

# **CHAPTER 13:20**

## **RURAL ELECTRIFICATION FUND ACT**

Act 3/2002, 6/2005 (s. 21), 3/2016 (Part XLIII).

[Date of commencement: 22nd March, 2002.]

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**To establish the Rural Electrification Fund and to provide for its objects, management and control; to provide for the Rural Electrification Fund Board and its functions; to provide for the imposition and payment of a levy on electricity; to provide for the collection of the levy; to provide for the allocation and disbursement of money from the Fund; and to provide for matters connected with or incidental to the foregoing.**

## PART I

### *Preliminary*

#### **1. Short title and date of commencement**

This Act may be cited as the Rural Electrification Fund Act [*Chapter 13:20*].

#### **2. Interpretation**

In this Act -

"appointed member" means a member of the Board appointed in terms of [section 6 \(2\) \(c\)](#);

"Board" means the Rural Electrification Fund Board constituted in terms of [section 6](#);

"chief executive" means the chief executive of the Board appointed in terms of [section 16](#);

"financial assistance", in relation to any rural electrification project, means primarily assistance in the form of a once-off capital subsidy to a rural electrification project that is reasonably expected to be viable on a recurrent cost basis;

"Fund" means the Rural Electrification Fund established by [section 3](#);

"levy" means a levy imposed in terms of [section 27](#);

"licensee" means any person who holds a licence issued in terms of the Electricity Act [*Chapter 13:19*];

"master plan" means a compilation of approved rural electrification project proposals made to the Board by licensees engaged in the distribution and delivery of electricity to consumers with a view to obtaining financial assistance from the Fund;

"member" means the chairman or any other member of the Board;

"Minister" means the Minister of Mines and Energy or any other Minister to whom the President may, from time to time, assign the administration of this Act;

"rural area" means an area which is not a municipal area, town area or local government area as defined in the Urban Councils Act [*Chapter 29:15*];

"rural electrification project" means a project in a rural for all or any of the following matters, that is to say -

- (a) the construction or extension of works -
  - (i) for the distribution of electricity and the financing of its end-use infrastructure, including the construction of isolated mini-hydroelectricity, solar and wind generators for centres away from the national electricity grid;
  - (ii) for the transmission of electricity by means of cables or overhead lines or other means;
  - (iii) for the collection, diversion or storage of water required for use primarily in the generation of electricity;
  - (iv) incidental or related to the works specified in the foregoing provisions of this paragraph;
- (b) the acquisition of any land or of any interest in or right over land or water the acquisition of which is incidental or related to the construction or extension of the works specified in [paragraph \(a\)](#) or the use of water in the generation of electricity.

## PART II

### *Rural Electrification Fund*

#### **3. Establishment of Fund**

There is hereby established a Fund, to be known as the Rural Electrification Fund.

#### **4. Object of Fund**

Subject to this Act, the object of the Fund is to facilitate rapid and equitable electrification of the rural areas of Zimbabwe, in pursuance of which it may -

- (a) play a promotional role in rural development, identifying rural electrification projects and finding or advertising for projects sponsors to take these up;
- (b) assist and train projects promoters to ensure that rural electrification projects are implemented cost-effectively and efficiently;
- (c) be a centre of information and excellence on rural electrification in Zimbabwe, through collecting information about rural electrification practice, carrying out research and keeping abreast of technological developments in rural electrification world-wide;
- (d) give particular attention to off-grid, stand-alone technologies for the supply of electricity to rural communities.

#### **5. Composition of Fund**

The Fund shall consist of -

- (a) levies; together with any interest or surcharge payable thereon; and
- (b) any moneys that may be payable to it from moneys appropriated for the purpose by Act of Parliament; and
- (c) any loans, donations and grants made to the Fund by any person or authority or by any government of any country, and
- (d) any other moneys that may accrue to it, whether in terms of this Act or otherwise.

## PART III

### *Board of Fund*

#### **6. Board of Fund**

(1) The Fund shall be vested in a Board, to be known as the Rural Electrification Fund Board, which shall, subject to this Act, have the sole management and control of the Fund.

(2) The Board shall consist of -

- (a) a representative of the Ministry for which the Minister is responsible; and
- (b) the chief executive who shall be a non voting member; and
- (c) not more than three other persons appointed by the Minister, after consultation with the President and in accordance with any directions the President may give him, for their integrity, ability, qualifications and experience in electrical engineering, finance or law; and
- (d) the eight Provincial Administrators appointed in terms of the Provincial Councils and Administration Act [*Chapter 29:11*]; and
- (e) a person representing the Association of Rural District Councils.

(3) Before appointing members in terms of [subsection \(2\) \(c\)](#), the Minister may ask organisations that he thinks represent the interests of the rural consumers of electricity to submit names to him for consideration.

(4) If no names have been submitted in terms of [subsection \(2\) \(c\)](#) within a reasonable time after the organisation has been called upon to do so, the Minister may appoint any person to fill the vacancy.

## **7. Functions and powers of Board**

(1) The functions of the Board shall be -

- (a) to collect levies and any other revenue in terms of this Act;
- (b) to prescribe the criteria for the giving of financial assistance to rural electrification projects;
- (c) to allocate money from the Fund in accordance with a master plan;
- (d) to ensure that disbursed funds are used properly and in accordance with this Act or any other law;
- (e) generally to manage the funds of the Fund in accordance with the regulations and procedures laid down under this Act;
- (f) to recommend to the Minister the levels of levies to be imposed in terms of this Act;
- (g) to perform any other function that may be conferred or imposed on the Board in terms of this Act or any other enactment.

(2) In the performance of its functions, the Board shall operate at all times in a transparent and accountable manner towards all rural electrification stakeholders.

(3) Subject to this Act, the Board or any other member authorised by the Board shall have power -

- (a) to visit premises and inspect financial statements, books and other documents in order to ensure compliance with any conditions subject to which any money was disbursed in terms of this Act;
- (b) to lease or acquire premises from which it may conduct its work;
- (c) to buy, take in exchange, hire or otherwise acquire movable property necessary or convenient for the exercise of the functions of the Fund;
- (d) to invest the money of the Fund that is not immediately required in such manner as the Minister may approve;
- (e) with the approval of the Minister, to raise loans or borrow money in such amount and for such purposes and under such conditions as may be approved by the Minister.

## **8. Disqualification for appointment to Board**

(1) The Minister shall not appoint a person as a member and no person shall be qualified to hold office as an appointed member of the Board if -

- (a) he is not a citizen of Zimbabwe or ordinarily resident in Zimbabwe; or
- (b) he has been adjudged or otherwise declared insolvent or bankrupt in terms of a law in force in any country, and has not been rehabilitated or discharged; or
- (c) he has made an assignment to or arrangement or composition with his creditors in terms of a law in force in any country, and the assignment, arrangement or composition has not been rescinded or set aside; or

- (d) within the period of five years immediately preceding his proposed appointment, he has been sentenced -
  - (i) in Zimbabwe, in respect of an offence; or
  - (ii) outside Zimbabwe, in respect of conduct which, if committed in Zimbabwe, would have constituted an offence;

to a term of imprisonment of not less than six months imposed without the option of a fine, whether or not any portion has been suspended, and has not received a free pardon.

- (2) A person who is -
  - (a) a member of Parliament; or
  - (b) a member of two or more other statutory bodies;

shall not be appointed as a member of the Board, nor shall he be qualified to hold office as a member.

- (3) For the purposes of [subsection \(2\) \(b\)](#) -
  - (a) a person who is appointed to a council, board or other authority which is a statutory body or which is responsible for the administration of the affairs of a statutory body shall be regarded as a member of that statutory body;
  - (b) "statutory body" means -
    - (i) any commission established by the Constitution; or
    - (ii) any body corporate established directly by or under an Act for special purposes specified in that Act, the membership of which consists wholly or mainly of persons appointed by the President, a Vice President, a Minister or any statutory body or by a commission established by the Constitution.

## 9. Terms of office and conditions of service of members

(1) An appointed member shall hold office for such period, not exceeding three years, as the Minister may fix at the time of his appointment.

(2) On the expiry of the period for which an appointed member has been appointed, he shall continue to hold office until he has been re-appointed or his successor has been appointed:

Provided that an appointed member shall not continue to hold office in terms of this subsection for more than six months.

- (3) A person who ceases to be a member shall be eligible for re-appointment.
- (4) Members shall hold office on such conditions as the Minister may fix.

## 10. Vacation of office by appointed members

- (1) An appointed member shall vacate his office and his office shall become vacant -
  - (a) one month after the date he gives notice in writing to the Minister of his intention to resign his office or after the expiry of such other period of notice as he and the Minister may agree; or
  - (b) on the date he begins to serve a sentence of imprisonment, whether or not any portion has been suspended, imposed without the option of a fine -
    - (i) in Zimbabwe, in respect of an offence; or
    - (ii) outside Zimbabwe, in respect of conduct which, if committed in Zimbabwe, would have constituted an offence;
  - (c) if he becomes disqualified in terms [section 8 \(1\) \(a\), \(b\) or \(c\)](#), or in terms of [subsection \(2\)](#) of that section, to hold office as a member; or
  - (d) if he is required in terms of [subsection \(2\)](#) or [\(3\)](#) to vacate his office as a member.
- (2) The Minister may require an appointed member to vacate his office if the member -
  - (a) has ceased to possess any qualification by reason of which he was appointed; or
  - (b) he or his spouse engages in any occupation, service or employment, or holds any asset, which in the Minister's opinion is inconsistent with his duties as a member.
- (3) The Minister, on the recommendation of the Board, may require an appointed member to vacate his office

if the Minister is satisfied that the member has been absent without the consent of the chairman of the Board from three consecutive meetings of the Board, of which he has been given at least seven days' notice, and that there was no just cause for the member's absence.

## 11. Dismissal or suspension of appointed members

- (1) The Minister may require an appointed member to vacate his office if the member -
  - (a) has, subject to [subsection \(3\)](#) been found to have conducted himself in a manner that renders him unsuitable as a member, including contravention of [section 19](#) or [section 39 \(2\)](#);
  - (b) has failed to comply with any term or condition of his office fixed by the Minister in terms of [section 9 \(4\)](#);
  - (c) is mentally or physically incapable of efficiently carrying out his functions as a member.
- (2) The Minister may suspend an appointed member -
  - (a) whom he suspects on reasonable grounds of having been guilty of conduct referred to in [subsection \(1\) \(a\)](#); or
  - (b) against whom criminal proceedings have been instituted for an offence in respect of which a sentence of imprisonment without the option of a fine may be imposed;

and, while that member is so suspended, he shall not carry out any functions as a member.

(3) An appointed member suspended in terms of [subsection \(2\) \(a\)](#) shall be given notice in writing at the time of the suspension of the grounds for the suspension and the Minister shall within fourteen days of such notice set up a board of inquiry consisting of not more than three persons chaired by a person who has held or holds office as a judge of the High Court or Supreme Court to inquire into the question of the removal of the member.

(4) A board appointed under this section has the same rights and powers as Commissioners under the Commissions of Inquiries Act [*Chapter 10:07*].

(5) After due inquiry, a board appointed under this section must report its findings in writing to the Minister together with its recommendation as to whether or not the member must be removed from office, and the Minister must act in accordance with that recommendation.

(6) An appointed member removed in terms of this section shall not be eligible for re-appointment nor may he serve the Board in any capacity.

## 12. Dismissal of Board

- (1) Subject to [subsection \(2\)](#), if the Minister considers that -
  - (a) the Board has contravened this Act or any other law and has failed to rectify the contravention within a reasonable time after being required to do so by the Minister; or
  - (b) whether through disagreements amongst its members or otherwise, the Board is unable to carry out any of its functions in terms of this Act;

and that it is in the national interest to do so, the Minister may, by written notice to the chairman, copied to the chief executive, of the Board, dismiss all the appointed members of the Board.

(2) Before dismissing all the appointed members in terms of [subsection \(1\)](#), the Minister shall give notice in writing of the grounds for the dismissal and the Board may within fourteen days of being so notified, make written representations to the Minister showing cause why no finding of misconduct rendering the Board unsuitable to continue in office should be made.

- (3) The Minister shall require the Board members dismissed in terms of [subsection \(1\)](#) to vacate their office if -
  - (a) no representations are made by the Board in terms of [subsection \(2\)](#); or
  - (b) notwithstanding representations made in terms of [subsection \(2\)](#) the Minister remains of the opinion that the appointed members should be dismissed on the grounds referred to in [subsection \(1\) \(a\)](#) or [\(b\)](#).

(4) Before dismissing all the appointed members, the Minister shall consult the President and act in accordance with any directions the President may give him.

## 13. Filling of vacancies on Board

(1) Subject to [section 6](#), within three months after an appointed member's death or vacation of office, the Minister shall appoint a person to fill the vacancy.

(2) Within one month after dismissing all the appointed members of the Board in terms of [section 12](#), the Minister shall, subject to [section 6](#), appoint persons to fill the vacancies.

#### **14. Chairman and vice-chairman of Board**

(1) The Minister shall designate one of the appointed members as the chairman, and another appointed member as vice-chairman, of the Board.

(2) The chairman and vice-chairman of the Board may at any time by written notice to the Minister resign their offices as such.

(3) The vice-chairman shall perform the functions of the chairman whenever the chairman is unable to perform them or the office of chairman is vacant.

#### **15. Meetings and procedure of Board**

(1) The Board shall hold its first meeting on a date and place fixed by the Minister, and thereafter shall meet for the dispatch of business and adjourn, close and otherwise regulate its meetings and procedure as it thinks fit:

Provided that the Board shall meet at least four times in each financial year.

(2) The chairman of the Board -

(a) may convene a special meeting of the Board at any time; and

(b) shall convene a special meeting of the Board on the written request of the Minister or not fewer than two members, which meeting shall be convened for a date not sooner than seven days and not later than thirty days after the chairman's receipt of the request.

(3) Written notice of a special meeting convened in terms of [subsection \(2\)](#) shall be sent to each member not later than forty-eight hours before the meeting and shall specify the business for which the meeting has been convened.

(4) No business shall be discussed at a special meeting convened in terms of [subsection \(2\)](#) other than -

(a) such business as may be determined by the chairman of the Board, where he convened the meeting in terms of [subsection \(2\) \(a\)](#); or

(b) the business specified in the request for the meeting, where the chairman of the Board convened the meeting in terms of [subsection \(2\) \(b\)](#).

(5) The chairman of the Board or, in his absence, the vice-chairman shall preside at all meetings of the Board:

Provided that, if the chairman and vice-chairman are both absent from any meeting of the Board, the members present may elect one of their number to preside at that meeting as chairman.

(6) A majority of members shall form a quorum at any meeting of the Board.

(7) Subject to [subsection \(11\)](#), anything authorised or required to be done by the Board may be decided by a majority vote at any meeting of the Board at which a quorum is present.

(8) With the Board's approval, the chairman of the Board may invite any person to attend a meeting of the Board or of a committee, where the chairman considers that the person has special knowledge or experience in any matter to be considered by the Board or the committee, as the case may be, at that meeting.

(9) A person invited to attend a meeting of the Board or of a committee in terms of [subsection \(8\)](#) may take part in the proceedings of the Board or the committee as if he were a member thereof, but shall not have a vote on any question before the Board or committee, as the case may be.

(10) Subject to [section 6](#), at all meetings of the Board each member present shall have one vote on any question before the Board:

Provided that in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to a deliberative vote.

(11) The chief executive shall not take part in the discussion of any question before the Board which involves his tenure of office or conditions of office.

#### **16. Appointment and functions of chief executive of Board**

(1) Subject to this Act, the Board, with the approval of the Minister, shall appoint the chief executive of the Board from among persons with qualifications and experience relevant to the functions of the Board:

Provided that no person shall be appointed as chief executive and no person shall be qualified to hold office as such if he would be disqualified for appointment to the Board in terms of [section 8](#) or if he would be required to vacate office as a member of the Board in terms of [section 10 \(1\) \(a\), \(b\), \(c\) and \(d\)](#) had those sections applied to him.

(2) The chief executive shall hold office for such period and upon such terms and conditions as may be determined by the board and approved by the Minister after consultation with the Ministers responsible for finance and the Public Service Commission

(3) Subject to the general control of the Board, the chief executive shall -

- (a) supervise and manage the Board's staff, activities, funds and property;
- (b) manage the Fund; and
- (c) perform such other functions as the Board may assign to him or as may be conferred or imposed on him by or under this Act or any other enactment.

(4) An assignment of functions in terms of [subsection \(3\)](#) -

- (a) may be made generally or specially and subject to such conditions, restrictions, reservations and exceptions as the Board may determine;
- (b) may be revoked by the Board at any time;
- (c) shall not preclude the Board itself from exercising the functions.

(5) The Board may engage persons otherwise than as employees, to perform services of a specialised, technical or professional nature for the Board.

(6) Any remuneration, allowances, pensions and other benefits to which the persons referred to in [subsection \(1\)](#) or [\(5\)](#) are entitled shall be chargeable to the Fund.

## **17. Staff of Board**

(1) The Board may employ on such terms and conditions as it may determine employees who are necessary for the conduct of the business of the Board and may suspend, discipline or discharge any such persons.

(2) The Board may delegate its powers referred to in [subsection \(1\)](#) to the chief executive.

## **18. Committees of Board**

(1) For the better exercise of its functions, the Board may establish one or more committees in which it may vest such of its functions, as it thinks fit:

Provided that the vesting of a function in a committee shall not prevent the Board from itself exercising that function, and the Board may amend or rescind any decision of the committee in the exercise of that function.

(2) On the establishment of a committee the Board may appoint to the committee persons who are not members of the Board.

(3) The chairman of the Board or of a committee may at any reasonable time and place convene a meeting of that committee.

(4) The procedure of each committee shall be as fixed from time to time by the Board.

(5) Subject to this section, [section 15 \(2\)](#) to [\(7\)](#) shall apply, *mutatis mutandis*, to committees and their members as they apply to the Board and its members.

## **19. Members of Board and committees to disclose certain connections and interests**

(1) In this section -

"relative", in relation to a member of the Board or a committee of the Board, means the member's spouse, child, parent, brother or sister.

(2) If a member of the Board or of a committee of the Board, or a relative of such a member, owns any property or has a right in property or a direct or indirect pecuniary interest in a company or association of persons which results in the member's private interests coming or appearing to come into conflict with his functions as a member, the member shall forthwith disclose the fact to the Board or the committee, as the case may be.



(3) A member referred to in [subsection \(2\)](#) shall take no part in the consideration or discussion of, or vote on, any question before the Board or the committee, as the case may be, which relates to any interest, property or right referred to in that subsection.

(4) Any person who contravenes [subsection \(2\)](#) or [\(3\)](#) shall be guilty of an offence and liable to a fine not exceeding ten thousand dollars or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

## **20. Members to disclose business interests and assets**

(1) Before any member, including the chairman, performs any function as a member, he shall disclose in writing to the Minister the full extent of -

- (a) every occupation, service or employment which he or his spouse engages in for remuneration; and
- (b) all assets held by him or his spouse, in excess of such value as the Minister, in consultation with the Minister responsible for finance, may specify.

(2) As soon as possible after he or his spouse -

- (a) commences any occupation, service or employment for remuneration; or
- (b) acquires any asset in excess of such value as the Minister may have specified in terms of [subsection \(1\) \(b\)](#);

a member shall disclose that fact in writing to the Minister.

## **21. Minutes of proceedings of Board and of committees**

(1) The Board shall cause minutes of all proceedings of and decisions taken at any meeting of the Board or of a committee of the Board to be entered in books kept for the purpose.

(2) Any minutes referred to in [subsection \(1\)](#) which purport to be signed, with the authority of the Board or the committee concerned, as the case may be, by the chairman of the meeting to which the minutes relate or by the chairman of the next following meeting, shall be accepted for all purposes as *prima facie* proof of the proceedings of and decisions taken at that meeting.

## **22. Remuneration and allowances of members of Board and of committees**

Members of the Board and of committees of the Board shall be paid from the Fund -

- (a) such remuneration, if any, as the Minister may fix for members of the Board or members of committees, as the case may be, generally; and
- (b) such allowances, if any, as the Minister may fix to meet any reasonable expenses incurred by the member in connection with the business of the Board or the committee, as the case may be.

## **23. Minister may give Board directions on matters of policy**

(1) Subject to [subsection \(2\)](#), the Minister may give the Board such general directions relating to the policy the Board is to observe in the exercise of its functions under this Act as the Minister considers to be necessary in the national interest.

(2) Before giving the Board a direction in terms of [subsection \(1\)](#), the Minister shall inform the Board, in writing, of the proposed direction and the Board shall, within thirty days or such further period as the Minister may allow, submit to the Minister, in writing, its views on the proposal.

(3) The Board shall take all necessary steps to comply with any direction given to it in terms of [subsection \(1\)](#).

(4) Where any direction has been given to it in terms of [subsection \(1\)](#), the Board shall ensure that the direction and any views the Board has expressed on it in terms of [subsection \(2\)](#) are set out in the Board's annual report.

(5) Where the Board is empowered to exercise functions under any other enactment, the Minister responsible for the administration of the enactment concerned may give the Board general directions of policy as to the exercise of those functions, where that Minister considers it necessary to do so in the national interest, and [subsections \(2\), \(3\)](#) and [\(4\)](#) shall apply, *mutatis mutandis*, in regard to any such direction.

## **24. Reports of Board**

(1) The Board -

- (a) shall, as soon as possible after the 31st December in each year, submit to the Minister an annual report on its activities during that year; and
- (b) may at any time submit to the Minister a special report on any matter upon which the Board considers it desirable to report.

(2) The Minister shall lay before Parliament on one of the fourteen days on which Parliament next sits after the report is received by him -

- (a) the annual report submitted to him in terms of [subsection \(1\) \(a\)](#); and
- (b) any special report submitted to him in terms of [subsection \(1\) \(b\)](#) which the Board requests be laid before Parliament.

## **25. Validity of decisions and acts of Board**

No decision made or act done by or under the authority of the Board shall be invalid solely because there were one or more vacancies on the Board when the decision was taken or the act was done or authorized, as the case may be.

## **26. Execution of contracts and instruments by Board.**

An agreement, contract or instrument approved by the Board may be entered into or executed on the Board's behalf by any person generally or specially authorized by the Board for that purpose.

## PART IV

### *Levies*

## **27. Imposition of levies**

(1) Subject to this Part, the Minister in consultation with the Minister responsible for finance and the Board, may by notice in a statutory instrument impose one or more levies on the supply of electricity.

(2) In regard to a levy imposed in terms of [subsection \(1\)](#), the Minister may, by notice in a statutory instrument, prescribe -

- (a) the persons responsible for the payment of the levy; and
- (b) the persons responsible for the collection and remittal of the levy; and
- (c) the manner and times at which the levy shall be paid, collected and remitted; and
- (d) the imposition of interest and additionally, or alternatively, a surcharge if the levy is not paid within the time prescribed; and
- (e) the books and records to be kept and the returns and information to be furnished to the Board or any other person for the purpose of the levy.

(3) Any notice made in terms of [subsection \(1\)](#) shall be laid before Parliament as soon as may be after it has been published in a statutory instrument and, if a resolution is passed within the next fourteen days on which Parliament has sat after the notice is laid before it requesting the Minister to rescind or vary the notice, it shall forthwith be rescinded or varied, as the case may be, by further notice in a statutory instrument, but without prejudice to the validity of anything previously done thereunder.

(4) All levy payments shall be remitted to the Fund.

## **28. Withdrawal, suspension or increase of levies**

(1) Without derogation from [section 21](#) of the Interpretation Act [*Chapter 1:01*], the Minister, in consultation with the Minister responsible for finance and on the advice of the Board, may by notice in a statutory instrument -

- (a) withdraw any levy; or
- (b) suspend any levy in whole or in part; or

(c) increase the rate or incidence of any levy.

(2) Any notice made in terms of [subsection \(1\) \(c\)](#) shall be laid before Parliament as soon as may be after it has been published in a statutory instrument and, if a resolution is passed within the next fourteen days on which Parliament has sat after the notice is laid before it requesting the Minister to rescind or vary the notice, it shall forthwith be rescinded or varied, as the case may be, by further notice in a statutory instrument but without prejudice to the validity of anything previously done thereunder.

## **29. Recovery of unpaid levies**

A levy and any interest or surcharge connected therewith shall be a debt due to the Fund, and any amount of levy or of such interest or surcharge that is not paid, collected or remitted may be recovered by the Board by proceedings in a court of competent jurisdiction.

## **PART V**

### *Administration of Fund*

## **30. Administration of Fund**

The Board shall open one or more banking accounts into which all moneys received on behalf of the Fund shall be paid and no money shall be withdrawn therefrom except by means of cheques signed by such persons as are authorised in that behalf by the Board.

## **31. Allocation of moneys from Fund**

(1) The Board shall allocate moneys from the Fund in such manner as will ensure an equitable availability of electricity in the rural areas, and may prioritise the rural electrification projects, where appropriate, to be undertaken in any particular year, and in so doing shall take into account the following -

- (a) overall policies and priorities of the government in relation to rural electrification as reflected in the master plan;
- (b) the need to maximise effective utilisation of resources from the Fund;
- (c) the resources available to the Fund;
- (d) the contributions raised by the community to be electrified;
- (e) the social and economic requirements of the country or any part thereof.

(2) The provision of financial assistance by the Board from the Fund may be made subject to such terms and conditions as the Board may impose.

## **32. Disbursement of funds from Fund**

(1) The Board shall pay moneys out of the Fund to the account of a licensee of an approved rural electrification project at such intervals and in such manner as the Board may determine for the purpose of that project.

(2) The Board may carry out or cause to be carried out random technical and financial audits of rural electrification works carried out by licensees.

## **PART VI**

### *Financial Provisions*

## **33. Annual programmes and budgets of Board**

(1) On or before such date before the beginning of every financial year as the Minister may direct, the Board shall prepare and submit to the Minister for his approval -

- (a) a programme of the projects and activities which the Board intends to undertake during that financial year;

(b) a budget showing the expenditure which the Board proposes that the Fund will incur in respect of that financial year.

(2) During any financial year the Board may submit to the Minister for his approval a supplementary budget relating to expenditure which -

(a) was not, for good reason, provided for in the annual budget; or

(b) was inadequately provided for in the annual budget due to unforeseen circumstances.

(3) A supplementary budget approved by the Minister shall be deemed to form part of the annual budget of the Fund for the financial year to which it relates.

(4) The Board shall furnish the Minister with such additional information in regard to any budget submitted under [subsection \(1\)](#) or [\(2\)](#) as the Minister may require.

(5) In approving any budget under this section the Minister may impose such terms and conditions as he considers necessary or desirable.

(6) With the approval of the Minister, the Board may vary a budget approved under this section:

Provided that no variation may be made which has the effect of increasing the total amount of expenditure provided for in the budget.

(7) The Minister may withdraw, vary or modify his approval of any budget under this section or any of the terms and conditions of such approval.

### **34. Retention of money by Fund**

At the beginning of each financial year, the Minister shall cause the Fund to retain sufficient moneys from the moneys collected to meet the expenditure which the Board proposes to incur during that financial year, as shown in the budget or supplementary budget approved by the Minister in terms of [section 33](#) for that financial year.

### **35. Financial year of Fund**

The financial year of the Fund shall be the period of twelve months ending on the 31st December each year or on such other date as may be fixed by the Minister responsible for finance.

### **36. Income and Expenditure of Fund**

The Board shall ensure that in any financial year expenditures and commitments from the Fund shall not exceed the annual income of the Fund.

### **37. Accounts of Fund**

(1) The Board shall ensure that proper accounts and other records relating to such accounts are kept in respect of all its activities, funds and property, including such particular accounts and records as the Minister may direct.

(2) As soon as possible after the end of each financial year, the Board shall prepare and submit to the Minister a statement of accounts in respect of that financial year or in respect of such other period as the Minister may direct.

### **38. Audit of Fund's accounts**

(1) Subject to the Public Finance Management Act [*Chapter 22:19*], the Board shall appoint as auditors one or more persons approved by the Minister who are registered as public auditors under the Public Accountants and Auditors Act [*Chapter 27:12*].

[[Sub-s. \(1\)](#) amended by Part XLIII of No. 3 of 2016.]

(2) The accounts kept by the Board in terms of [section 37 \(1\)](#) shall be examined by the auditors appointed in terms of [subsection \(1\)](#).

(3) The auditors appointed in terms of [subsection \(1\)](#) shall make a report to the Board and to the Minister on the statement of accounts prepared in terms of [section 37 \(2\)](#), and in their report shall state whether or not in their opinion the statement of accounts gives a true and fair view of the Fund's financial affairs.

(4) In addition to the report referred to in [subsection \(3\)](#), the Minister may require the Board to obtain from the auditors appointed in terms of [subsection \(1\)](#) such other reports, statements or explanations in connection with the Fund's activities, funds and property as the Minister may consider expedient, and the Board shall forthwith comply with any such requirement.

(5) If, in the opinion of the auditors appointed in terms of [subsection \(1\)](#) -

- (a) they have not obtained any information or explanation they require; or
- (b) any accounts or records relating to any accounts have not been properly kept by the Board; or
- (c) the Board has not complied with any provision of this Part;

the auditors shall include in their report made in terms of [subsection \(3\)](#) or [\(4\)](#), as the case may be, a statement to that effect.

(6) If in terms of the Public Finance Management Act [*Chapter 22:19*] the Fund's accounts are required to be audited by the Auditor-General, any reference in this section to auditors appointed in terms of [subsection \(1\)](#) shall be construed as a reference to the Auditor-General.

[[Sub-s. \(6\)](#) amended by Part XLIII of No. 3 of 2016.]

### **39. Powers of auditors**

(1) An auditor referred to in [section 38](#) shall be entitled at all reasonable times to require to be produced to him all accounts and other records relating to such accounts which are kept by the Board or its agents and to require from any member of the Board or employee or agent of the Fund such information and explanation as in the auditor's opinion are necessary for the purpose of his audit.

(2) Any member of the Board or employee or agent of the Board who fails without just cause to comply with a requirement of an auditor in terms of [subsection \(1\)](#) shall be guilty of an offence and liable to a fine not exceeding ten thousand dollars or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

### **40. Internal Auditor**

[Section 19](#) of the Public Finance Management Act [*Chapter 22:19*] shall apply, *mutatis mutandis*, to the appointment of an internal auditor to the Fund in all respects as if the Fund were a department of the Ministry for which the Minister is responsible.

[[S. 40](#) amended by Part XLIII of No. 3 of 2016.]

## **PART VII**

### *General*

### **41. Minister may require statistics and information**

The Minister may direct the Board to furnish him with such information and statistics as the Minister may from time to time require, and the Board shall forthwith comply with any such direction.

### **42. Investigation into affairs of Board**

(1) The Minister may at any time cause an investigation to be made into the affairs of the Board by one or more persons appointed by him in writing.

(2) Any person appointed in terms of [subsection \(1\)](#) shall have the same powers as are conferred upon a commissioner by the Commissions of Inquiry Act [*Chapter 10:07*], other than the power to order a person to be detained in custody, and [sections 9](#) to [13](#) and [15](#) to [18](#) of that Act shall apply, *mutatis mutandis*, in relation to an investigation made in terms of [subsection \(1\)](#) and to any person summoned to give or giving evidence at that investigation.

### **43. Regulations**

The Minister, in consultation with the Board, may make regulations providing for all matters which in terms of this Act are required or permitted to be prescribed or which, in his opinion, are necessary or convenient to be

prescribed for carrying out or giving effect to this Act.

## PART VIII

### *Transitional Provisions and Savings*

#### **44. Interpretation in Part VIII**

In this Part -

"Authority" means the Zimbabwe Electricity Supply Authority established in terms of the Electricity Act [*Chapter 13:05*];

"fixed date" means the date fixed in terms of section 1 (2) as the date of commencement of this Act;

"Fund" means the Rural Electrification Fund established and administered by the Zimbabwe Electricity Supply Authority under a Constitution approved in terms of the Public Finance Management Act [*Chapter 22:19*].

[Definition of "Fund" amended by Part XLIII of No. 3 of 2016.]

"Rural Electrification Fund" and "Rural Electrification Fund Board" means the Rural Electrification Fund and the Rural Electrification Fund Board established in terms of this Act.

#### **45. Transfer of assets and liabilities in respect of Fund**

(1) All the assets that immediately before the fixed date were assets of the Authority connected with the services carried on by the Fund, together with the liabilities and obligations attaching thereto which were subsisting immediately before the fixed date, shall, on the fixed date, pass by succession to the Rural Electrification Fund.

(2) Any guarantee or suretyship which was given or made by the Government or any other person in respect of any debt or obligation of the Fund and which was effective immediately before the fixed date shall, on and after the fixed date remain effective against the guarantor or surety in relation to the payment of the debt or performance of the obligation, as the case may be, by the Rural Electrification Fund.

#### **46. Directions regarding transitional matters**

(1) In order to ensure the proper transfer of assets and liabilities of the Fund to the Rural Electrification Fund, the Minister may give the Board of the Authority such directions in writing as he considers necessary and the said Board shall without delay comply with every such direction.

(2) Without derogation from [subsection \(1\)](#), directions given under that subsection may provide for -

- (a) the cessation of all or any of the functions of the Fund;
- (b) the termination of any contract entered into between the Authority and any person;
- (c) the production of any report and the provision of any information concerning the conduct of the Authority or its Board or anything done by or on behalf of the Authority or its Board with respect to the Fund.

#### **47. Transfer of employees and conditions of service of transferred employees.**

(1) With effect from the transfer date every person employed by the Authority in connection with the services carried on by the Fund immediately before that date shall, be transferred to the Rural Electrification Fund Board on terms not less favourable than those enjoyed by him immediately prior to his transfer.

(2) The terms and conditions of service applicable immediately before the fixed date to persons transferred in terms of [subsection \(1\)](#) shall continue to apply until such time as the Rural Electrification Fund Board draws up terms and conditions of service for persons employed by it.

#### **48. Savings**

(1) Any decision made or other thing whatsoever made, done or commenced pursuant to the Constitution of the Fund approved in terms of the Audit and Exchequer Act [*Chapter 22:03*] which, immediately before the date of commencement of this Act, had or was capable of acquiring effect shall continue to have or to be capable of acquiring effect, as the case may be, as if it had been made done or commenced under this Act.

(2) Any levy which, immediately before the fixed date, was chargeable to any consumer by the Authority shall, on or after the fixed date and until alternative charges have been fixed, continue to be chargeable in respect of the supply of electricity to those or similar consumers by the Rural Electrification Fund.