements and of promoting the use of electricity;
- (e) to advise the Minister on all matters relating to policy in regard to the generation, transmission and distribution of electricity; and
- (f) to perform any duty it is required to perform under this Act.

## 8. Revenue to exceed outgoings

- (1) It shall be the duty of the Board so to perform its functions as to ensure that, taking one year with another, the revenues of the Board exceed the outgoings of the Board properly chargeable to revenue account.
- (2) For the purposes of subsection (1) “the outgoings of the Board properly chargeable to revenue account” means all charges which in the normal conduct of business are properly chargeable to revenue account including in particular proper provisions for—
  - (a) the depreciation or renewal of assets or the redemption of any loan raised by the Board (whichever is the greater); and
  - (b) allocations to reserve.

## 9. General powers of the Board

The Board shall have the power to do anything which is calculated to enable it to exercise and perform its functions, or which are incidental or conducive thereto, including in particular, but without derogating from the generality of this provision, powers which shall include power to—

- (a) open and operate a banking account;
- (b) supply electricity to, or take electricity from, any person inside Swaziland;

- (c) supply electricity to, or take electricity from any person outside Swaziland, on terms to be approved by the Minister;
- (d) make and recover charges for electricity supplied by it;
- (e)
  - (i) acquire by purchase, lease, exchange, grant or otherwise movable or immovable, corporeal or incorporeal property of whatsoever nature or any interest therein or rights thereover and any rights to the use of private or public water;
  - (ii) construct, erect, maintain, alter or improve premises, buildings, machinery, plant, transmission lines, distribution lines, mains, water works, reservoirs, canals, watercourses, railways, roads, bridges, pipe lines, and any other apparatus or works;
- (f) sell, let, exchange, dispose of, hypothecate, pledge, or cede any property or rights which it has acquired or is possessed of;
- (g) appoint and employ such persons as it thinks fit, pay them such remuneration and allowances as it thinks fit, grant them such leave as it thinks fit, and dismiss them;
- (h) provide for persons in its employ or their dependants by means of insurance with an insurance company or a pension or provident fund or otherwise pecuniary benefits upon retirement, death or termination of services or in the event of sickness or injury;
- (i) cause surveys, plans, sections, maps, drawings and estimates to be made by or through its officers, servants or agents;
- (j) purchase or sell coal, oil, wood or other fuel, steam, water, cement and other materials and stores;
- (k) manufacture and sell by-products, electrical plant, poles, works, apparatus and fittings;
- (l) sell, hire or otherwise supply electrical plant, apparatus and fittings and instal, repair, maintain or remove any such plant, apparatus and fittings;
- (m) build houses and sell or let such houses;
- (n) borrow or lend money and in particular lend money to its employees for the purpose of building houses or otherwise as it may think fit;
- (o) insure against any losses, damages, risks and liabilities which the Board may incur;
- (p) guarantee as surety or principal debtor or both, the obligations of other persons;
- (q) enter into contracts of whatsoever nature and assume and undertake liabilities and obligations; and
- (r) exercise any power conferred upon it under the provisions of this Act or any other law.

## 10. Chief executive officer

The Board shall appoint a chief executive officer who shall—

- (a) hold office for such period and subject to such conditions as the Board may decide, and
- (b) subjects to the directions of the Board, be charged with the management of the business of the Board and its administration and organisation and with the appointment and control of the staff of the Board.

## 11. Acquisition of land

- (1) Whenever any land or interest in land is required by the Board, it may—
  - (a) if the land is not Government land acquire it by agreement with the owner thereof; or

- (b) if the land is Government land or if it is not Government land and the Board is unable to acquire it by agreement, notify the Minister that the land or the interest in the land specified in the notice is required by the Board.
- (2) When a notice has been served on the Minister under subsection (1)(b)—
  - (a) if the land is not Government land, such land or interest in land may be acquired by the Minister under the provisions of the Acquisition of Property Act, [No. 10 of 1961](#), and placed at the disposal of the Board subject to such conditions as the Minister may think fit; or
  - (b) if the land is Government land the Minister may in his discretion, upon such terms as he may think fit to impose, place such land at the disposal of the Board.

## 12. Powers of the Minister

- (1) The Minister may, after consultation with the Board, give it such directions of a general character as to the exercise and performance by it of its functions as appear to the Minister to be requisite in the public interest, and it shall give effect to any such directions.
- (2) In carrying out such measures of reorganisation, or such works of development, as involve substantial outlay on capital account and in the exercise and performance of its functions as to training, education and research, the Board shall act in accordance with a general programme settled from time to time in consultation with the Minister.
- (3) The Minister may, after consultation with the Board, give it directions as to the use or disposal of any assets vested in it which are not connected with the generation, transmission, distribution or supply of electricity or used by, let to or provided for those of its servants who are employed in or in connection with such generation, transmission, distribution or supply, and it shall give effect to any such directions.
- (4) The Board shall afford the Minister facilities for obtaining information with respect to its property and activities and furnish him with returns, accounts and other information with respect thereto, and afford him facilities for the verification of information so furnished, in such manner and at such times as he may reasonably require.

## 13. Tariffs and contracts

- (1) Subject to this Act the Board may impose such conditions as it thinks fit in contracts or agreements for the supply of electricity.
- (2) The prices to be charged by the Board for electricity to be supplied by it shall be so fixed as to enable it to comply with the provisions of [section 8](#) and such prices shall be—
  - (a) in accordance with such tariffs as may be fixed by it; or
  - (b) where the tariffs in force are not appropriate owing to special circumstances, as may be agreed between it and the consumer to whom the electricity is or is to be supplied.
- (3) Tariffs fixed under the provisions of subsection (2)—
  - (a) shall be published in such manner as in the opinion of the Board will secure adequate publicity for them; and
  - (b) may include a rent or other charge in respect of electrical fittings provided by it on the premises of the consumer.
- (4) The Board in fixing tariffs and making agreements for the supply of electricity shall not show undue preference as between consumers similarly situated, and shall not exercise undue discrimination as between persons similarly situated, having regard to the place and time of supply the quantity of electricity supplied, the consumer load and power factor, and the purpose for which the supply is taken.

- (5) The Board in exercising its powers under subsection (2) shall not fix such tariffs or prices as are likely to result in the creation of reserves unreasonably in excess of those required for the proper discharge by it of its functions or obligations.

#### **14. Funds and investments**

- (1) The Board shall establish a general fund into which all moneys received by it shall be paid in the first instance, and out of which all payments by it shall be made, except payments from a reserve fund established under the provisions of this section.
- (2) The Board shall establish, maintain and make contributions to such other funds as may be necessary for the proper and efficient discharge of its functions and duties and in particular shall establish and maintain and out of its profits make contributions to a reserve fund for the purpose of financing the expansion of its activities.
- (3) The Board may, with the approval of the Minister, establish, maintain and make contributions to any other fund which in its opinion is desirable for the proper and efficient discharge of its functions and duties.
- (4) The Board may—
  - (a) invest any moneys which are in a fund established under the provisions of this section, and which are not immediately required, in such investments and securities as the Minister may approve;
  - (b) realise any investments, securities or loans under its control in order to finance its operations or for the purpose of reinvestment in accordance with the provisions of this subsection.

#### **15. Borrowing powers of Board**

- (1) The Board may—
  - (a) borrow temporarily, by way of bank overdraft or otherwise, such sums as it may require for meeting its obligations or exercising or performing its functions; and
  - (b) from time to time for such purposes and in such amounts and on such conditions as the Minister may approve—
    - (i) raise money by way of loans, or
    - (ii) issue stock or bonds or notes.
- (2) The repayment of moneys borrowed by the Board and the payment of interest thereon and all charges connected with such borrowing shall be a liability of the Board and shall be charged on its property, assets and revenues.

#### **16. Accounts and annual reports**

- (1) The accounts of the Board shall be subject to annual audit by an auditor appointed by it and approved by the Minister.
- (2) The Board shall as soon as possible after the end of each financial year—
  - (a) report to the Minister in such form as he may direct on the exercise and performance by it of its functions during that year and on its future policy and programme; and
  - (b) deliver to the Minister a copy of its accounts, audited in accordance with the provisions of subsection (1).
- (3) No person shall be qualified for appointment as an auditor of the Board unless he is a member of a body of accountants established in the United Kingdom and for the time being recognised by the

Board of Trade for the purposes of the qualifications of auditors of companies incorporated in the United Kingdom, or of a body of accountants lawfully established in Swaziland or the Republic of South Africa.

- (4) None of the following persons shall be qualified for appointment as auditors of the Board—
- (i) an officer or servant of the Board;
  - (ii) a person who is a partner of an officer or servant of the Board;
  - (iii) a person who is an employer or employee of an officer or servant of the Board;
  - (iv) a body corporate;
  - (v) a person who is an officer or servant of a body corporate which is an officer or servant of the Board;
  - (vi) a person who by himself, or his partner, or his employee regularly performs the duties of secretary or bookkeeper to the Board.

## **17. Board's right in relation to the generation, etc. of electricity**

- (1) Subject to the provisions of this section, no person other than the Board shall generate electricity, nor transmit, distribute or supply electricity to any other person.
- (2) The Board may, subject to such conditions not inconsistent with the provisions of this Act and for such period as it thinks fit, grant a licence authorising any person to generate electricity for his own use or to generate or supply electricity for some other person's use.
- (3) The Board may call upon an applicant for a licence under subsection (2) to submit detailed information as to the economics and design of proposed undertakings or extensions to existing undertakings.
- (4) The conditions which the Board may impose under the provisions of subsection (2) may include conditions providing for—
  - (a) the maximum amount of electricity which may be generated; and
  - (b) the manner in which electricity may be supplied to any person; and
  - (c) the amount to be charged for electricity supplied to any person; and
  - (d) the keeping of accounts and their audit; and
  - (e) the keeping of records and statistics.
- (5) The Board—
  - (a) may refuse to consider an application for a licence made under subsection (2) if the applicant fails to provide satisfactorily the information required in terms of subsection (3);
  - (b) may refuse to grant a licence under this section and may revoke a licence so granted; and
  - (c) shall inform him of the reasons for any such refusal or revocation if requested to do so by the applicant or licensee.
- (6) Any licensee or applicant for a licence who is aggrieved by a decision of the Board either because it has revoked or refused to grant a licence or because it has granted a licence subject to conditions which the applicant considers unreasonable may appeal to the Minister against such decision within thirty days of the decision being conveyed to him; and the Minister on any such appeal may dismiss the appeal or may direct the Board to grant a licence to the applicant subject to such conditions (if any) as the Minister thinks fit.
- (7) The Minister may by order published in the *Gazette* apply to any particular licensee or licensees or to licensees generally any provision of this Act which regulates the conduct of or confers a

power or imposes a duty on the Board, and any provision so applied shall have effect in relation to the licensee to which it is applied as if for reference to the Board in such provision there were substituted references to such licensee.

- (8) Notwithstanding the other provisions of this section—
- (a) the Board shall not refuse a licence to enable a person to generate electricity for his own use for such period as the Board is unable to supply him with electricity on reasonable terms; and
  - (b) the provisions of subsection (1) shall not apply to a person who generates electricity for his own use if—
    - (i) the rated capacity of the generating plant does not exceed ten kilowatts; and
    - (ii) no part of the system is outside the premises in which the electricity is generated.
- (9) Subject to subsection 8(b) a person who contravenes the provisions of subsection (1) or any term or condition of a licence granted under subsection (2) shall be guilty of an offence and liable on conviction to a fine not exceeding one thousand emalangeni.

### Part III – Supply

#### 18. Board's duty to supply

- (1) Subject to this Act and except for causes beyond its control, the Board, on being required to do so by the owner or occupier of any premises, shall within a reasonable time make and continue to make a supply of electricity available to those premises, unless the premises are situated more than one hundred yards from the nearest distributing main of the Board.
- (2) A requisition made under subsection (1) shall be in writing and shall specify the premises to which it relates and the maximum power required.
- (3) Where electricity is supplied by the Board under subsection (1)—
  - (a) the Board shall provide any electric lines which may be necessary for the purpose of supplying the maximum power with which the consumer is entitled to be supplied under [section 21](#);
  - (b) the consumer shall, if so required by the Board, pay it before it provides any lines of the kind mentioned in paragraph (a), a sum equal to the cost, or, where a scale of charges has been approved for the purpose by the Minister, a sum calculated according to that scale to represent the cost of providing any part of those lines which is placed on property owned or occupied by the consumer or more than one hundred feet from its nearest distributing main:

Provided that, in a case where the Board proposes to provide the supply otherwise than from the nearest practicable point of its nearest distributing main, the sum to be paid by the consumer if so required under this paragraph shall be equal to the cost, or shall be so calculated to represent the cost, as the case may be, of providing so much of those lines as the Minister after giving the Board and the consumer an opportunity to be heard and having due regard to the interests of the consumer, considers to be just and equitable in the circumstances of the case.
- (4) The Minister may make regulations prescribing the conditions on which the Board shall make and continue to make available a supply of electricity if it is required to do so by the owner or occupier of premises situated more than one hundred yards from its nearest distributing main, and, without prejudice to the generality of the foregoing, any such regulations may—
  - (a) apply generally to all such premises or to a specified class or specified classes thereof; and

(b) authorise the Board—

- (i) to require the person to whom electricity is to be supplied to pay it a sum representing the capital cost or part of the capital cost of providing the supply; and
- (ii) to impose other pecuniary conditions on the provision of the supply:

Provided that regulations made under this subsection shall not prescribe or authorise the imposition of conditions fixing the price at which electricity is to be supplied or otherwise derogate from the provisions of [section 13](#).

(5) The Board may refuse to give a supply of electricity to any premises if it is reasonably satisfied that —

(a) the electrical fittings on those premises—

- (i) are not in good order and condition; or
- (ii) do not conform with the provisions of this Act; or
- (iii) are likely to interfere with the efficient supply of electricity by the Board to other persons; or

(b) the consumer who is to be supplied has not paid all sums (other than sums which are the subject of *bona fide* disputes) due from him to the Board for electricity supplied to him by it at those or any other premises or otherwise due from him to it under this Act:

Provided that nothing in this subsection shall be construed as requiring the Board to satisfy itself in respect of any premises to which it is giving a supply of electricity.

(6) Where the Board, in order to satisfy itself of the matters mentioned in subsection 5(a) finds it necessary to inspect the electrical fittings on a consumer's premises on more than one occasion, it may make a reasonable charge for the second or subsequent inspection thereof.

## 19. Supply for temporary purposes

Notwithstanding any other provision of this Act, where the Board provides a consumer with a supply of electricity for purposes which are reasonably determined by it to be temporary purposes, the consumer shall pay the whole cost of providing and removing the electric lines necessary for the purpose of such supply.

## 20. Supply for stand-by purposes, etc.

- (1) Notwithstanding any other provision of this Act, no person shall be entitled to demand or continue to receive for the purposes of a stand-by supply only, a supply of electricity from the Board for any premises having a separate supply of electricity or a supply (in use or ready for use for the purpose for which the stand-by electricity is required) of gas, steam or other form of energy, unless he has agreed with the Board to pay it such minimum annual sum as will give it a reasonable return on the capital expenditure incurred by it in providing such stand-by supply and will cover other standing charges incurred by the Board in meeting the possible maximum demand for those premises.
- (2) Subsection (1) shall apply to supplies of electricity taken from the Board on extraordinary occasions in like manner as they apply to supplies taken for stand-by purposes.
- (3) Any dispute arising between the Board and a consumer as to the application of this section to a particular case, or as to be the sum to be paid thereunder, shall be determined by the Minister.

## 21. Maximum power

- (1) Subject to subsection (2) the maximum power any consumer shall be entitled to be supplied shall be such amount as he may require, not exceeding what may reasonably be anticipated as the maximum consumption on his premises.
- (2) Where any consumer has required the Board to supply him with maximum power of any specified amount, he shall not be entitled to alter that maximum except upon reasonable notice to the Board, and any expenses reasonably incurred by the Board in respect of the service lines by which electricity is supplied to the premises of that consumer, or in respect of any electrical plant or electrical fittings of the Board upon those premises, consequent upon the alteration, shall be refunded by that consumer to the Board.
- (3) Any dispute as to the sum to be refunded by a consumer to the Board under subsection (2) shall be determined by the Minister.

## 22. Use of transformers

- (1) If for the purposes of supplying a consumer the Board has provided a separate transformer on the premises of the consumer, the Board may (unless it is otherwise agreed in writing between the Board and the consumer)—
  - (a) substitute for the transformer originally provided a transformer of the same or of a different capacity; and
  - (b) use the transformer originally provided or the substituted transformer, as the case may be, for the purpose of supplying other consumers, so long as such use does not prejudice or interfere with the supply to the consumer on whose premises the transformer is erected.
- (2) Nothing in this section shall authorise the Board to install a transformer which will extend beyond the limit of the site provided by the consumer without his consent.
- (3) In this section the expression “transformer” includes switchgear, electric lines and ancillary apparatus.

## 23. Special fittings

- (1) The Board shall not be entitled to require the use by a consumer of any special form of electrical fittings, save as may be presented in regulations made under this Act, or of the Mines, Works and Machinery Act, [No. 61 of 1960](#).
- (2) This section shall not prejudice the operation of sections [18\(5\)](#) or [29](#).

## 24. Use of meters

- (1) The value of the supply shall, except in cases where—
  - (a) the tariff which applies is of a kind which renders the use of a meter inappropriate; or
  - (b) it is otherwise agreed between the consumer and the Board;be ascertained by means of an appropriate meter or appropriate meters fixed and connected with the service lines in such manner as may be prescribed, and the register of a meter shall be *prima facie* evidence in the absence of fraud of the value of the supply.
- (2) Such meter or meters as may be required for the purpose of ascertaining the value of the supply shall be provided by the Board subject to the payment by the consumer of such reasonable charges as may be fixed by the Board.
- (3) Every meter shall be of such construction and pattern, and be capable of ascertaining the value of the supply within such limits of error, as may be prescribed.



- (4) Every meter shall be sealed by the Board with a seal having its distinguishing brand or mark impressed thereon and the Board may, in order to protect any such meter, install suitable cut-outs or other protective devices on the consumer's premises on the supply side of any such meter, and may seal such cut-outs or other protective devices with a seal having its distinguishing brand or mark impressed thereon.
- (5) Where at the request of the consumer the Board reads a meter at a time other than the time for the normal periodical reading of such meter, the Board shall be entitled, in order to defray the cost to itself of such reading, to recover from the consumer such charges (not exceeding a maximum to be prescribed) as it thinks appropriate.
- (6) The Board may test its metering equipment at any time and also test any metering equipment installed by a consumer which is used for the purpose of measuring the value of the supply to such consumer.
- (7) Should the consumer suspect that his meter is not registering correctly he may on request to the Board in writing and on tendering the fee prescribed by regulation, have the meter tested. Such test shall be made as soon as practicable after receipt of the request and the fee by the Board and the consumer may be present at the test if he so desires.
- (8) If the meter is found to be inaccurate by more than three percent, or if it is found to be registering consumption of electricity when no current is flowing, the fee shall be refunded and the consumer's account shall be adjusted.
- (9) The accounts to be adjusted shall be limited to the bill rendered for the month previous to that in which the consumer requested a test of his meter, and to the account from the date of the said bill to the date of removal of the meter for testing:  
  
Provided that the Board may, if it considers special circumstances justify such a course, authorise the adjustment of bills rendered prior to that period.
- (10) Where in any case the Board finds that a meter is not registering correctly the consumer's accounts shall be adjusted as stated in subsection (9) read without the proviso.

## 25. Removal, etc., of meters

The Board shall not remove, replace, alter, adjust or readjust any meter in any premises unless—

- (a) it does so with the consent of the consumer; or
- (b) it has given at least forty-eight hours' notice of its intention to do so:

Provided that if the consumer has vacated the premises, the Board may remove the meter without obtaining such consent or giving such notice.

## 26. Notice to be given to Board prior to removal

- (1) Twenty-four hours' notice in writing shall be given to the Board by every consumer before he quits any premises supplied with electricity by it and, in default of such notice, the consumer so quitting shall be liable to pay to the Board the money due in respect of such supply—
  - (a) up to such time as notice of removal is given; or
  - (b) up to the next usual date for ascertaining the register of the meter or otherwise for determining the charges due to the Board in respect of such premises; or
  - (c) up to the date from which any subsequent occupier of such premises may require the Board to supply electricity to the premises,whichever first occurs.
- (2) A copy of subsection (1) shall be endorsed upon any demand note for charges of electricity.

- (3) Nothing in this section shall invalidate any agreement entered into between the Board and a consumer as to the period during which electricity shall be taken by him.

## 27. Payment in arrears

Where a person ceases to be a consumer in respect of any premises without paying the electricity charges, meter rent or other charges due by him, the Board shall not be entitled to require from the next consumer in respect of such premises the payment of such arrears unless such new consumer has undertaken with the former consumer to pay or exonerate him from the payment of such arrears or unless such former consumer is still residing on the premises.

## 28. Security for payment

The Board may, before or after it has given a supply of electricity to any premises, by notice in writing require the consumer within seven days after the date of the service of the notice to give it sufficient security by cash deposit or otherwise for the payment of all moneys which may become due to it in respect of the supply, if the consumer has not already given that security or if any security given has become invalid or insufficient.

## 29. Discontinuance of supply

- (1) The Board may discontinue the supply of electricity—

- (a) to a consumer who—

- (i) fails to pay any sum (not being the subject of a *bona fide* dispute) due by him for electricity supplied to him by the Board under this Act:

Provided that where such consumer has given the Board a deposit as security for a supply of electricity, the Board shall not discontinue such supply unless the sum due for that supply exceeds the sum so deposited and payment of the sum due has been demanded; or

- (ii) fails to pay any sum (not being the subject of a *bona fide* dispute) due by him to the Board under this Act otherwise than for electricity supplied to him; or
- (iii) fails to give any deposit or other security which he is required to give under this Act; or
- (iv) makes any alteration or addition to his electrical fittings without notifying the Board; or
- (v) fails to give reasonable facilities for meter-reading; or
- (vi) fails to give the Board or an inspector of machinery reasonable facilities to exercise the powers relating to inspection and testing conferred under this Act; or
- (vii) interferes or attempts to interfere with the Board's main fuses, apparatus or seals; or
- (viii) uses electricity supplied to him by the Board so as to interfere with the efficient supply of electricity to any other person; or
- (ix) sells or for other consideration disposes of electricity supplied to him by the Board without a licence granted under [section 17](#); or
- (x) fraudulently abstracts, causes to be wasted or diverted, consumes or uses electricity of the Board; or
- (xi) in the case of electricity supplied by the Board the amount of which is not ascertained by meter, uses such electricity in a way different from, or in an amount greater than, that for which he has contracted to pay; or

- (xii) in the case of electricity supplied to him for any specified purpose, use or application, uses such electricity without the consent of the Board for another purpose, use or application, in respect of which a higher price may be charged by the Board, or otherwise improperly uses such electricity; or
- (b) to any premises—
  - (i) where a leakage of electricity is discovered; or
  - (ii) if it is reasonably satisfied that the electrical fittings on such premises are not in good order and condition, or do not conform with the provisions of this Act, or interfere or are likely to interfere with the efficient supply of electricity by the Board to other persons.
- (2) Where the Board is authorised under this section to discontinue a supply of electricity, it may cut or disconnect any electric line through which such supply is provided, and may refuse to reconnect such supply until—
  - (a) the matter complained of has been rectified to its satisfaction or the sums due to it have been paid as the case may be; and
  - (b) there have been paid to it—
    - (i) any expenses incurred by it in cutting off the supply; and
    - (ii) any expenses reasonably likely to be incurred by it in re-connecting the supply; and
    - (iii) any prescribed fees.

### 30. Interruption of supply

The Board may interrupt the supply of electricity for such periods as may be necessary for carrying out inspections, tests, repairs, alterations, re-constructions or the making of new connections:

Provided that, except in cases of emergency, the Board shall give twenty-four hours' notice by advertisement in a local newspaper or otherwise to all consumers whose supply it intends to interrupt and who may reasonably be expected to require a supply during the period of interruption.

### 31. Entry on premises

- (1) A duly authorised servant or agent of the Board may at all reasonable times enter on any premises to which electricity is or has been supplied by the Board—
  - (a) for the purpose of ascertaining the quantity of electricity consumed or supplied; or
  - (b) in order to install, inspect, maintain, test or repair meters, electrical plant or electrical fittings; or
  - (c) where a supply of electricity is no longer required or where the Board is authorised under this Act to discontinue such supply, for the purpose of removing any meters, electrical plant or electrical fittings belonging to the Board.
- (2) No right of entry to premises under subsection (1) shall be exercisable except—
  - (a) with consent given by or on behalf of the occupier of the premises to which entry is sought; or
  - (b) under the authority of a warrant granted under this section:

Provided that this subsection shall not apply where entry is sought in a case of emergency.

- (3) Where the Board satisfies a magistrate by affidavit or oral evidence on oath that it is seeking to exercise a right of entry to premises which, but for the provisions of subsection (2) it would be entitled to exercise and that either—
- (a) the occupier of the premises has refused his consent to the entry after not less than twenty-four hours' notice thereof had been given to him; or
  - (b) the premises are unoccupied; or
  - (c) an application for admission to the premises would defeat the object of the entry,
- the magistrate, may by warrant under his hand, authorise the Board to enter those premises, if need be by force.
- (4) A warrant granted under this section shall continue in force until the purpose for which the entry authorised by the warrant has been satisfied.
- (5) A person who in the exercise of a right of entry under this Act enters any premises which are unoccupied, or any premises of which the occupier is temporarily absent, shall leave those premises as effectually secured against trespassers as he found them.
- (6) A person who obstructs the lawful exercise of a right of entry under this Act shall be guilty of an offence and liable on conviction to a fine not exceeding fifty emalangenis or to imprisonment for a period not exceeding three months or to both.
- (7) Notwithstanding subsections (1) to (6) the servants or agents of the Board may, in a case of emergency, enter on any land or enter any premises without giving notice to any person and by force if need be then and there execute such emergency works as may be necessary in the circumstances.

## Part IV – Works

### 32. Servitudes

- (1) Subject to this Act, the Board may—
- (a) place an electric line below ground across any land, and above ground across any land not covered by any buildings; and
  - (b) for the purpose of supplying electricity to the occupier of premises which consist of a part and not the whole of a building, place an electric line or meter in, through or across any stair, passage or court providing a common means of access to the building, or elsewhere in or upon the building; and
  - (c) utilise any land, building, wall or bridge for the support of an electric line; and
  - (d) place any electrical plant on any land not covered by any buildings.
- (2) Before exercising any of the powers mentioned in subsection (1) the Board shall serve notice in writing of its intention to do so upon the occupier or controlling authority of the land, building, road, wall or bridge on, in or in respect of which the power is to be exercised.
- (3) The Board may in a notice under subsection (2) prohibit the erection of any building or structure or the planting of any tree or the doing of any other act whatsoever, which in the opinion of the Board may interfere in any way with the exercise of any power by the Board referred to in such notice.
- (4) Such prohibition shall remain in force unless and until the Regional Administrator or the Minister, as the case may be otherwise directs in terms of subsection (7).
- (5) If a person fails to observe any such prohibition while it is in force, the Board, by its duly authorised servants or agents, may summarily enter upon the land and may summarily remove, demolish or

cut down any such building, structure or tree or take any such other steps it deems necessary for the exercise of its powers.

- (6) Where the Board serves a notice under subsection (2) it shall cause a plan to be prepared sufficiently indicating the manner in and extent to which the power to which the notice relates is to be exercised; and any plan so prepared shall, at a place to be specified in the notice, be open to inspection at all reasonable times by or on behalf of any person on whom the notice has been served.
- (7) If a person served with a notice under subsection (2) fails to give his consent to the exercise of the power to which the notice relates within 14 days of the service of the notice upon him or attaches to his consent any terms or conditions to which the Board objects, the Regional Administrator of the region in which the power is to be exercised, or, where such Regional Administrator is the person on whom the notice was served, the Minister may give his consent to the exercise of the power, either unconditionally or subject to such terms and conditions not being pecuniary terms or conditions as to compensation except in so far as the imposition of pecuniary terms or conditions as to compensation may be authorised under [section 33](#) as he thinks fit, and the Board may thereupon exercise the power accordingly.
- (8) Where the Board under the provisions of this section places any electric line or electrical plant in, on, over, under, along, across or in the vicinity of any road, railway, watercourse, dam or airfield, it shall place such electrical line or electrical plant so as not to hinder, obstruct or interfere with the passage along such road or railway or the use of such dam or airfield.
- (9) The Minister may by order published in the *Gazette* declare any buildings or class of buildings not to be buildings within the meaning of subsection (1)(a) and that paragraph shall be interpreted in accordance with any such order which may be in force.

### **33. Power to cut trees, enter on land, etc.**

- (1) The Board, by its duly authorised servants or agents may enter upon any land or premises at all reasonable times and remain thereon as long as may be necessary for the purpose of effectually doing any act or thing as may reasonably be necessary for the purpose of any survey or preliminary investigation or incidental to the exercise of any power or the performance of any duty of the Board, or for carrying into effect any of the objects of this Act and for any of the said purposes and for the protection of the works executed thereon to cut down, burn or clear away from the vicinity thereof, to such extent as may be necessary, any trees, shrubs, hedges, brushwood or grass and any other kind of vegetation growing upon any such land so entered upon.
- (2) The power to enter any land or premises under subsection (1) shall include power to pass over or through any land or premises where it is necessary to do so in order to reach some other land or premises on or in respect of which it is intended to do any thing, carry out any purpose or exercise any power conferred upon the Board by this Act.
- (3) The powers under this section, if exercised for the purpose of carrying out any surveys and investigations shall include power to dig or bore into the subsoil.
- (4) In exercise of its powers under this section, except in a case of emergency or for the purpose of inspecting, maintaining, preventing interference with the safe and proper operation of, or repairing any of the Board's electric lines or installations, the Board shall serve notice in writing of its intentions upon the occupier or controlling authority of the land, building, or other structure on, in or in respect of which the power is to be exercised; and if the person so served fails to give his consent to the exercise of the power to which the notice relates within seven days of the service of the notice upon him or attaches to his consent any terms or conditions to which the Board objects, the Minister may give his consent to the exercise of the power, subject to such terms and conditions (not being pecuniary terms or conditions as to compensation except in so far as may be authorised by this Act) as he thinks fit, and the Board may thereupon exercise the power accordingly.

- (5) In exercise of its powers under this section and under sections 31 and 32 the Board shall do as little damage as may be practicable and shall make full compensation to any interested person for all damage sustained by him by reason or in consequence of the exercise of such powers:

Provided that no compensation shall be payable in respect of tree, shrub, hedge, brushwood or grass or any other kind of vegetation cut down, burnt or cleared away by the Board under this Act, where such tree, shrub, hedge, brushwood, grass or other kind of vegetation was not in existence at the time of the placing of the electric line on account of which the cutting, burning or clearing away was carried out:

Provided further that no compensation shall be payable in respect of the removal, demolition or cutting down as the case may be of any building, structure or tree or the taking of any of the other steps referred to in section 32(3).

- (6) The amount of such compensation shall in the event of disagreement be determined by arbitration.

### **34. Moving of lines, etc.**

- (1) The Minister may make an order requiring the Board to alter the position of any of its electric lines or any pole, strut or other support for an electric line, which has been placed on or in or affixed to any land, building, wall or bridge.
- (2) An order of the kind mentioned in this section may—
- (a) be made either of the Minister's own motion or on the application of the owner, occupier or controlling authority of the land, building, wall or bridge to which it relates; and
  - (b) be made subject to such terms and conditions (but subject to paragraph (c), not being pecuniary terms or conditions as to compensation) as the Minister thinks fit; and
  - (c) where it is not made of the Minister's own motion, contain provisions requiring the person on whose application it is made to refund to the Board the whole or a specified part of the cost of carrying out the order.

### **35. Power to break up roads, etc.**

- (1) Subject to this Act, the Board may, for the purpose of constructing, erecting, placing, maintaining, repairing, altering or removing electric lines or apparatus—
- (a) open and break up the soil and pavement of any road or bridge; and
  - (b) open or break up any sewer, drain or tunnel under such road or bridge.
- (2) The Board, before executing any works (not being emergency works or minor works) which necessitate the exercise of any of the powers mentioned in subsection (1) shall—
- (a) send to the person having the management or control of any road, bridge, sewer, drain or tunnel likely to be affected by the exercise of such power (hereinafter in this section and in sections 36 and 37 referred to as the "authority") notice in writing of its intention to execute such works together with a plan thereof; and
  - (b) furnish the authority with such other information as it may reasonably require in connection with the proposed works.
- (3) Where the authority—
- (a) disapproves a plan sent to it under subsection (2); or
  - (b) fails to come to a decision on the plan within sixty days of receiving it; or

- (c) approves the plan subject to modifications or conditions to which the Board objects, the Minister may, on the application of the Board, approve the plan, subject to such conditions (not being pecuniary conditions or conditions as to compensation) or modifications as he thinks fit.
- (4) The Board shall not begin any works to which this section applies (other than emergency works) unless—
- (a) in cases where it is required to furnish the authority with a plan of the works, the plan has been approved under this section by the authority or the Minister, as the case may be, and the Board has, after such approval, given the authority not less than seven days' notice of its intention to begin the works; and
  - (b) in the case of minor works, the Board has given the authority not less than seven days' notice of its intention to begin the works.
- (5) Where it executes works to which this section applies, the Board shall—
- (a) execute the works (not being emergency works or minor works) in accordance with the plan approved under this section by the authority or the Minister, as the case may be; and
  - (b) carry on and complete the works with all such despatch as is reasonably practicable; and
  - (c) except in the case of emergency works or minor works, afford the authority reasonable facilities for supervising the opening and breaking up and the reinstatement of roads, bridges, sewers, drains and tunnels; and
  - (d) ensure at its own expense that—
    - (i) so long as a road or bridge is open or broken up it is adequately protected and guarded, and lighted in such manner as to give warning to the public during the hours of darkness; and
    - (ii) no greater width or length of a road or bridge than is reasonably necessary is open or broken up at any time; and
    - (iii) there is no greater obstruction of traffic on any road or bridge than is reasonably necessary; and
  - (e) reinstate and make good any road or bridge, broken or opened up in connection with the works, and keep the same in good repair for three months after reinstatement and making good, and, for such further time, if any, not exceeding six months in all, as the soil broken up shall continue to subside; and
  - (f) reinstate and make good any sewer, drain or tunnel opened or broken up in connection with the works.
- (6) In the case of works to which this section applies which are emergency works, the Board—
- (a) may execute the works without submitting a plan thereof to the authority; and
  - (b) shall as soon as may be after such execution furnish the authority with such a plan.
- (7) Where an authority—
- (a) objects to any works executed by the Board which have been executed in contravention of any provision of subsections (2), (3) and (4), or which are emergency works; or
  - (b) complains that the Board has failed or is failing to fulfil any obligations imposed upon it under subsection (5),

it may, after giving the Board notice of the objection or complaint and an opportunity to enter into an agreement with it for meeting the objection or complaint, refer the matter to the Minister, who may approve the works or dismiss the complaint or give such other directions (including directions



for the works to be altered or for reinstatement to be carried out by the Board at its own expense or by the authority at the Board's expense) as he thinks fit.

### 36. Alteration of pipes, etc.

- (1) The Board may by notice in writing call upon any authority permanently or temporarily to alter at the expense of the Board the position of any pipe, wire, or drain (except a main drain) controlled by such authority which is likely to interfere with the exercise of the Board's powers under this Act, and the authority may in like manner call upon the Board permanently or temporarily to alter at the expense of the authority the position of any electric line or apparatus of the Board which may interfere with the exercise of the lawful powers of such authority.
- (2) Where the party on which such notice has been served does not within a reasonable time agree to carry out the alteration called for by the notice, the Minister on the application of the party serving it may, and subject to such terms and conditions as he thinks fit, (not being pecuniary terms or conditions as to compensation), authorise the party serving the notice to make the alteration at his own expense.
- (3) If the Minister is satisfied that as a result of the exercise by the authority of his lawful powers it is necessary for the Board to move any of its electric lines or apparatus, the Minister may on the application of the Board require the authority to defray the cost of such removal.
- (4) In this section "main drain" means a sewer or drain used for the drainage of two or more buildings which are not in the same curtilage.

### 37. Works which affect other lawful works

- (1) Where, in exercise of its powers, the Board's works are likely to affect any lawfully placed sewer, drain, pipe or wire belonging to or controlled by an authority, or where, in exercise of any lawful powers in relation to the laying of a sewer, drain, pipe or wire, the works of any authority are likely to affect any lawfully placed electric line or apparatus belonging to the Board, then, subject to the provisions of this section, the party executing the works (hereinafter in this section referred to as the "operator") shall—
  - (a) not begin any works until he has given to the party controlling or owning the sewer, drain, pipe, wire, line or apparatus likely to be affected by such works (hereinafter in this section referred to as the "owner") notice of his intention to execute the works, including a plan showing the nature of the works and the place where it intends to execute them, and until seven days have expired from the date on which notice was given; and
  - (b) during the execution of any works give to the owner reasonable facilities for supervising the execution of the works; and
  - (c) in the execution of any work comply with any requirements as to the nature of the works or as to the things to be done or avoided in the execution thereof which is made by the owner and compliance with which is reasonably necessary for the protection of any sewer, drain, pipe, wire, line or apparatus or for access thereto and is reasonably practicable having regard to the time when the requirement is made; and
  - (d) in the case of any works which include tunnelling or boring under any sewer, drain, pipe, wire, line or apparatus secure that there is proper temporary support for the sewer, drain, pipe, wire, line or apparatus during the execution of the works and that a permanent foundation is provided therefor; and
  - (e) in the case where the operator is the Board and the works include the laying of an electric line crossing or near any sewer, drain, pipe or wire, secure that such electric line is so laid as not to be capable of touching such sewer, drain, pipe or wire and is effectively insulated therefrom; and



- (f) in the case where the operator is an authority and the works include the laying of a sewer, drain, pipe or wire across or near any electric line, secure that such sewer, drain, pipe or wire is so laid as not to be capable of touching such electric line, and is effectively insulated therefrom.
- (2) Subsection (1)(a), (b) and (c) shall not apply in the case of minor works.
- (3) In the case of emergency works the operator shall be deemed to have complied with the requirements of subsection (1) if—
  - (a) he takes all reasonably practicable steps towards satisfying those requirements as are consistent with meeting the circumstances for which those works are required; and
  - (b) he supplies the owner as soon as may be with information reasonably sufficient to indicate the nature of the works which he has executed.
- (4) Where the owner complains that the operator has failed or is failing to fulfil any obligation imposed upon him under this section, he may, after giving the operator notice of the complaint and an opportunity to enter into an agreement with him for meeting it, refer the matter to the Minister who may dismiss the complaint or give such directions thereon (including directions for works to be executed or for works already executed to be altered either by the operator at his own expense or by the owner at the operator's expense) as he thinks fit.

## **Part V – Inspection, testing, etc.**

### **38. Application of Mines, Works and Machinery Act, 1960**

- (1) Notwithstanding anything in this Act, all undertakings shall be subject to the provisions of the Mines, Works and Machinery Act, [No. 61 of 1960](#).
- (2) Where an inspector of machinery tests any of the Board's or a licensee's electrical installations or machinery, the Board or the licensee as the case may be, shall not be held responsible for any interruption in the supply of electricity which may be occasioned by or required by the inspector of machinery for the purpose of the test.

### **39. Accidents**

- (1) Where any accident occurs which causes loss of life the person in charge of the undertaking on which, or in connection with which, the accident occurred shall report the matter immediately to the Regional Administrator of the region in which the accident occurred or the officer in charge of the nearest police station, and shall forthwith report the accident by the quickest means available to an inspector of machinery.
- (2) Where any accident resulting in personal injury occurs, the person in charge of the undertaking on which, or in connection with which, the accident occurred shall make a report on the accident to an inspector of machinery within the periods specified in subsections (3) and (4).
- (3) Accidents which result in the following personal injuries shall be reported immediately—  
unconsciousness from heat-stroke, heat exhaustion, electric shock or the inhalation of fumes or poisonous gases; incapacitation from heat-stroke, heat exhaustion, electric shock, or the inhalation of fumes or poisonous gases which will prevent the affected person from performing his normal duties for a period of twenty-four hours or more; the loss of a limb or part of a limb.
- (4) Accidents which result in personal injury which incapacitates the injured person from performing his normal duties for a period of three days or more shall be reported within three days of becoming reportable.
- (5) Any oral or telegraphic report of an accident shall be confirmed in writing in accordance with regulations made under the Mines, Works and Machinery Act, [No. 61 of 1960](#).

## Part VI – Miscellaneous and supplemental

### 40. Offences

- (1) A person who without lawful excuse (the proof whereof shall lie on him)—
  - (a) interferes with any electrical plant used for or in connection with the generation, transmission, distribution or supply of electricity; or
  - (b) does or causes to be done anything which is calculated to interfere with or damage any such electrical plant,shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred emalangenis or to imprisonment for a period not exceeding twelve months or both.
- (2) Any person who without the authority of the Board, wilfully breaks or detaches any seal or locking device attached by the Board to any meter or cut-out under this Act, shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred emalangenis or to imprisonment for a period not exceeding six months or both.

### 41. Board's lines not subject to execution, etc.

- (1) Notwithstanding the provisions of any law, any electrical plant or electrical fittings belonging to the Board which are placed in or upon any premises not in the possession of the Board for the purpose of supplying electricity under this Act—
  - (a) shall not be subject to attachment at the suit of any person, nor be subject to a landlord's hypothec for rent, nor be subject to attachment or seizure by the trustee of an insolvent person in whose possession they may be; and
  - (b) shall at all times continue to be the property of and removable by the Board, whether or not they are fixed or fastened to any part of the premises in or upon which they are placed or to the soil under such premises.
- (2) Nothing in this section shall affect the amount of the assessment for rating of any premises on which any electrical plant or electrical fittings belonging to the Board are fixed.
- (3) The fact that a consumer has paid to the Board the cost, or a sum representing the cost, of providing any electrical line or has otherwise paid any sum to the Board to meet the capital cost or part of the capital cost of providing him with a supply of electricity shall not confer upon the consumer any right of property or ownership in any electrical plant or electrical fittings of the Board.

### 42. Protection of certain persons from personal liability

No matter or thing done by the chairman or any other member of the Board, by an officer or servant of the Board or by an officer of the Government shall, if the matter or thing is done in good faith for the purpose of carrying out any of the provisions of this Act, render the chairman or any such member, servant or officer, or any person acting under and in accordance with his directions personally liable to any civil action, civil suit or other civil proceedings whatsoever in respect thereof:

Provided however that the Board shall be deemed to be liable for such acts of its servants.

### 43. Service of documents

Without prejudice to any other method of service, any written notice or other document required or authorised to be given or served, may be served by post or, if it relates to land or premises and it is not practicable after using due diligence to serve it on the person on whom it should be served, by delivering it to some person apparently in authority on the land or premises to which it relates or, if there is no person

on such land or premises to whom it can be delivered, affixing it, or a copy of it, to some conspicuous part thereof.

#### 44. Stamp duty

Electricity shall be deemed to be goods, or merchandise for the purpose of exemption (a) of Item 2 of the Schedule to the Stamp Duties Act, [No. 38 of 1931](#).

#### 45. Exemption from income tax and trading licences

The receipts and accruals of the Board shall be exempt from income tax or any similar tax on income imposed by any law and it shall not be necessary for the Board to take out any trading licences in connection with its activities.

#### 46. Prescription and limitation of certain actions against the Board

- (1) Any person desiring to take action against the Board for damages arising *ex delicto* shall notify the Board in writing of his intention to do so within one month of his becoming aware of the event giving rise to such damage, and the proposed action shall be instituted within one year from the giving of such notice.
- (2) If notice is not given within the time stipulated or if the action be not commenced within one year from the giving of such notice then such action shall be prescribed and may not be instituted except by leave of the High Court on good cause shown.
- (3) No action for damages suffered by a consumer shall lie against the Board arising from the Board's failure to make and continue to make a supply of electricity available to such consumer or from any interruption in the supply, variation of voltage or of frequency or failure to supply a balanced three phase current unless the failure, interruption or variation is due to negligence on the part of the Board and not to causes beyond its control.

#### 47. Regulations

- (1) The Minister is empowered to make regulations to give effect to any of the provisions of this Act and without prejudice to the generality of such power may make regulations—
  - (a) for securing that the distribution and supply of electricity are regular, safe and efficient;
  - (b) for protecting the public in so far as practicable from any personal injury, fire or other dangers arising from the use of electricity;
  - (c) prescribing anything (including fees) to be prescribed under this Act;
  - (d) prohibiting, controlling or restricting the importation, disposal, sale or exposure for sale of defective or dangerous electrical fittings;
  - (e) providing for the registration and control of wiremen;
  - (f) providing for matters incidental to and connected with the matters mentioned in the preceding paragraphs of this subsection; and
  - (g) for the testing of meters and the adjustment of accounts where meters are found to be defective.
- (2) Without prejudice to the generality of subsection (1)—
  - (a) regulations made under the provisions of paragraph (a) of that subsection may empower the Board to discontinue the supply of electricity to a consumer, a licensee or a person whose electrical plant or electrical fittings are in the opinion of the Board defective or dangerous;

- (b) regulations made under the provisions of paragraph (c) of that subsection may prescribe a fee to be charged by the Board for inspecting electrical plant in connection with an application for or the grant of a licence, and may authorise such inspection;
  - (c) regulations made under the provisions of paragraph (d) of that subsection may—
    - (i) prohibit, control or restrict the importation, disposal, sale or exposure for sale of any electrical fittings unless it conforms with such standard or descriptions as are specified in such regulations; and
    - (ii) empower a court to seize and dispose of any electrical fittings in respect of which any person has been convicted of an offence under the provisions of those regulations; and
  - (d) regulations made under the provisions of paragraph (e) of that subsection may contain provision for—
    - (i) establishing a register of wiremen and a registrar thereof;
    - (ii) admitting persons to and removing persons from the register;
    - (iii) prohibiting unregistered persons from working as wiremen;
    - (iv) issuing licences to registered wiremen; and
    - (v) charging fees for admission to the register and the issue of a licence.
- (3) In this section “wiremen” means any persons who install, maintain or repair electrical plant or electrical fittings on the premises of the Board, consumers or licensees.

#### 48. Saving

- (1) All acts or things done, agreements entered into (whether oral or in writing, express or implied) assets, rights and privileges acquired and liabilities and obligations incurred by the Board constituted under the Swaziland Electricity Proclamation (No. 19 of 1962) shall be deemed to have been done, entered into or incurred by the Board constituted under this Act as fully and effectually as if the Board constituted under this Act had then been so constituted and established.
- (2) Any claim for salary, remuneration or reimbursement for any expenses incurred by any member of the Board constituted under the Swaziland Electricity Proclamation, (No. 19 of 1962) or by the Chief Executive Officer appointed thereunder which may have been claimable from such previously constituted Board may be paid by the Board constituted under this Act.