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REPUBLIEK VAN SUID-AFRIKA

Vol. 493 Cape Town, Kaapstad, 5 July Julie 2006 **No. 28992**

THE PRESIDENCY

No. 660 5 July 2006

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

No. 4 of 2006: Electricity Regulation Act, 2006.

IHHOVISI LIKAMONGAMELI

Ino. 660 5 July 2006

Ngalokhu kwaziswa ukuthi uMongameli usewuvumile loMthetho nosewuzoshicilelelwa umphakathi:—

Ino. 4 ka 2006: Umthetho woKulawula uGesi ka 2006.

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GENERAL EXPLANATORY NOTE:

[ ] Words in bold type in square brackets indicate omissions from existing enactments.

Words underlined with a solid line indicate insertions in existing enactments.

(English text signed by the President.)
(Assented to 27 June 2006.)

ACT

To establish a national regulatory framework for the electricity supply industry; to make the National Energy Regulator the custodian and enforcer of the national electricity regulatory framework; to provide for licences and registration as the manner in which generation, transmission, distribution, trading and the import and export of electricity are regulated; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

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2. Objects of Act

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5. Advisory committees
6. Customer and end user forums

CHAPTER III

ELECTRICITY LICENCES AND REGISTRATION

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ISAZISO NGENLAZELO YEMIBHALO EVAMILE:

[ ] Amagama abhalwe ngokugqmile kubakaki akhombisa okweqiwe kulomthetho.

Amagama adwetshweliwe ngomugqa ogqamileyo akhombisa okufakeliwe kulomthetho.

(English text signed by the President.)
(Assented to 27 June 2006.)

UMTHETHO

Ukusungula uhlaka lukazwelonke oluzohambisa ngomthetho imboni enikezela ngogesi; ukwenza iNational Energy Regulator ibe ngumphathi nokuthi kube yiyo ezokwenza ukuthi uhlaka lukazwelonke oluzohambisa ngomthetho ugesi lulandelwe; ukunikeza amalayisensi nokubhalisa indlela okuzoqhutshwa ngayo ukwenziwa, ukuthumela, ukwabiwa, ukuhweba ngogesi; ukungenisa nokukhipha ugesi emazweni angaphandle kwezwe lethu; kanye nokubhekelela izindaba ezixhumene kanye nakho lokhu okungenhla.

INGABE IMISWE NGOKOMTHETHO yiPhalamende laseRiphablikhi yase-Ningizimu Afrika, ngale ndlela:—

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CHAPTER I

INTERPRETATION

Definitions

1. In this Act, unless the context indicates otherwise—

"chief executive officer" means the chief executive officer of the Regulator;

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"customer" means a person who purchases electricity or a service relating to the supply of electricity;

"distribution" means the conveyance of electricity through a distribution power system excluding trading, and ''distribute'' and ''distributing'' have corresponding meanings;

"distribution power system" means a power system that operates at or below 132kV;

"distributor" means a person who distributes electricity;

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"end user" means a user of electricity or a service relating to the supply of electricity;

"generation" means the production of electricity by any means, and ''generate'' and ''generating'' have corresponding meanings;

"generator" means a person who generates electricity;

"integrated resource plan" means a resource plan established by the national sphere of government to give effect to national policy;

"licensee" means the holder of a licence granted or deemed to have been granted by the Regulator under this Act;

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"Minister" means the Minister of Minerals and Energy;

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"National Energy Regulator Act" means the National Energy Regulator Act, 2004 (Act No. 40 of 2004);

"person" includes any organ of state as defined in section 239 of the Constitution;

"prescribe" means prescribe by regulation or rule;

"price" means a charge for electricity;

"Regulator" means the National Energy Regulator established by section 3 of the National Energy Regulator Act;

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"supply" means trading and the generation, transmission or distribution of electricity;

"tariff" means a charge for electricity;

"trading" means the buying or selling of electricity as a commercial activity;

"transmission" means the conveyance of electricity through a transmission power system excluding trading, and ''transmit'' and ''transmitting'' have corresponding meanings;

"transmission power system" means a power system that operates above 132kV;

"transmitter" means a person who transmits electricity; and

"this Act" includes any regulation or rule made or issued in terms thereof.

Objects of Act

2. The objects of this Act are to—

(a) achieve the efficient, effective, sustainable and orderly development and operation of electricity supply infrastructure in South Africa;

(b) ensure that the interests and needs of present and future electricity customers and end users are safeguarded and met, having regard to the governance, efficiency, effectiveness and long-term sustainability of the electricity supply industry within the broader context of economic energy regulation in the Republic;

ISAHLUKO I

UKUHLAZIYA

Izincazelo

1. Kulo mthetho, ngaphandle kokuthi likhombisa okunye—

"CEO" kusho owengamele lowo ongumlawuli;

* * * * *

"osebenzisa izinto ezithengiswayo" kusho umuntu osebenzisa ugesi noma isevisi ehambisana nokunikezela ugesi;

"umthengi" kusho umuntu othenga ugesi noma isevisi ehambisana nokunikezela ugesi;

"ukwabiwa" kusho ukuhambisa ugesi kusetshenziswa izintambo, kanti ''ukwaba'' kunencazelo ehambelanayo nokwabiwa;

"uhlelo lokwabiwa kwamandla" kusho uhlelo lokuhambisa amandla kagesi ngaphansi kwe-132V;

"umabi" kusho umuntu owaba ugesi;

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"ukuphehla" kusho ukukhiqiza ugesi nganoma iyiphi indlela, kanti —phehla kunencazelo ehambisanayo;

"umphehli" kusho umuntu ophehla ugesi;

"ipulani lamandla elixhunyanisiwe" kusho ipulani lamandla elisungulwe uhulumeni kazwelonke elinomthelela emigomeni kazwelonke;

"onelayisense" kusho lowo onelayisense ayinikiwe noma okuthiwa uyinikwe nguMlawuli ngaphansi kwalo Mthetho;

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"uNgqongqoshe" kusho uNgqongqoshe wezokuMbiwa phansi naMandla;

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"I-National Energy Regulator Act" kusho i-*National Energy Regulator Act*, yonyaka ka2004 (Umthetho ungunombolo 40 wonyaka ka2004);

"umuntu" kubandakanya noma iyiphi ingxenye kaHulumeni njengoba kuchaziwe esiqephini 239 soMthethosisekelo;

"-nquma" kusho okunqunywe ngumthetho;

"uMlawuli" kusho *iNational Energy Regulator* eyasungulwa ngaphansi kwesiqephu sesi-3 somthetho *iNational Energy Regulator Act*;

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"-nika" kusho ukuhweba nokuphehla, ukuthunyelwa nokwabiwa kukagesi;

"uhlelo lwemali yokutheliswa" kusho isitatimende esibhaliwe semali ezobizwa, imikhawulo nezimiselo zamasevisi ahambelana nogesi;

"ukuhweba" kusho ukuthengwa nokudayiswa kukagesi njengomsebenzi wokwenza imali;

"ukuthumela" kusho ukuhambisa ngesi ngohlelo lokuthumela amandla kagesi, kanti isenzo ''—thumela'' sinencazelo ehambisanayo;

"uhlelo lokuthumela amandla kagesi" kusho ihlelo lwamandla olusebenza ngaphezu kuka132KV;

"othumelayo" kusho umuntu othumela ugesi; kanye

"Lo Mthetho" ubandakanya noma yimuphi umthetho noma isimiso esenziwe noma imikhawulo ekhishwe kuwo.

Izinto ezimayelana nemithetho

2. Izinjongo zale mithetho uku—

(a) zuza intuthuko eyanele, ephumelelayo, nezohlala isikhathi eside nehlelekile kanye nokusebenzisa ingqalasizinda enikeza ugesi eNingizimu Afrika;

(b) qiniseka ukuthi izidingo, zamanje nezesikhathi esizayo, zabathengi ziqashelwe futhi zifezekile, kuhlonishwe ukuphathwa, ukuqeqesheka, ukukwazi ukusebenza kanye nokuphila isikhathi eside kwemboni yokunikezela ngogesi, uhambisana nemithetho wezamandla emali eRiphabhlikhi;

(c) lungiselela ukufakwa kwemali embonini yokunikeza ugesi;

(c) facilitate investment in the electricity supply industry;
(d) facilitate universal access to electricity;
(e) promote the use of diverse energy sources and energy efficiency;
(f) promote competitiveness and customer and end user choice; and
(g) facilitate a fair balance between the interests of customers and end users, licensees, investors in the electricity supply industry and the public.

CHAPTER II

OVERSIGHT OF ELECTRICITY INDUSTRY

Regulator

3. (1) The National Energy Regulator established by section 3 of the National Energy Regulator Act is the custodian and enforcer of the regulatory framework provided for in this Act.

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Powers and duties of Regulator

4. The Regulator—

(a) must—

(i) consider applications for licenses and may issue licences for—
(aa) the operation of generation, transmission and distribution facilities;
(bb) the import and export of electricity;
(cc) trading;

(ii) regulate prices and tariffs;

(iii) register persons who are required to register with the Regulator where they are not required to hold a licence;

(iv) issue rules designed to implement the national government's electricity policy framework, the integrated resource plan and this Act;

(v) establish and manage monitoring and information systems and a national information system, and co-ordinate the integration thereof with other relevant information systems;

(vii) enforce performance and compliance, and take appropriate steps in the case of non-performance;

(b) may—

(i) mediate disputes between generators, transmitters, distributors, customers or end users;

(ii) undertake investigations and inquiries into the activities of licensees;

(iv) perform any other act incidental to its functions.

Advisory forums

5. The Regulator may appoint forums consisting of as many members of the Regulator, employees of the Regulator and other persons as may be necessary to advise the Regulator in general or on a particular matter.

Customer and end user forums

6. (1) The Regulator may establish customer or end user forums consisting of as many members of the Regulator, licensees, employees of the Regulator and categories of customers or end users as may be necessary to advise the Regulator on matters affecting customers or end users in general, or a category of customers or end users in particular.

(d) lungiselela ukuthi bonke abantu bakwazi ukuthola ugesi;
(e) qhubekisa ukusetshenziswa kwemithombo yamandla enhlobonhlobo kanye nokusebenza kahle kwamandla kagesi;
(f) qhubekisa ukuncintisana kanye namathuba okuthi umthengi azikhethele akufunayo; kanye
(g) nokuqhubekisa ukulingana okwamukelekile phakathi kwalokho okuthandwa ngabathengi, ngabanamalayisense, abafaki bezimali embonini yokunikeza ngogesi kanye nomphakathi.

ISAHLUKO II

OKUPHATHELENE NEMBONI KAGESI

UMlawuli

3. (1) I *National Energy Regulator* eyasungulwa yisiqephu 3 somthetho obizwa *ngeNational Energy Regulator Act*, ingumphathi futhi yiyo ezohambisa ngokomthetho uhlaka olunikezwe kulo Mthetho.

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Amandla nomsebenzi woMlawuli

4. uMlawuli—
(a) Kumele—
(i) Abheke izicelo zamaliyisesi anphinde akhiphe amalayisense—
(aa) okusebenzisa izinto zokuphehla, zokwethula zokuthumela nokwaba;
(bb) okungenisa nokukhipha ugesi emazweni angaphandle kwezwe lethu
(cc) okuhweba.
(ii) ahlele ngokomthetho amanani namahlelo emali yentela
(iii) abhalise abantu okudingeka ukuthi babhalise kuMlawuli lapho kungadingeki khona ukuthi babe nelayisense;
(iv) akhiphe imithetho ehlelelwe ukusebenza kohlaka lwemigomo kagesi kahulumeni kazwelonke, ipulani lamandla elixhunyanisiwe kanye nalo Mthetho;
(v) asungule, aphathe izinhlelo zokwalusa nezolwazi kanye nohlelo lolwazi lukazwelonke; abuye alunganisa ukuxhumana kwazo nezinye izinhlelo zolwazi ezihambisana nazo;
(vi) aluse ukusebenza, abheke ukuthi kuhambisana nohlaka lwemigomo kagesi lwahulumeni kazwelonke, ipulani lamandla elixhunyanisiwe kanye nalo Mthetho;
(vii) enze ukuthi kusetshenzwe ngendlela nokuthi imigomo ebekiwe ilandelwa, nokuthatha izinyathelo ezifanele uma kungasetshenzwa ngokufanele.
(b) Angenza lokhu—
(i) axazulule imibango ephakathi kwabaphehli bamandla kagesi, kwabethuli kwababi kanye nabantu abasebenzisa ezithengiswayo;
(ii) aphenye abuye abuze ngalokho okwenziwa yilabo abanamalayisense; yakhe
(iii) nokwenza eminye imisebenzi ehambisana nemisebenzi.

Izigungu zokweluleka

5. UMlawuli angakhetha isigungu esinesibalo asithandayo samalunga alawulayo, abasebenzi bomlawuli kanye nabanye abantu abangadingeka ukweluleka umlawuli odabeni oluthile.

Isigungu zamaKhasimende kanye nabasebenzisi bomkhiqizo

6. (1) UMlawuli angasungula isidlangala sabathengi nabantu abasebenzisa izinto ezithengiswayo, esinamalunga abangabalawuli, abasebenzi nezinhlobo zabathengi nabantu abasebenzisa izinto ezithengiswayo, okungaba nesidingo sokuthi beluleke lowo ohambisa izinto ngokomthetho ezintweni ezithinta abathengi nabantu abasebenzisa

(2) The Regulator must require a licensee to establish and fund a customer or end users forum in the manner set out in the licence held by such a person.

CHAPTER III

ELECTRICITY LICENCES AND REGISTRATION

Application of Chapter

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Activities requiring licensing

8. (1) No person may, without a licence issued by the Regulator in accordance with this Act—

(a) operate any generation, transmission or distribution facility;

(b) import or export any electricity; or

(c) be involved in trading.

(2) Notwithstanding subsection (1), a person involved in an activity specified in Schedule II need not apply for or hold a licence issued by the Regulator.

(3) *(a)* Nothing in this Act precludes a potential licensee from discussing the contemplated operation of generation, transmission and distribution facilities, the import or export of electricity, trading, or any other activity relating thereto, prior to filing a licence application with the Regulator.

(b) The Regulator must furnish an applicant contemplated in paragraph *(a)* with all information necessary to facilitate the filing of an application for a licence.

(4) No request for further information, notification or discussions referred to in subsection (3) may in any way be construed as conferring any right or expectation on an applicant.

Certain activities not licensed

9. The Minister may, after consultation with the Regulator and stakeholders in the advisory forum, determine by notice in the *Gazette* that any activity contemplated in section 8(1) need no longer be a licensed activity from the date set out in such notice.

Registration

10. (1) The Minister may, in consultation with the Regulator, determine by notice in the *Gazette* that any person involved in an activity relating to trading or the generation, transmission or distribution of electricity that does not require licensing in terms of section 8 read with section 9 must register with the Regulator.

(2) Any person who has to register with the Regulator must do so in the form and in accordance with the prescribed procedure, and an application for registration must be accompanied by the prescribed registration fee: Provided that any person holding a valid licence at the date of a determination contemplated in section 9 must be issued with a registration certificate without complying with the prescribed procedure.

(3) *(a)* On receipt of an application in terms of subsection (2) the Regulator must forthwith register the applicant for the activities set out in a certificate of registration to be provided to such a person.

(b) The Regulator may refuse to register such a person or activity—

(i) if the application is not made within the prescribed period or is not accompanied by the prescribed registration fee; or

(ii) if the application is contrary to the objectives of this Act.

(4) The Regulator may make registration subject to—

(a) adherence to the provisions of this Act;

izinto ezithengiswayo noma ezithinta izinhlobo zabathengi nabantu abasebenzisa izinto ezithengiswayo ezimeni ezithile.

(2) UMlawuli, angacela lowo onelayisense ukuthi asungule futhi afake imali kulesi sidlangala sabathengi nabantu abasebenzisa izinto ezithengiswayo, njengoba kubekiwe elayisenseni yalowo muntu.

ISAHLUKO III

Ukusebenzisa isahluko

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Imisebenzi edinga ilayisense

8. (1) Akekho umuntu, ngaphandle uma enelayisense ekhishwe nguMlawuli ehambelana nalo Mthetho—

(a) ongasebenzisa izinto zokuphehla, zokuthumela, nezokwaba;

(b) ongangenisa noma akhiphe ugesi emazweni angaphandle kwezwe lethu; noma

(c) ongazimbandakanya ekuhwebeni.

(2) Ngale kwesiqeshana (1), umuntu obambe iqhaza emsebenzini okukhulunywa ngawo oHlelweni 2, akumele ufake isicelo selayisense noma abe nelayisense ekhishwe nguMlawuli.

(3) *(a)* Alukho kulo Mthetho oluvimbela umuntu ongathola ilayisense ukuthi axoxe ngaleso sakhiwo asicabangayo noma ukusebenzisa izinto zokuphehla, zokuthumela nokwaba ngogesi, ukungenisa nokukhipha ugesi emazweni angaphandle kwezwe lethu, ukuhweba noma yimiphi eminye imisebenzi ehambisana nakho lokhu okungenhla. Ngaphambi kokufaka isicelo selayisensi sokuthola kuMlawuli.

(b) UMlawuli kumele anike lowo ofake isicelo, okukhulunywa ngaye esigabeni *(a)*, ulwazi oludingekayo oluzomsiza ekugcwaliseni isicelo selayisense.

(4) Azikho izicelo zolunye ulwazi, izaziso noma izingxoxo ekukhulunywe ngazo esiqeshaneni (3) ezingabe sezithathwa njengento enikeza ilungelo noma ithemba elithile kulowo ofake isicelo.

Eminye imisebenzi engadingi ilayisense

9. UNgqongqoshe angakwazi emuva kokuthi esexhumene noMlawuli, nomphakathi kanye nezigungu zokolulekaukuthi anqume ukufaka isaziso *kwiGazethi* esimayelana nanoma yimiphi imisebenzi ecatshangiwe esiqeshini sesi-8 (1), ayidingi ukuthi ibe yimisebenzi edinga ilayisense kusukela kulelo langa eliyobe libekwe kuleso saziso, esinjengaleso.

Ukubhalisa

10. (1) UNgqongqoshe angakwazi ukuthi, emuva kokuthi esexoxisenenoMlawuli, anqume ukufaka isaziso kwiGazethi esisho ukuthi noma yimuphi umuntu ozibandakanye emisebenzini yokuhweba noma yokuphehla, yokuthumela noma yokwabiwa kukagesi; engadingi ilayisense ngokwesiqephu 8, kanye nesiqephu 9.

(2) Noma yimuphi umuntu okumele abhalise kuMlawuli, kumele alandele indlela nenqubo enqunyiwe, kanti isicelo sokubhalisa kumele sihambisane nemali yokubhalisa enqunyiwe: Ngale kwalokho, noma yimuphi umuntu onelayisense esemthethweni ngesikhathi kwethulwa okucatshangwayo ngokwesiqephu 9, kumele anikwe isitifiketi sokubhalisa ngaphandle kokwenza konke okumele kwenziwe kule nqubo enqunyiwe.

(3) *(a)* Ekutholeni lesi sicelo esihambisana nesiqeshana 2, uMlawuli kumele ngaleso sikhathi abhalisele lowo ofake isicelo imisebenzi ebekwe esitifiketini sokubhalisa esizonikwa lowo muntu.

(b) uMlawuli anganqaba ukubhalisa lowo muntu noma umsebenzi—

(i) uma isicelo singafakwanga ngesikhathi esinqunyiwe noma isicelo singahambisani nemali yokubhalisa enqunyiwe; noma

(ii) uma ofaka isicelo ephikisana nezinjongo zalo Mthetho.

(4) uMlawuli angabhalisa abantu, kepha konke kuncike—

(a) ekulandeleni imiyalo ekulo Mthetho

(b) conditions relating to the supply of information to the Regulator, the dissemination of information to customers or end users, and the establishment and funding of customer and end user awareness programmes.

Application for licence

11. (1) *(a)* A person who has to hold a licence in terms of section 8 must apply to the Regulator for such a licence in the form and in accordance with the prescribed procedure.

(b) Such an application must be accompanied by the prescribed application fee.

(2) Any application contemplated in subsection (1) must include—

(a) a description of the applicant, including vertical and horizontal relationships with other persons engaged in the operation of generation, transmission and distribution facilities, the import or export of electricity, trading or any other prescribed activity relating thereto;

(b) such documentary evidence of the administrative, financial and technical abilities of the applicant as may be required by the Regulator;

(c) a description of the proposed generation, transmission or distribution facility to be constructed or operated or the proposed service in relation to electricity to be provided, including maps and diagrams where appropriate;

(d) a general description of the type of customer to be served and the tariff and price policies to be applied;

(e) the plans and the ability of the applicant to comply with applicable labour, health, safety and environmental legislation, subordinate legislation and such other requirements as may be applicable;

(f) a detailed specification of the services that will be rendered under the licence;

(g) evidence of compliance with any integrated resource plan applicable at that point in time or provide reasons for any deviation for the approval of the Minister; and

(h) such other particulars as the Minister may prescribe.

Advertising of licence application

12. (1) When application is made for a licence the Regulator may require that the applicant publish a notice of the application in appropriate newspapers or other appropriate media circulating in the area of the proposed activity in at least two official languages.

(2) The advertisement must state—

(a) the name of the applicant;

(b) the objectives of the applicant;

(c) the place where the application will be available for inspection by any member of the public;

(d) the period within which any objections to the issue of the licence may be lodged with the Regulator;

(e) the address of the Regulator where any objections may be lodged;

(f) that objections must be substantiated by way of an affidavit or solemn declaration; and

(g) such other particulars as may be prescribed.

(3) The advertisement contemplated in subsection (1) must be published for such period or in such number of issues of a newspaper as may be prescribed.

(4) The Regulator must consider objections to the application contemplated in subsection (1) and make its decision available to the public together with its reasons for such decision.

Information to be supplied

13. Before considering an application for a licence in terms of this Act, the Regulator—

(a) must furnish the applicant with all substantiated objections in order to allow the applicant to respond thereto; and

(b) may request such additional information as may be necessary to consider the application properly.

(b) ezimiselweni ezihambelana nokunikeza ulwazi kulowo ohambisa izinto ngokomthetho, ukuhanjiswa kolwazi oluya kubathengi nakulabo abasebenzisa izinto ezithengiswayo, kanye nokusungulwa nokukhokhelwa kwezinhlelo eziqwashisa abathengi nalabo abasebenzisa izinto ezithengiswayo,

Ukufaka isicelo selayisense

11. (1)*(a)* Umuntu okumele abe nelayisense ngokwesiqephu 8, kumele afake isicelo sakhe, saleyo layisense elandela indlela nezinqubo ezinqunyiwe, kuMlawuli.

(b) Lolo hlobo lwesicelo kumele luhambisane nemali yokufaka isicelo enqunyiwe.

(2) Noma yisiphi isicelo somsebenzi esicatshangiwe esiqeshaneni (1) kumele sibandakanye—

(a) incazelo yomuntu ofake isicelo, kubandakanya nobuhlobo obunhlobonhlobo nabantu, abasebenza umsebenzi wokwakha noma wokusebenzisa izinto zokuphehla amandla kagesi, zokuthumela, zokwaba, nokuhweba ngogesi, ukungenisa nokukhipha ugesi emazweni angaphandle kwezwe lethu, kanye nokubhekelela izindaba ezixhumene kanye nakho lokhu okungenhla;

(b) ubufakazi obubhaliwe bolwazi lokuphatha, lwezimali nolobuciko balowo ofaka isicelo njengoba budingwa nguMlawuli;

(c) incazelo yomsebenzi ohlongozwayo wokuphehla amandla kagesi, wokuthumela, wokwaba izinto ezizokhwakhiwa noma ezizosetshenziswa noma umsebenzi ohlongozwayo ohambisana nogesi ozokwenziwa, kubandakanya namabalazwe nemidwebo lapho kunesidingo khona;

(d) incazelo evamile yohlobo lomthengi ozodayiselwa ngokwehlelo lemali yentela nemigomo yentengo ezosetshenziswa;

(e) amapulani nokukwazi komuntu ofake isicelo ukuhambisana nomthetho omayelana nabasebenzi, umthetho wempilo nowokuphepha nowokuhlalisana kwabantu kanye nezinye izidingo njengoba zingahambelana.

(f) imininingwane ephelele yomsebenzi ezokwenziwa kule layisense;

(g) ubufakazi obuhambisana nepulani lamandla elixhunyanisiwe elihambelana naleso sikhathi; kanye

(h) neminye imininingwane enganqunywa nguNgqongqoshe.

Ukukhangisa ngesicelo selayisense

12. (1) Uma isicelo selayisense sesifakiwe, uMlawuli angadinga ukuthi umuntu ofake isicelo ashicilele isaziso sesicelo ephephandabeni noma kunoma yiluphi uhlobo lwezokusakaza olusetshenziswa kuleyo ndawo ngezilimi okungenani ezimbili ezisemthethweni.

(2) Isikhangiso kumele sibeke lokhu:

(a) igama lalowo ofake isicelo;

(b) izinjongo zalowo ofaka isicelo;

(c) indawo, lapho isicelo esifakiwe, singatholakala khona uma sesizohlolwa yinoma yiliphi ilungu lomphakathi;

(d) isikhathi okungafakwa ngazo izicelo eziphikisa ukuthi athole ilayisensi kulowo ohambisa izinto ngokomthetho;

(e) ikheli likaMlawuli okungathunyelwa kulona izicelo eziphikisa lesi sicelo selayisense;

(f) isicelo esiphikisayo singachazwa uma sekwenziwa isifungo phambi kwelunga lasemthethweni; kanye

(g) neminye imininigwane ehambisana nalokhu ingadingeka.

Ulwazi okumele lunikwezwe abantu

13. Ngaphambi kokubheka isicelo selayisense ngokwalo Mthetho, uMlawuli kumele—

(a) anike lowo ofake isicelo lezo zicelo eziphikisa isicelo sakhe ukuze athole ithuba lokuphendula kuzona; kanye

(b) angacela lolo lwazi olwengeziwe olungadingeka ukucubungula lesi sicelo ngendlela efanele.

Finalisation of application

14. (1) The Regulator must decide on an application in the prescribed manner within 120 days—

(a) after the expiration of the period contemplated in section 12(2)*(d)*, if no objections have been received; or

(b) after receiving the information contemplated in section 13*(b)*.

(2) The Regulator must provide the applicant with a copy of its decision as well as the reasons for the decision.

(3) The Regulator must issue separate licences for—

(a) the operation of generation, transmission and distribution facilities;

(b) the import and export of electricity; or

(c) trading.

(4) The Regulator is not obliged to issue a licence and may issue only one licence per applicant for each of the activities contemplated in subsection (3).

Conditions of licence

15. (1) The Regulator may make any licence subject to conditions relating to—

(a) the establishment of and compliance with directives to govern relations between a licensee and its or end users, including the establishment of or end user forums;

(b) the furnishing of information, documents and details that the Regulator may require for the purposes of this Act;

(c) the period of validity of the licence in accordance with section 21;

(d) the setting and approval of prices, charges, rates and tariffs charged by licensees;

(e) the methodology to be used in the determination of rates and tariffs which must be imposed by licensees;

(f) the format of and contents of agreements entered into by licensees;

(g) the regulation of the revenues of licensees;

(i) the setting, approving and meeting of performance improvement targets, including the monitoring thereof through certificates of performance;

(j) the quality of electricity supply and service;

(k) the cession, transfer or encumbrance of licences, including the compulsory transfer of a licence to another person under certain conditions, and terms and conditions relating thereto;

(l) the right to operate generation, transmission or distribution facilities, to import or export electricity, to trade or to perform prescribed activities relating thereto, including exclusive rights to do so, and conditions attached to or limiting such rights;

(m) the duty or obligation to trade, or to generate, transmit or distribute, electricity, and conditions attached to such duties or obligations;

(n) the termination of electricity supply to customers and end users under certain circumstances, the duty to reconnect without undue discrimination, and conditions relating thereto;

(o) the area of electricity supply to which a licensee is entitled or bound;

(p) the classes of customers and end users to whom electricity may or must be supplied;

(q) the persons from whom and to whom electricity must or may be bought or sold;

(r) the types of energy sources from which electricity must or may be generated, bought or sold;

(s) compliance with health, safety and environmental standards and requirements;

(t) compliance with any regulation, rule or code made under this Act;

Ukuphelelisa isicelo selayisense

14. (1) UMlawuli kumele athathe isinqumo ngesicelo elandela inqubo enqunyiwe zingakapheli izinsuku ezingu-120—

(a) ngemuva kokudlula kwesikhathi esihlongiziwe esiqephini 12(2)*(d)* uma kungazange kutholwe izicelo eziphikisayo; noma

(b) ngemuva kokuthola imininingwane ehlongoziwe esiqephini 13*(b)*.

(2) UMlawuli kumele anike lowo ofake isicelo ikhophi yesinqumo asithathile kanye nezizathu zaleso sinqumo.

(3) UMlawuli kumele akhiphe amalayisense ehlukene alokhu:—

(a) okusebenzisa izinto zokuphehla amandla kagesi, zokuthumela, nezokwaba;

(b) okungenisa nokukhipha ugesi emazweni angaphandle kwezwe lethu; noma

(c) okuhweba

(4) UMlawuli uphoqelekile ukukhipha ilayisense nokuthi angakhipha ilayisense eyodwa yalawo nalowo muntu ofake isicelo semisebenzi ehlongozwayo esingatshaneni (3).

Imibandela yelayisense

15. (1) UMlawuli angenza ukuthi ilayisense incike ekutheni—

(a) kusungulwe nokuthi kuhanjiswe ngokwenqubomgomo ebusa ubudlelwano obuphakathi kofuna ilayisensi nomthengi, kubandakanya nokusungulwa kwesidlangala sabathengi;

(b) kulethwe ulwazi, imiqulu nemininingwane engafunwa nguMlawuli;

(c) esikhathini ilayisensi esebenza ngaso sihambisana nenqubo enqunywe nguNgqongqoshe;

(d) kuhlelwa futhi kugunyazwe intengo, imali ekhokhelwa abedolobha, nehlelo lemali yentela nezinhlelo zemali ezibizwe ngabanalayisense;

(e) endleleni ezosetshenziswa ukunquma izimali ezikhokhelwa abedolobha, nezinhlelo zemali ezingeza nabanamalayisense;

(f) ukuhleleka kwesivumelwano nokuqukethwe yisivumelwano onelayisense angene kusona;

(g) ekulawuleni imali engenayo yabanamalayisense;

(h) ipulani nesibopho sokuhambisa ugesi, kubandakanya namapulani uma kunezimo eziphuthumayo;

(i) ahlele, ukugunyaza kanye nemihlangano emayelana nemigomo yokuthuthukisa, kubandakanya nokwelusa ngezitifiketi zokusebenza;

(j) ezingeni eliphezulu lokuhambisa ugesi kanye namasevisi;

(k) ukuyeka, ukudlulisela amalayisensi komunye noma ukusindwa kwamalayisensi kubandakanya nokudluliswelwa kwelayisensi okuphoqiwe iyiswa komunye umuntu ngaphansi kwezimo ezithize, amathemu nezimo ezihambisana nalokhu;

(l) ilungelo ukusebenzisa izinto zokuphehla amandla kagesi, zokuthumela, nezokwaba; ukungenisa nokukhipha ugesi emazweni angaphandle kwezwe lethu; kanye nokuhweba noma ukwenza eminye imisebenzi ehambisana nalokhu, kubandakanya amalungelo okwenza kanje, nesimiso ezihambisana nalokhu noma ukwehlisa lawa malungelo;

(m) emsebenzini noma isibopheni sokuhweba, sokuphehla amandla kagesi, zokuthumela, nezokwaba;, nezimo ezihambelana nawo noma okuvimba lawo malungelo;

(n) ekunqanyulweni kukagesi kubathengi ngaphansi okudalwa yizimo ezithize, nomsebenzi wokuwuvula futhi ngale kokubandlululwa nezimo ezihambelana nakho;

(o) indawo yokunikeza ugesi lowo onelayisensi okumele asebenze kuyo;

(p) izinga labathengi okumele banikezwe noma banganikezwe ugesi;

(q) umuntu okumele kuthengwe kuye noma okumele athengiselwe ugesi;

(r) izinhlobo zemithombo yamandla lapho kususelwa khona ugesi, othengwa khona noma odayiswa khona;

(s) ekuhambisaneni nezidingo namazinga empilo, okuphepha kanye namazinga esimo sokuhlalisana kwabantu;

(t) ekuhambisaneni nemithetho nezimiso, nendlela yokuziphatha nenhlanganisela yemithetho eyenziwe ngaphansi kwalo Mthetho;

(u) compliance with energy efficiency standards and requirements, including demand-side management;
(w) the undertaking of customer or end user education programmes;
(x) the need to maintain facilities in a fully operational condition;
(y) the period within which licensed facilities must become operational; and
(z) any other condition prescribed by the Regulator.

(2) The Regulator may, as part of a licence condition imposed under subsection (1), prohibit a licensee from performing or force a licensee to perform any act set out in such licence.

Tariff principles

16. (1) A licence condition determined under section 15 relating to the setting or approval of prices, charges and tariffs and the regulation of revenues—
(a) must enable an efficient licensee to recover the full cost of its licensed activities, including a reasonable margin or return;
(b) must provide for or prescribe incentives for continued improvement of the technical and economic efficiency with which services are to be provided;
(c) must give end users proper information regarding the costs that their consumption imposes on the licensee's business;
(d) must avoid undue discrimination between customer categories; and
(e) may permit the cross-subsidy of tariffs to certain classes of customers.

(2) A licensee may not charge a customer any other tariff and make use of provisions in agreements other than that determined or approved by the Regulator as part of its licensing conditions.

(3) Notwithstanding subsection (2), the Regulator may, in prescribed circumstances, approve a deviation from set or approved tariffs.

Amendment of licence

17. (1) The Regulator may vary, suspend or remove any licence condition, or may include additional conditions—
(a) on application by the licensee;
(b) with the permission of the licensee;
(c) upon non-compliance by a licensee with a licence condition;
(d) if it is necessary for the purposes of this Act; or
(e) on application by any affected party.

(2) The Minister must prescribe the procedure to be followed in varying, suspending, removing or adding any licence condition.

Revocation of licence on application

18. (1) The Regulator may revoke a licence on the application of a licensee if—
(a) the licensed facility or activity is no longer required;
(b) the licensed facility or activity is not economically viable;
(c) another person is willing and demonstrably able to assume the rights and obligations of that licensee in accordance with the requirements and objectives of this Act, and a new licence is issued to such a person; or
(d) conditions of a licence are not met.

(2) A licensee must, in the circumstances contemplated in subsection (1)*(a)* and *(b)*, give the Regulator at least 12 months' notice in writing of his or her intention to cease activities, unless the Regulator determines otherwise.

(3) The Minister must prescribe the form and procedure to be followed in revoking a licence.

(u) ekuhambisaneni namamazinga nezidingo zikagesi eziphelele, kubandakanya nokuphatha;
(v) ezinhlotsheni zabathengi okungancintiswanwa ngabo, kanye nezimo ezihambisana nalokhu kuncintisana;
(w) ekuqhubeni izinhlelo zokufundisa abathengi;
(x) esidingweni sokugcina izinto zokusebenza zisezimeni sokusebenza ngokugcwele;
(y) esikhathini okumele izinto zokusebenza ezinelayisense ziqale ngaso ukusebenza; kanye
(z) nakwezinye izimo ezinqunyiwe.

Imigomo yehlelo lwemali yokutheliswa

16. (1) Imibandela yelayisense ekukhulunywa ngayo ngaphansi kwesiqephu 15 ehambisana nesimo senhlalo noma nehlelo lwemali yentela noma ukulawula imali engenayo—

(a) umuntu onelayisense kumele akwazi ukuthola imali yakhe kuleyo misebenzi avunyelwe ukuyenza, kubandakanya nenzuzo eyamukelekile;
(b) kube nezinto ezizokhuthaza ukuthi kube nentuthuko eqhubekayo kulokho okwenziwayo;
(c) kumele inike labo abasebenzisa izinto ezithengiswayo ulwazi olufanele olumayelana nezindleko zokusebenzisa ugesi ebhizinisini lalowo onelayisensi;
(d) kumele agweme ubandlululo phakathi kwezinhlobo zabathengi bakhe; kanye
(e) nokuvumela imixhaso yamahlelo lemali yentela kubantu abasemazingeni athile.

(2) Onelayisense angeke abiza umthengi noma yiliphi ihlelo lemali yentela noma enze ezinye izivumelwano ngaphandle kwalezo ezinqunywe noma ezigunyazwe yilongulawuli njengengxenye yimibandela yelayisense.

(3) Ngale kwesiqephu 3, uMlawuli, ezimeni ezinqunyiwe, angakwazi ukuthi avumela ukwehluka kwehlelo lemali yentela einqunyiwe.

Ukuchitshiyelwa kwelayisense

17. (1) UMlawuli angangavumi, angamisa noma ephuce noma yimiphi imibandela yelayisense, noma angengeza eminye imibandela—

(a) ekufakweni kwesicelo selayisense;
(b) ngemvume yonelayisense;
(c) uma onelayisense engalandelanga imibandela yelayisense;
(d) uma kunesidingo ngokwenjongo yalo Mthetho; noma
(e) uma lowo othintekayo efaka isicelo.

(2) UNgqongqoshe kumele anqume inqubo okumele ilandelwe ezimeni ezahlukene, zokumisa, zokwephuca noma zokwengeze imibandela yelayisense.

Ukuchithwa kwesicelo selayisense

18. (1) UMlawuli angasichitha isicelo selayisense ngesikhathi kufakwa isicelo uma—

(a) izinto noma imisebenzi enikezelwe ilayisense ingasadingeki;
(b) izinto noma imisebenzi yelayisensi ingasangenisi imali;
(c) kukhona omunye umuntu ozimisele futhi okhombisayo ukuthi uyakwazi ukufeza amalungelo kanye nesibopho salo Mthetho nelayisense elisha likhishelwe lowo muntu; noma
(d) imibandela yelayisense kungahlangabezanwanga nayo.

(2) onelayisensi kumele ukuba, ezimeni ekukhulunywe ngazo esiqephini 1*(a)* no *(b)*, unika uMlawuli okungenani inothisi ebhaliwe yezinyanga ezingu-12 yokumisa imisebenzi yakhe noma ngaphandle kokuthi uMlawuli enquma ngokunye.

(3) UNgqongqoshe kumele anqume izindlela nezinqubo ezizolandelwa uma kuchithwa ilayisense.

Contraventions of licence

19. (1) If it is alleged that a licensee has contravened or failed to comply with a licence condition or any provision of this Act, the Regulator may sit as a tribunal to decide on the allegation.

(2) If the tribunal finds that the allegation contemplated in subsection (1) is correct it may serve a notice on the licensee directing the licensee to comply with the licence condition or the provision of this Act, as the case may be, within a reasonable period specified in the notice.

(3) If it is alleged that the licensee has failed to comply with a notice in terms of subsection (2) the Regulator may sit as a tribunal to decide on that allegation.

(4) If the tribunal finds that the allegation contemplated in subsection (3) is correct it may impose a penalty of 10 per cent of the annual turnover of the licensee or R2 000 000,00 (whichever is the higher amount) per day commencing on the day of receipt of the notice contemplated in subsection (2).

(5) The Regulator must consider the extent of the non-compliance in deciding the amount of any penalty.

(6) The Minister may from time to time by notice in the *Gazette* amend the amount referred to in subsection (4) in order to counter the effect of inflation.

Order by court

20. (1) The Regulator may by way of application on notice of motion apply to the High Court for an order suspending or revoking a licence if there is any ground justifying such suspension or revocation.

Renewal of licence

21. (1) Any generation or transmission licence issued in terms of this Act is valid for a period of 15 years or such longer period as the Regulator may determine.

(2) Any distribution or trading licence issued in terms of this Act is valid for the period determined by the Regulator.

(3) A licensee may apply for the renewal of his or her licence.

(4) An application for renewal must be granted, but the Regulator may set different licence conditions.

(5) A licensee may not assign a licence to another party.

Powers and duties of licensee

22. (1) A licence issued in terms of this Act empowers and obliges a licensee to exercise the powers and perform the duties set out in such licence and this Act, and no licensee may cede, transfer any such power or duty to any other person without the prior consent of the Regulator.

(2) A licensee may not discriminate between customers or classes of customers regarding access, tariffs, prices and conditions of service, except for objectively justifiable and identifiable differences approved by the Regulator.

(3) A transmission or distribution licensee must, to the extent provided for in the licence, provide non-discriminatory access to the transmission and distribution power systems to third parties.

(4) Access in terms of subsection (3) must be provided on the conditions set out in the licence of such transmitter or distributor, that may relate to—

(a) the circumstances under which access must be allowed;

(b) the circumstances under which access may be refused;

(c) the strengthening or upgrading of the transmission or distribution power system in order to provide for access, including contributions towards such upgrading by the potential users of such systems, if applicable;

Ukwephula kwemibandela ye layisensi

19. (1) Uma kusolakala ukuthi onelayisense uphule noma uhlulekile ukulandela imigomo yayo noma lo Mthetho, UMlawuli angamhlalisa esigcawini samacala ukunquma ngalezo zonsolo.

(2) Uma ukuthethweni kwecala, kuthola ukuthi lezo zinsolo okukhulunywe ngazo esigabeni 1 ziyizona, anganikeza inothisi kulowo onelayisense, ezobe itshela onelayisensi ukuthi alandela imigomo yelayisense noma okubekwe kulo Mthetho, uma kunesidingo, esikhathini esibekiwe kuleyo nothisi.

(3) Uma kunezinsolo zokuthi onelayisense wehlulekile ukulandela isaziso esigabeni (2) uMlawuli angahlala ekuthethweni kwecala bese ethatha isinqumo ngalezo zinsolo.

(4) Uma ekuthethweni kwecala kutholakala ukuthi izinsolo okukhulunywa ngazo esigabeni(3) ziyizona, anganika isigwebo semali engekho ngaphezulu kuka-R2 000 000,00 ngelanga kulolo nalolo suku okwaphulwa ngalo umthetho.

(5) UMlawuli kufanele abheke ukuthi kube kungakanani ukungala ndelwa komthetho bese-ke enquma inhlawulo ehambisana nalokho.

(6) UNgqongqoshe angashicilela ephepheni ukushintshwa kwesamba semali okukhulunywa ngaso esigatshaneni i (4) kuze avimbele ukuwa kemandla email.

Iziyalelo zenkantolo

20. (1) UMlawuli angafaka isicelo, eNkantolo ePhakeme, sokuthi kumiswe noma kuchithwe isicelo selayisense uma onelayisense ehluleke ukuqhuba imisebenzi ayenikelwe yona ilayisensi

Ukuvuselelwa kwelayisense

21. (1) Noma iyiphi ilayisense lokusebenzisa noma lokuphehla amandla kagesi elikhishwe nguMlawuli elikhishwe ngaphansi kwalo Mthetho lisebenza ngokusemthethweni iminyaka eyi-15 noma isikhathi esedlula lokho uma lokho kunqunywe nguMlawuli

(2) Noma yiliphi ilayisense lokwaba noma lokuhweba elikhishwe nguMlawuli elikhishwe ngaphansi komthethi lisebenza ngokusemthethweni isikhathi esingangaleso esinqunywe nguMlawuli

(3) Onelayisensi angafaka isicelo sokuvuselela ilayisensi.

(4) Isicelo sokuvuselela ilayisense kumele sinikezwe kodwa uMlawuli angabeka imibandela emisha noma eyehlukile kule ebikade ikhona ngaphambili.

(5) Lowo onelayisensi akakwazi ukunika omunye umuntu ilayisensi yakhe.

Amandla nemisebenzi yomuntu onelayisense

22. (1) Ilayisense ekhishwe ngokwalo Mthetho inika onelayisense igunya namandla nokuthi enze imisebenzi njengoba kubekiwe elayisenseni nakulo Mthetho, akekho onelayisensi ongayeka, ongadlulisela komunye umuntu, noma anike omunye lawa mandla noma anike omunye umsebenzi ngaphandle kokuthi aqale athole imvume evele kuMlawuli

(2) Onelayisense akangabandlululi phakathi kwabathengi, noma kwabantu bamazinga ehlukene, ngokumayelana nokukwazi kusebenzisa izinto ezikhona, ihlelo lemali yentela, amanani, kanye nezimo zokusebenza, ngaphandle uma kukhona umehluko owamukelekayo nobonakalayo ogunyazwe nguMlawuli

(3) Bonke abanamalayisense okuphehla amandla kagesi nokwaba amandla kagesi kumele, ngokwezinga elibekiwe elayisenseni, banikeze amathuba okusebenzisa izinhlelo zokuphehla amandla kagesi nokuwaba ngendlela engenako ukundlulula.

(4) Ukukwazi ukusebenzisa izinto zokusebenza ngokwesiqeshana (3), kumele kubekwe emibandeleni evezwe elayisenseni yalowo mphehli nomabi wamandla kagesi, engahambisana nalokhu—

(a) izimo okumele ukusebenzisa kuvunyelwe ngazo;

(b) izimo ezingenza ukuthi imvume yokusebenza inqatshelwe;

(c) ukuqinisa kokukhuphula izinga lezinhlelo zokuphehla amandla kagesi nezokwabiwa kwamandla ukuze abantu bakwazi ukuzisebenzisa, kubandakanya nalokho okwenziwayo ukuxhasa le ntuthuko yabantu abanokuzisebenzisa lezi zinhlelo, uma kunokwenzeka;

(d) the rights and obligations of other existing or new users regarding the use of such power systems;

(e) compliance with any rule, code or practice made by the Regulator; or

(f) the fees that may be charged by a licensee for the use of such power system.

(5) A licensee may not reduce or terminate the supply of electricity to a customer, unless—

(a) the customer is insolvent;

(b) the customer has failed to honour, or refuses to enter into, an agreement for the supply of electricity; or

(c) the customer has contravened the payment conditions of that licensee.

Powers of entry and inspection

23. (1) Any person authorised thereto by a licensee may at all reasonable times enter any premises to which electricity is or has been supplied by such licensee, in order to inspect the lines, meters, fittings, works and apparatus belonging to such licensee, or for the purpose of ascertaining the quantity of electricity consumed, or where a supply is no longer required, or where such licensee may cut off the supply, for the purpose of removing any lines, meters, fittings, works and apparatus belonging to such licensee.

(2) Any person wishing to enter any premises in terms of subsection (1) shall—

(a) if possible, make the necessary arrangements with the legal occupant of the premises before entering such premises and shall adhere to all reasonable security measures, if any, of the occupant or owner of the premises;

(b) exhibit his authorization at the request of any person materially affected by his activities.

(3) Damage caused by such entry, inspection or removal shall be repaired or compensated for by the licensee.

Electricity infrastructure not fixtures

24. (1) Any asset belonging to a licensee that is lawfully constructed, erected, used, placed, installed or affixed to any land or premises not belonging to that licensee, remains the property of that licensee notwithstanding the fact that such an asset may be of a fixed or permanent nature.

(2) An asset belonging to a licensee in terms of subsection (1)—

(a) may not be attached or taken in execution under any process of law, or be the subject of any insolvency or liquidation proceedings, instituted against the owner of the land, the landlord or the occupier of the premises concerned;

(b) may not be subjected to a landlord's hypothec for rent; and

(c) may only be validly disposed of or otherwise dealt with in terms of a written agreement with the licensee.

Rights over streets

25. (1) *(a)* A licensee may do all such things over, in or along roads or streets and associated infrastructure as may be necessary to carry out its licensed activities.

(b) Any activity contemplated in paragraph *(a)* must be undertaken subject to the right of supervision and in accordance with the plans, routes and specifications of the authority or person in control of that street, except in cases of emergency or where the authority concerned fails or refuses to co-operate with the licensee.

(2) A licensee may only exercise its rights in terms of subsection (1) to the extent necessary to carry out its licensed activities, and must in doing so—

(a) comply with any laws or by-laws that may be applicable;

(b) complete its activities within a reasonable time; and

(d) amalungelo nezibopho, zalabo abebekade bekhona nabaqalayo ukusebenzisa lezi zinhlelo zamandla;

(e) ukulandela izimiso indlela yokuziphatha, yilowo ohambisa izinto ngokomthetho; noma

(f) imali engabizwa yilowo onelayisense ngokusebenzisa lezi zinhlelo zamandla.

(5) Onelayisense angeke akwazi ukwehlisa noma amise ukunikezwa kogesi kubathengi, ngaphandle uma—

(a) umthengi engasenamali;

(b) umthengi ehlulekile ukuhlonipha noma enqabile ukuthi kwenziwe isivumelwano mayelana nokunikezwa kukagesi; noma

(c) umthengi wenze okuphambene nalokho okwakuvunyelenwe ngakho mayelana nokukhokhela leyo layisense kagesi.

Imvume yonelayisensi yokungena nokuhlola

23. (1) Noma yimuphi umuntu onegunya elibhaliwe kodwa engonelayisensi ngaso sonke isikhathi esifanele ungena kunoma iyiphi indawo lapho ugesi unikezwa noma ubukade unikezwa yilowo onelayisensi, ukuze azohlola olayini, amamitha, imishini, ukusebenza kanye nezinto zokusebenza okungezakhe, noma ngenhloso yokuhlola ikhwalithi kagesi osetshenzisiwe, noma lapho ukunikezwa kukagesi kungasadingeki, noma lowo onelayisense enganqamula ukunikeza kukagesi, ngenhloso yokususa olayini, amamitha, imishini, ukusebenza kanye nezinto zokusebenza okungezakhe lo onelayisense.

(2) Noma yimuphi umuntu ofuna ukungena kule ndawo ngokwesiqeshana (1) uyokwenza lokhu:

(a) uma kunokwenzeka uzokwenza amalungiselelo nomuntu ohlala lapho ngokomthetho noma umnikazi wendawo ngaphambi kokungena kuleyo ndawo, futhi kumele alandele zonke izindlela zokuphepha , uma lowo ohlalayo noma oiminikazi wendawo:

(b) okhombise lokho okumgunyazayo uma ecelwa yinoma yimuphi umuntu othintwa yilokho okuzokwenziwa.

(3) Noma yini eyolimala edalwa ukungena, ukuhlola noma ukususwa kokuthile kumele ikhandwe noma ikhokhelwe yilowo onelayisense.

Ingqalasizinda kagesi, hhayi okumi ngqi okungasuki

24. (1) Noma yini ekungeyalowo onelayisense eyakhiwe ngokusemthethweni, esetshenzisiwe, ebekiwe, eshayelelwe ngokothetho emhlabeni noma endaweni okungeyona eyomuntu onelayisense, ihlala ingeyomuntu onelayisense, ngale kokuthi leyo mpahla ingaba ngemi ngqi engasuki noma ihleli kuleyo ndawo unomphela.

(2) Impahla okungeyalowo onelayisensi ngokwesiqeshana (1)—

(a) ngeke ithathwe noma idliwe ngaphansi kwanoma yimuphi umthetho, noma iphatheke kunoma isiphi isimo sokudliwa kwempahla, okubekwe umnikazi womhlaba, umninizwe noma lowo ohleli kulowo mhlaba okukhulunywa ngawo;

(b) ngeke akhokhiswa irenti emba eqolo ngumninikazi wendawo; kanye

(c) ngeke ingalahlwa ngaphandle kokuthi kukhulunywe ngayo nonelayisense esivumelwaneni esibhaliwe.

Amalungelo amayelana nemigwaqo

25. (1)*(a)* Onelayisensi angenza zonke lezi zinto, emigwaqeni, nesengqalasizindeni ehambisana nayo njengoba kungaba nesidingo sokwenza imisebenzi eselayisensini.

(b) Noma imuphi umsebenzi owodwa ehlongozwe esigabeni *(a)* kumele iqhutshwe uma kungukuthi amalungelo okulawula ayahambisana namapulani, izindlela kanye nalokho okuchazwe iziphathimandla noma umuntu owengamele leyo migwaqo, ngaphandle uma kunezimo eziphuthumayo, noma lowo oyisiphathimandla ehluleka noma enqaba ukulandela imigomo yelayisense.

(2) Onelayisensi angasebenzisa amalungelo akhe ngokwesiqheshana (1) alingana nemisebenzi ebekiwe elayisensini, ngokwenza lokhu—

(a) alandele imithetho noma imithetho kamasipala ebekiwe;

(b) aqedela imisebenzi ngesikhathi esifanele; kanye

(c) repair any damage caused or reimburse the person or authority in control of that road or street for any damage caused.

(3) Nothing in this section may be construed as giving a licensee any rights that it does not already have in terms of its licence, or relieving a licensee from any liability in respect of any loss or damage caused by its negligence.

(4) For the purposes of this section 'street' includes any square or enclosed public place the control or care of which is vested in any person or authority.

Liability of licensee for damage or injury

26. In any civil proceedings against a licensee arising out of damage or injury caused by induction or electrolysis or in any other manner by means of electricity generated, transmitted or distributed by a licensee, such damage or injury is deemed to have been caused by the negligence of the licensee, unless there is credible evidence to the contrary.

Expropriation

27. (1) The State may, in order to facilitate the achievement of the objectives of this Act, expropriate land, or any right in, over or in respect of land, on behalf of a licensee in accordance with section 25 of the Constitution and section 2 of the Expropriation Act, 1975 (Act No. 63 of 1975).

(2) The Minister must prescribe the procedure to be followed in giving effect to subsection (1).

(3) The State may exercise the powers contemplated in subsection (1) only if—

(a) a licensee is unable to acquire land or a right in, over or in respect of such land by agreement with the owner; and

(b) the land or any right in, over or in respect of such land is reasonably required by a licensee for facilities which will enhance the electricity infrastructure in the national interest.

CHAPTER IV

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CHAPTER V

RESOLUTION OF DISPUTES AND REMEDIES

Resolution of disputes by Regulator

42. (1) The Regulator must, in relation to any dispute arising out of this Act—

(a) if it is a dispute between licensees, act as mediator if so requested by both parties to the dispute;

(b) if it is a dispute between a customer or end user on the one hand and a licensee, registered person, a person who trades, generates, transmits, or distributes electricity on the other hand, settle that dispute by such means and on such terms as the Regulator thinks fit.

(2) The Regulator may appoint a suitable person to act as mediator on its behalf and any action or decision of a person so appointed is deemed to be an action by or decision of the Regulator.

(3) The Minister must prescribe the procedure to be followed in the mediation and the fees to be paid.

(4) The mediation or arbitration in terms of this section is done at the request of the parties to the dispute and no decision of the Regulator or the person contemplated in subsection (2), taken in the course of the mediation process, must be regarded as a decision contemplated in section 10(3) or (4) of the National Energy Regulator Act.

(c) nokulungisa umonakalo owenzekile noma ukubuyisela abantu imali noma isiphathimandla esengamele lowo mgwaqo okwenzake umonakalo kuwona.

(3) Ayikho into ekulesi siqephu engashintshwa ngokuthi inike onelayisense noma yiliphi ilungelo anganalo ngokwesimiso selayisense noma imkhiphe onelayisense ekutheni avume ukonakala noma ukulahlekelwa yimpahla ngenxa yobudedengu bakhe.

(4) Ngenxa yenhloso yalesi sigaba igama ''imigwaqo'' libandakanya noma yini eyisikwele noma indawo yomphakathi evalekile ukuphathwa kwayo noma ukunakekelwa kwayo okusezandleni zanoma imuphi umuntu noma isiphi isiphathimandla.

Icala lomuntu onelayisense uma kunomonakalo noma kulinyelwe

26. Kunoma ikuphi ukuqulwa kwecala okumangalelwe kulona onelayisense okudalwe ukulimala noma umonakalo odalwe ukubanjwa ugesi noma ngayiphi indlela yokuphehlwa kukagesi, yokwethulwa nokwabiwa kukagesi ilowo onelayisensi, lowo monakalo noma ukulimala kubonakala njengodalwe ubudedengu balowo onelayisense, ngaphandle uma kukhona ubufakazi obukunqabayo lokhu.

Ukuphucwa kwempahla ngokomthetho

27. (1) UHulumeni angakwazi ukuphanga umhlaba, noma yiliphi ilungelo elihambisana nomhlaba, egameni lomuntu onelayisense ngokwesiqephu 25 soMthethosisekelo kanye nesiqephu 2 we-*Expropriation Act*, 1975 (Act No. 63 of 1975), ukuze aqiniseke ukuzuzeka zonke izinjongo

(2) UNgqongqoshe kumele anqume izinqubo ezizolandelwa ukuze kusebenze isiqeshana (1).

(3) UHulumeni angasebenzisa amandla okukhulunywe ngawo esiqeshaneni (1) kuphela uma—

(a) onelayisense engakwazi ukuthola umhlaba noma ilungelo kulowo mhlaba othize ngokuvumelana nomnikazi womhlaba; kanye

(b) umhlaba noma nanoma yiliphi ilungelo kulowo mhlaba lidingwa yilowo onelayisense yokuyisebenzisa ezintweni ezizokhuphula izinga lengqalasizinda kagesi okuzosiza izwe lonke.

ISAHLUKO IV

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ISAHLUKO V

IZIXAZULULO ZEMIBANGO EZENZIWA IREGULATOR

Izinqumo, ezimayelana nemibango, ezithathwe yilowo ohambisa izinto ngokomthetho

42. (1) *iRegulator* kumele, kuhambisana nokungaboni ngasolinye okusukela kulo Mthetho—

(a) uma kungumbango uphakathi kwalabo abanamalayisense, abe uma ecelwe yilabo abangezwani; kanye

(b) uma umbango uphakathi komthengi nonelaysense, nomuntu obhalisiwe, nomhwebi, nomphehli kagesi nomethuli noma nomabi kagesi, axazulule lowo mbango ngokusemandleni ache nangendlela ayibonayo ukuthi ifanele.

(2) UMlawuli angaqoka umuntu ofanele ukuthi abe ngumxazululi noma kube nguye olingisa lengxabano emele yona nokuthi nanoma yisiphi isenzo noma isinqumo esithathwa yilo muntu oqokiwe sithathwa njengesenzo noma isinqumo soMlawuli.

(3) UNqongqoshe kumele asho inqubo okumele ilandelwe ngesikhathi kuxoxwa ngesixazululo nangendlela yokulungisa ingxabano nemali okumele ikhokhwe.

(4) Ukuxazulula ingxabano ngokwalesi siqephu kwenziwa uma abaphakathi engxabanweni befaka isicelo ngaloku futhi asikho isinqumo sikaMlawuli noma somuntu okukhulunywe ngaye esiqeshaneni 2, esithathwe ngesikhathi kuqhubeka izingxoxo zokusombulula ingxabano, esingathathwa njengesinqumo esibalulwe esiqephini 10 (3) noma esiqephini (4) somthetho i*National Energy Act*.

Remedies against decisions of Regulator

43. Section 10(3) of the National Energy Regulator Act applies to every decision by the Regulator taken in terms of this Act, except where this Act provides otherwise or where the Regulator sits as a tribunal, in which case section 10(4) of that Act applies.

CHAPTER VI

INVESTIGATIONS

Investigations

44. (1) The Regulator must, in applicable circumstances, at its own instance or on receipt of a complaint or inquiry relating to the generation, transmission, distribution or trading, investigate complaints—

(a) of discrimination regarding tariffs or conditions of access;

(b) if a licensee is involved, of failure to abide by its licensing conditions; or

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(2) On receipt of a report under subsection (1), the Regulator may institute a formal investigation.

(3) Upon instituting a formal investigation under subsection (2)—

(a) the Regulator may appoint a person to chair the investigation and as many persons as may be necessary to assist with the investigation;

(b) the person appointed under paragraph *(a)* and the persons assisting him or her may summon witnesses and conduct the investigation in the prescribed manner.

(4) On completion of the investigation under subsection (3) the person chairing it must submit his or her written report thereon to the Regulator.

(5) On receipt of the report, the Regulator may—

(a) refer the report to the Director of Public Prosecutions of the area concerned;

(b) if a licensee is involved, act on the matter in accordance with section 19(2); or

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CHAPTER VII

GENERAL PROVISIONS

Entry, inspection and information gathering by Regulator

45. (1) For the purposes of this Act, any person authorised thereto in writing by the Regulator may—

(a) at all reasonable times enter any property on which any activity relating to the supply of electricity is taking place to inspect any facility, equipment, machinery, book, account or other document relating to electricity found thereat; and

(b) require any person to furnish to the Regulator such information, returns or other particulars as may be necessary for the proper application of this Act.

(2) The Regulator may require that the accuracy of any information, return or particular furnished under subsection (1) be verified on oath or by way of solemn declaration.

(3) A person authorised by the Regulator must on request show his or her authorisation.

New generation capacity

46. (1) The Minister may, in consultation with the Regulator—

(a) determine that new generation capacity is needed to ensure the continued uninterrupted supply of electricity;

Amakhambi okusombulula angahambisani nezinqumo zalowo ohambisa izinto ngokomthetho

43. Isiqephu 10(3) se*National Energy Regulator Act* sisebenza kuleso naleso sinqumo esithathwe nguMlawuli ngokulandela lo Mthetho ngaphandle uma lo Mthetho usho okunye noma lapho uMlawuli ehleli lapho kuthethwa khona icala, uma kunjalo umthetho wesiqephu 10(4) walowo Mthetho uyasebenza.

ISAHLUKO VI

UPHENYO

Uphenyo

44. (1) i*Regulator* kumele, ezimweni ezifanele, uma ebona noma uma ethola isikhalazo noma imibuzo ephathelene nokuphehlwa kwamandla kagesi, nokwethula nokwaba noma nokuhweba ngogesi, ayophenya ngezikhalazo—

(a) zokubandlulula okumayelana nohlelo lwemali noma nezimo ezimayelana nokuthola zokungena ezindaweni ezithize;

(b) ezimayelana nokwehluleka kwalowo onelayisense ukuhlonipha imigomo abekelwe yona elayisenseni; noma

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(2) Uma kutholwa isikhalo esisesigabeni (1) uMlawuli angaqalisa ngophenya olusemthethweni.

(3) Uma sekuqaliswa nophenyo olusemthethweni ngaphansi kwesiqeshana (2)—

(a) uMlawuli angaqoka umuntu ozoba ngusihlalo walolu phenyo nabanye abantu abangaba noma bangaki inqobo nje uma bedingeka ekuphenyeni.

(b) umuntu oqokiwe ngaphansi kwesigaba *(a)* nabantu abamsizayo bangabiza ofakazi bese beqhuba uphenyo ngendlela abanqunyelwe yona.

(4) Ekuqedweni kophenyo ngaphansi kwesiqeshana (3) umuntu ongusihlalo wophenyo kumele alethe umbiko obhaliwe ngalo ozoya kuMlawuli.

(5) Ekutholeni umbiko, uMlawuli angenza lokhu—

(a) angadlulisela umbiko ku*Director of Public Prosecutions* waleyo ndawo;

(b) uma lo onelayisense ebandakanyeka, angenza njengoba kubekiwe esiqeshini 19(2); noma

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ISAHLUKO VII

OKUNYE OKUNQUNYIWE

Ukungena, uhlola nokuqoqwa kolwazi yilowo Regulator

45. (1) Ngokwenhloso yalo Mthetho noma yimuphi umuntu ogunyazwe lapha ngokushicilelwe phansi nguMlawuli angenza lokhu:

(a) ngaso sonke isikhathi esamukelekile angangena kunoma yisiphi isakhiwo lapho kusetshenzwa khona ngokuhambisa ugesi ukuzohlola izinto zokusebemnza, izimpahla zokusebenza, imishini, amabhuku, i-akhawunti noma eminye imibhalo ehambisana nogesi otholakala lapho; kanye.

(b) angacela noma ubani ukuba anikeze uMlawuli lolo lwazi noma eminye imininingwanme engadingeka uukuthi kusetshenziswe lo Mthetho.

(2) UMlawuli angadinga ukuthi ubuqiniso banoma yiluphi ulwazi noma imininingwane eyethulwe ngaphansi kwesiqeshana (1) ukuba ihlolisiswe ukuthi iyiqiniso ngaphansi kwesifungo noma ngendlela ye *solemn declaration.*

(3) Umuntu onikezwe amandla okulawula nguMlawuli woGesi kufanele uma ecelwa aveze lawo mandla;

Uhlelo olusha lokuphehla amandla kagesi

46. (1) uNgqongqoshe angakwazi ukuthi ethinene noMlawuli angakhipha kwi*Gazzette*

(a) aveze ukuthi uhlelo olusha lokuphehla amandla kagesi luyadingeka ukuqiniseka ukuthi uknikwezwa kukagesi kuyaqhubeka akuphazamiseki

(b) determine the types of energy sources from which electricity must be generated, and the percentages of electricity that must be generated from such sources;

(c) determine that electricity thus produced may only be sold to the persons or in the manner set out in such notice;

(d) determine that electricity thus produced must be purchased by the persons set out in such notice;

(e) require that new generation capacity must—

(i) be established through a tendering procedure which is fair, equitable, transparent, competitive and cost-effective;

(ii) provide for private sector participation.

(2) The Minister has such powers as may be necessary or incidental to any purpose set out in subsection (1), including the power to—

(a) undertake such management and development activities, including entering into contracts, as may be necessary to organise tenders and to facilitate the tendering process for the development, construction, commissioning and operation of such new electricity generation capacity;

(b) purchase, hire or let anything or acquire or grant any right or incur obligations for or on behalf of the State or prospective tenderers for the purpose of transferring such thing or right to a successful tenderer;

(c) apply for and hold such permits, licences, consents, authorisations or exemptions required in terms of the Environmental Conservation Act, 1989 (Act No. 73 of 1989) or the National Environmental Management Act, 1998 (Act No. 107 of 1998), or as may be required by any other law, for or on behalf of the State or prospective tenderers for the purpose of transferring any such permit, licence, consent, authorisation or exemption to a successful tenderer;

(d) undertake such management activities and enter into such contracts as may be necessary or expedient for the effective establishment and operation of a public or privately owned electricity generation business;

(e) subject to the Public Finance Management Act, 1999 (Act No. 1 of 1999), issue any guarantee, indemnity or security or enter into any other transaction that binds the State to any future financial commitment that is necessary or expedient for the development, construction, commissioning or effective operation of a public or privately owned electricity generation business.

(3) The Regulator, in issuing a generation licence—

(a) is bound by any determination made by the Minister in terms of subsection (1);

(b) may facilitate the conclusion of an agreement to buy and sell power between a generator and a purchaser of that electricity.

(4) In exercising the powers under this section the Minister is not bound by the State Tender Board Act, 1968 (Act No. 86 of 1968).

Regulations, rules, guidelines, directives and codes of conduct and practice

47. (1) The Regulator may, after consultation with—

(a) licensees;

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(c) such other interested persons as may be necessary,

make guidelines and publish codes of conduct and practice, or make rules by notice in the *Gazette*.

(2) Without derogating from the general nature of subsection (1), guidelines and codes of conduct and practice may relate to—

(a) the relationship between licensees and customers and end users;

(c) performance objectives and the setting, approving and meeting of performance improvement targets;

(d) codes of practice relating to the operation, use and maintenance of transmission and distribution power systems;

(e) any other ancillary or administrative matter appropriate for the proper implementation of this Act.

(b) ukuthola izinhlobo zemithombo yamandla ekumele kutholwe kuphehlwe ugesi kuyona kanye namaphesenti kagesi okumele aphehlwe kuyona

(c) ukuthola ukuthi ugesi okhiqizwe ungadayiselwa abantu noma ungadayiswa ngendlela ebekiwe kuleso saziso;

(d) ukuthola ukuthi ugesi okhiqizwe ungadayiswa kubantu abashiwo kuleso saziso;

(e) angadinga ukuthi uhlelo olusha lokuphehla amandla kagesi kumele—

(i) lusungulwe ngokulandela inqubo yokufakwa kwethenda eyamukelekile, ekhombisa ukulingana, ekhanyayo enokuncintisana nengadli imali eningi;

(ii) inika ithuba nezinkampanini ezizimele/ zangaphandle.

(2) UNgqongqoshe unamandla angaba nesidingo noma alokho okwenzeka ngenhloso ethile ebekwe esiqeshaneni (1) kubandakanya namandla oku—

(a) -qhuba imisebenzi yokuphatha nokuthuthukisa engaba nesidingo ukuqhuba inqubo ukuhlela amathenda nokuhambisa inqubo yokufakwa kwamathenda , ukwakha nokunokuqhutshwa kohlelo olusha lokuphehla amandla kagesi

(b) -thenga; ukuqasha nokuqashisa nganoma yini noma ukufuna nokunikeza ilungelo likaHulumeni noma lowo ofake ithenda ngenhloso yokudlulisa izinto ezinjalo noma ilungelo kulowo othole ithenda

(c) -faka isicelo nokuthola imvume, ilayisense, imvume noma igunya noma ukukhululwa njengoba kubekiwe kwi-*Environmental Conservation Conservation Act 1989 (Act No. 73 of 1989)* noma kwi-*National Environmental Management,Act, 1998 (Act No. 107 of 1998)*, noma njengoba kudingwa yinoma yimuphi omunye umthetho, kaHulumeni noma omelet uHulumeni ngenhloso yokudlulisa izinto ezinjalo noma ilungelo kulowo othole ithenda.

(d) Ukwenza leyo misebenzi yokuphatha nokungena ezivumelwaneni ezinjalo njengoba kungaba nesidingo noma kufanele kusunguleni nasekusebenzeni ebhizinisini lokuphehlwa kwamandla kagesi eliphethwe ngumphakathi noma elizimele.

(e) Ngokulandela i-*Public Finance Management Act, 19999 (Act No. 1 of 1999)*, akhiphe igaranti, isivikelo noma ukuphephe okuthile uma engena kunoma yimuphi umsebenzi/noma isiphi isivumelwano esihlanganisa uHulumeni nanoma yisiphi isimo esimayelana nemali esifanele noma esidingekayo ukuthuthukisa, ukwakha, ukuyalela noma ukusebenza ebhizinisini lokuphehlwa kwamandla kagesi eliphethwe ngumphakathi noma elizimele.

(3) UMlawuli uma ekukhipheni ilayisense—

(a) unyazelwe yinkulumo eyenziwe nguNgqongqoshe ngokwesiqeshana (1)

(b) angaqhuba isivumelwano sokuthenga nokudayisa amandla phakathi komphehli nomthengi kagesi.

(4) Ekusebenziseni amandla ngaphansi kwalesi siqephu, uNgqongqoshe akaphoqIwe ngumthetho i-*State Tender Board Act, 1968 (Act No. 86 of 1968).*

Imithetho, izimiso, izinqubomgomo, iziyalo nendlela yokuziphatha nokuqhuba umsebenzi.

47. (1) UMlawuli angakwenza lokhu emuva kokuthintana,

(a) nabanamalayisensi

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(c) nabantu abakhombisa uthando kulo msebenzi njengoba kungaba nesidingo, sokwenza izinqubomgomo nokushicilela indlela yokuziphatha nokwenza ukwenza imithetho ngokufaka isaziso *kuGazethi.*

(2) Ngaphandle kokuhlambalaza ngokokuma kwesigatshana (1), izinqubomgomo kanye nendlela yokuziphatha kanye nokusebenza kungahambisana—

(a) nobudlwelane phakathi konelayisense nomthengi;

(b) nendlela zokufaka izicelo zelayisense;

(c) ukushicilelwa kwezikhangiso yilabo abanamalayisensi nalokho okuqukethwe kuzona izikhangiso;

(d) nenqubo ezolandelwa ukubheka isicelo selayisense kanye nemibandela yamalayisense nanoma yimaphi izimo ezizobekwa ngaphezu kwaleyo edingeka ngaphansi kwalom mthetho;

(e) nenqubo ezolandelwa nguMlawuli ekuchibiyeleni, ekuchiteni nasekuvuseleleni ilayisensi nase zimweni lapho imibandela yelayisensi ingahlonishwa

(3) Without derogating from the general nature of subsection (1), rules may relate to—

(a) the keeping of information, the rendering of returns and the period for and format in which information must be kept, as well as the persons or institutions it must be rendered to;

(b) standards of quality of supply and service;

(c) the operation, use and maintenance of transmission and distribution power systems;

(d) trading;

(e) technical and safety standards;

(f) the form and manner of applying for licences;

(g) publishing of advertisements by licensees and the contents thereof;

(h) the form and manner of applying for and the fees payable on application for licensing and registration;

(i) the fees to be paid in respect of mediation and the settlement of disputes;

(j) the setting of a framework for the determination of the period of validity of licences, criteria for the transfer and renewal of licences and the transfer or use of assets on a licence lapsing, including the ownership thereof;

(k) any other ancillary or administrative matter for which it is necessary to make rules for the proper implementation of this Act.

(4) The Minister may, by notice in the *Gazette*, make regulations regarding—

(a) activities that have to be licensed or registered and the classification of licences into categories and sub-categories;

(b) norms and standards relating to quality of supply;

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(m) new generation capacity;

(n) the types of energy sources from which electricity must be generated;

(o) the percentages of electricity that must be generated from different energy sources;

(p) the participation of the private sector in new generation activities;

(q) the setting of standards relating to health, safety and environment and the incorporation thereof into licences or national norms and standards;

(r) the prohibition of certain practices in the electricity supply industry;

(f) nenqubo okumele ilandelwe uma kuphenywa;
(g) nenqubo ezolandelwa ukukhombisa onelayisense izindlela zokuhlangabezana nezibopho zomunye onelayisensi;
(h) nendlela yokufaka isicelo nemali ekhokhwayo uma kufakwa isicelo sokubhaliswa;
(i) Inqubo ezolandelwa nemali ezokhokelwa ukuxazulula imibango;
(j) Inqubo ezolandelwa uma kubuzwa noma kuphenywa kubandakanya nendlela yokubiza nokulethwa kwemibhalo nobufakazi bomlomo ubufakazi nezinto ezihambelana nalokhu
(k) ukuhlela uhlaka oluzonquma isikhathi sokusebenza kwelayisense, imigomo yokudlulisela ilayisense komunye neyokuvuselela ilayisense, kanye nokudlulisela komunye ukusetshenziswa kwezinto uma kuphela ilayisense kubandakanya nobunini bayo;
(l) nezinjongo zokusebenza nohlelo lokwamukela nokugunyaza amathagethi okuthuthuka nokusebenza;
(m) nekhodi yokusebenza ihambelana nekusebenzisa nokuphatha kokukhombisa nokushabalisa izinhlelo zamandla;
(n) nezinye izinto ezisizayo, ezimeni zokuphatha ezihambisana nokusetshenziswa kwalo Mthetho.

(3) Ngaphandle kokuhlambalaza ngokokuma kwesiqeshana (1), imithetho ingahambisana nalokhu:

(a) Ukugcina ulwazi, ukugenisa kwenzuzo, nohlelo imininingwane okumele igcine ikulo, kanye nabantu noma izindawo ezoyiswa kuzona;
(b) Izinga eliphezulu lokunikeza ugesi kanye namasevisi asezingeni eliphakeme;
(c) Ukusebenza, ukusebenzisa nokuphatha izinhlelo zokwethula nokwabiwa kwamandla;
(d) Ukuhweba;
(e) amazinga okuciko nokuphepha;
(f) ezinye izinto ezimayelana nokuphatha ezidingekayo ukwenza imithetho;
(g) nenqubo ezolandelwa ukukhombisa onelayisense izindlela zokuhlangabezana nezibopho zomunye onelayisensi;
(h) nendlela yokufaka isicelo nemali ekhokhwayo uma kufakwa isicelo sokubhaliswa;
(i) Inqubo ezolandelwa nemali ezokhokelwa ukuxazulula imibango;
(j) Inqubo ezolandelwa uma kubuzwa noma kuphenywa kubandakanya nendlela yokubiza nokulethwa kwemibhalo nobufakazi bomlomo ubufakazi nezinto ezihambelana nalokhu
(k) uhlelo olusha lokuphehla amandla kagesi.

(4) UNgqongqonshe, angakwenza ngokufaka isaziso *kuGazethi*, enze imithetho emayelana

(a) nemisebenzi okumele ibe nelayisensi noma ibhaliswe nokuhlela amalayisense ngezinhlobo nezinhlotshana zawo;
(b) *(b)* amazinga okuphakelwa kukagesi nendlela zokufaka izicelo zelayisense;

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(m) amaphesenti kagesi azophehlwa emithonjeni eyahlukene yamandla;
(n) ukuzibandakanyan kwezinkampani ezizimele ohlelweni olusha lokuphehlwa kwamandla kagesi;
(o) ukuhlela izinga elamukelekile lempilo, lokuphepha, nesimo sokuhlalisana kanye nokukufaka emalayisensini noma izindlela zokuphila zesizwe;
(p) ukuvimbela eminye imisebenzi embonini yokuhanjiswa kagesi
(q) indlela yokuvimba ukuba abantu babe namabhizinisi ndawo zonke ngokuhlanganisa abanamalayisense okuphehla, okwethula, nokwabiwa kwezimpahla;
(r) izimo uMlawuli engakhipha ilayisensi ngaphansi kwazo;

(s) the criteria for or prohibition of cross-ownership or vertical and horizontal integration by licensees in generation, transmission and distribution assets;
(u) the conditions subject to which the Regulator may issue a licence;
(v) any other matter that may or has to be prescribed in terms of this Act; and
(w) any other ancillary or administrative matter that it is necessary to prescribe for the proper implementation or administration of this Act.

(5) Before promulgating regulations contemplated in subsection (4), the Minister must—

(a) consult with the Regulator;
(b) invite public comments on the proposed regulations; and
(c) duly consider the comments received.

Repeal of laws and savings

48. (1) Subject to subsections (2) and (3), the laws specified in Schedule 1 are hereby repealed or amended to the extent set out in the third column of that Schedule.

(2) Anything done by the National Electricity Regulator in terms of the Electricity Act, 1987, prior to the commencement of this Act, and which may validly be done by the Regulator in terms of this Act, is deemed to have been done in terms of this Act.

(3) Licences issued in terms of the Electricity Act, 1987, or that are deemed to have been issued in terms thereof prior to the commencement of this Act, continue in force as if they had been issued in terms of this Act: Provided that—

(a) such licences lapse on a date determined by the Minister by notice in the *Gazette*;
(b) the Regulator is obliged to issue substituting licences to the licensees concerned, in accordance with this Act, prior to such licences lapsing; and
(c) conditions imposed in terms of substituting licences issued under paragraph *(b)* may not be more onerous in their application than those of the licences they replace.

(4) The Minister may, after consultation with the Regulator and any person who may be affected thereby, amend Schedule 2 by notice in the *Gazette*.

Short title and commencement

49. (1) This Act is called the Electricity Regulation Act, 2006, and comes into operation on a date fixed by the President by proclamation in the *Gazette*.

(2) Despite subsection (1), section 46 must be regarded as having come into operation on 1 December 2004.

(s) ezinye izinto ezingakhishwa noma ezikhishiwe ngokwa lo Mthetho; kanye

(t) nezinye izinto ezisizayo nezindaba okunesidingo sokuthi zikhishwe ukuze kuqaliswe kahle noma kuphathwe kahle lo Mthetho

(5) Ngaphambi kokwazisa ngemithetho ehlongozwe esiqeshaneni (4) uNgqongqoshe kumele—

(a) athintane noMlawuli;

(b) ameme umphakathi ukuthi uphawule ngemithetho ehlongozwayo/ephakanyiswe; kanye

(c) abheke ukuthi uphakathi uphawula uthini.

Ukwesulwa kwemithetho nokuyibuyisa

48. (1) Ngokwesiqeshana (2) no(3) imithetho ekhishwe uHlelweni 1 iyasuswa nomaiyachitshiyelwa ngokwezinga elibekiwe ekholomini yesithathu kuleliHlelo.

(2) Noma yini eyenziwe yiNatonal Electricity Regulator ngokomthetho weElectricity Act of 1987 ngaphambi kokuqala lo mthetho, futhi engenziwa ngokomthetho nguMlawuli ngokomthetho, ibhekeke sengathi yenziwe ngaphansi kwalo Mthetho.

(3) Amalayisense akhishwe ngokomthetho we-Electricity Act 1987, noma ekhishwe ngaphambi kokusebenza kwalo Mthetho ayaqhubeka asebenze kube sengathi nawo akhishwa ngokwalo Mthetho: Uma kungukuthi—

(a) ilayisense ayisebenzi ngosuku olubekwe nguNgqogqoshe ngesaziso sikuGazethi

(b) uMlawuli uphoqelekile ukukhipha ilayisense ezongena esikhundleni sale layisense, akhiphele lowo onelayisense, okuhambelana nalo mthetho ngaphambi kokuvalwa kwelayisensi kanye,

(c) imibandela equnyiwe mayelana nokufaka ilayisense esikhundleni selinye, ekhishwe ngaphansi kwesigaba *(b)* akumele iqhakambiswe kunalowo malayisense afakwe esikhundleni sawo

(4) UNgqongqoshe angakwazi ukuchibiyela uHlelo ngokufaka isaziso *kuGazethi,* emuva kokuba esexoxisene noMlawuli nanoma yiphi omunye umuntu okumthintayo lokhu.

Izihloko ezimfushane nezinsuku zokuqala ukusebenzisa imithetho

49. (1) Lo mthetho ubizwa nge Electricity Regulation Act 2006 uqala ukusebenza ngelanga eliyoshiwo nguMongameli *kuGazethi.*

(2) Ngaphandle kwesiqeshana (1) isiqephu 46 singathathwa njengesiqephu esesisebenze kusuka ngomhlaka Disemba 2004

SCHEDULE 1

REPEAL, AMENDMENT AND SUBSTITUTION OF LAWS

No and Year of Act	**Short Title**	**Extent of repeal, amendment or substitution**
Act No. 41 of 1987	Electricity Act, 1987	The repeal of the whole, with the exception of section 5B.
Act No. 84 of 1990	Kwa Zulu and Natal Joint Services Act, 1990	The amendment of Schedule 3 by the deletion of the item referring to the Electricity Act, 1987 (Act No. 41 of 1987).
Act No. 40 of 2004	National Energy Regulator Act	1. The substitution in section 4(1) for paragraph *(c)* of the following paragraph: ''*(c)* **[with effect from a date determined by the Minister by notice in the *Gazette*]** undertake the functions **[of the National Electricity Regulator as]** set out in section 4 of the **[Electricity Act.]** Electricity Regulation Act, 2006''. 2. The deletion of subsection 4(2). 3. The substitution in section 7(1) for paragraph *(d)* of the following paragraph: ''*(d)* materially fails to perform any duty imposed on him or her in terms of this Act, **[Electricity Act]** the Electricity Regulation Act, 2006, the Gas Act or the Petroleum Pipelines Act;''.

SCHEDULE 2

EXEMPTION FROM OBLIGATION TO APPLY FOR AND HOLD A LICENCE

1. Any generation plant constructed and operated for demonstration purposes only and not connected to an inter connected power supply
2. Any generation plant constructed and operated for own use
3. Non-grid connected supply of electricity except for commercial use

UHLELO 1

UKUSUSWA, UKUCHIBIYELWA NOKUSHINTSHWA KWEMITHETHO

Inombolo Nonyaka woMthetho	**Isihloko Esifushane**	**Indlela okususwe ngayo izichibiyelo noma ukufakwa kwemunye endaweni yeminye**
Act No. 41 of 1987	*Electricity Act, 1987*	Ukukhishwa kwawo wonke ngaphandle kwesiqephu 5B.
Act No.84 of 1990	*Kwazulu Natal and Joint Services Act, 1990*	Ukuchibiyelwa kweHlelo 3 ngokuthi kususwe izindawo ezikhuluma ngomthetho we-*Electricity Act, 1987 (Act No. 41 of 1987).*
Act No. 40 of 2004	*National Energy Regulator Act*	Ukushintshwa kwesiqephu 4(1) kufakwa isigaba *(c)* walesi sigaba: (1) (c) **[kusukela ngelanga elibekwa nguNgqongqoshe esazisweni se*Gazethi** senza umsebenzi we-*National Electricity Regulator* njengoba uveziwe esiqephini 4 **[se*Electrical Act*]** *Electricity Regulation Act, 2006*''. (2) Ukususwa kwesiqeshana 4(2) (3) Ukususwa kwesiqephu 7(1) wesigaba *(d)* walesi sigaba: *(d)* uhluleka ukwenza imisebenzi abekelwe yona ngokwalomthetho, **[*Electricity Act*]** *Electricity Regulation Act, 2006, the Gas Act or the Petroleum Pipeline Act*;''

UHLELO 2

UKUKHULULWA EKUZIBOPHEZELENI EKUFAKENI ISICELO SOKUBA NELAYISENSE NOKUBA NELAYISENSE

(1) Noma yisiphi isizinda sokuphehla amandla kagesi esakhelwe futhi esisetshenziselwa inhloso yokubukisa.

(2) Noma yisiphi isizinda sokuphehla amandla kagesi esakhelwe futhi ukusetshenziswa ngumnikazi waso

(3) Uhlelo lokuhambisa ugesi olungaxhunyanisiwe ngezintambo zogesi

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