

**MALAWI GOVERNMENT**

(Published 19th August, 2016)

ACT

No. 12 of 2016

I assent

PRO. ARTHUR PETER MUTHARIKA  
PRESIDENT  
7th August, 2016

**ARRANGEMENT OF SECTIONS**

**SECTION**

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**An Act to amend the Electricity Act**

ENACTED by the Parliament of Malawi as follows—

- Short title            1. This Act may be cited as the Electricity (Amendment) Act, 2016.
- Amendment of s. 2 of Cap. 73:01    2. The Electricity Act (hereinafter referred to as the "principal Act") is amended in section 2 by—
- (a) inserting, immediately after the definition of the word "Authority", the following definitions—
- "average selling price" means the weighted average of the price paid by the single buyer in its contracts with generators, imports and any other supply obtained by the single buyer; and
- "bulk consumer" means a consumer that is allowed to buy electricity directly from a generator";
- (b) inserting, immediately after the definition of the words "generation station", the following definitions—
- "Grid Code" means the set of rules made by the Authority for operation, dispatch and reporting of the Malawi electricity supply industry; and
- "independent power producer" means a person that privately builds, owns and operates facilities to generate and sell electricity to the Malawi electricity supply industry";
- (c) deleting the definition of the word "licensee" and substituting therefor the following definition—
- "licensee" means the holder of a licence granted by the Authority under this Act for the generation, transmission, distribution, importation or exportation of electricity, system and market operator and single buyer of electricity";
- (d) deleting the definition of the words "Load Dispatch Centre" and substituting therefor the following definition—
- "Load Dispatch Centre" means a business area within the system and market operator which is used for co-ordination of generation, transmission and distribution of electricity in the interconnected electricity system";
- (e) inserting, immediately after the definition of the words "Load Dispatch Centre", the following definitions—
- "power purchase agreement" means a contract between a generator and a single buyer or between a single buyer and a distributor to buy electricity for a pre-established period of time; and
- "regulated consumer" means a consumer that must buy electricity from a distributor";

(f) deleting the definition of the words "rural electrification" and substituting therefor the following definition—

"rural electrification" means grid or off-grid extension of distribution lines and generation of electricity in rural and remote areas whose internal rate of return is up to a maximum value set by the Authority, line voltage level is less than 66 kilovolts and generation capacity is up to 5 megawatts";

(g) inserting, immediately after the definition of the words "rural electrification", the following definitions—

"single buyer" means a licensee responsible for buying electricity from generators; and

"system and market operator" means a licensee responsible for operating the transmission system and the electricity market of Malawi"; and

(h) inserting, immediately after the definition of the word "transmitter", the following definition—

"wheeling of power" means the transmission of power from a seller to a buyer using a transmission system of one grid to a load outside the grid boundary".

3. Section 3 of the principal Act is amended—

Amendment  
of s.3 of the  
principal Act

(a) by deleting subsection (1) and substituting therefor, the following new subsection as subsection (1)—

"(1) A person shall not carry on or be engaged in any activity for the supply of electricity, including the export of electricity from, and import of electricity into, Malawi, without a generation, transmission, importation, exportation, system and market operation, single buyer or distribution licence, as the case may be, issued by the Authority"; and

(b) in subsection (2) by inserting the following new paragraphs (f) and (g)—

"(f) system and market operation; and

(g) buying electricity from generators."

4. Section 4 of the principal Act is amended by —

Amendment  
of s.4 of the  
principal Act

(a) deleting subsections (1), (2) and (3) and substituting therefor, the following new subsections as subsections (1), (2) and (3)—

"(1) Save as provided for in subsection (2), a licensee shall not be granted more than one type of licence listed in section 3 (2).

(2) A holder of a transmission licence before commencement of this Act, shall hold simultaneously licences for distribution, imports, exports, system and market operator and single buyer.

(3) A person may hold more than one generation licence.”; and

(b) by inserting, immediately after subsection (4), the following new subsection as subsection (5)—

“(5) A person that holds a licence for generation may also hold a licence for exportation.”.

Amendment of  
s.5 of the  
principal Act

5. Section 5 of the principal Act is amended by deleting subsections (1) and (2) and substituting therefor the following new subsections as subsections (1) and (2)—

“(1) A person required to hold a licence under this Act shall apply to the Authority for a generation, transmission, system and market operator, single buyer, exportation, importation or distribution licence, as the case may be.

(2) On commencement of this Act, the Authority shall issue licences for system and market operation and single buyer to the current holder of transmission and distribution licences.”.

(3) On commencement of this Act, the authority shall issue a licence for the generation facilities currently in the country

Amendment of  
s.12 of the  
principal Act

6. Section 12 of the principal Act is amended by inserting, immediately after paragraph (d), the following new paragraph as paragraph (e)—

“(e) in the case of a system and market operator and a single buyer, twenty five years.”

Amendment  
of s.16 of the  
principal Act

7. Section 16 of the principal Act is amended—

(a) in subsection (3) by—

(i) deleting paragraph (a) and substituting therefor the following new paragraph as paragraph (a)—

“(a) reduction of technical and non-technical losses”;

(ii) inserting immediately after paragraph (d), the following new paragraph as paragraph (e)—

“(e) any other performance indicator as deemed necessary by the Authority”; and

(iii) deleting the words “the benchmarks of , which shall be prescribed by notice in the *Gazette*” immediately after paragraph (d).

(b) by deleting subsections (4), (5) and (6); and

(c) by inserting immediately after subsection (3), the following new subsections as subsections (4), (5), (6), (7), (8) and (9) —

“(4) The Authority shall determine the components of the base tariff from time to time, by notice published in the *Gazette*.

(5) The Authority shall, every four years, revise the base tariff and review the tariff adjustment formula referred to in subsection (2) for all licensees, with the exception of generation licensees.

(6) At the end of four years and before the Authority approves the new base tariff or new tariff adjustment formula for the next period, the base tariff and respective tariff adjustment formula shall remain in force.

(7) The generation component of the base tariff shall be adjusted based on the respective power purchase agreements, and informed by the single buyer to the Authority.

(8) Every licensee, with the exception of a generation licensee, shall publish the approved tariff or any revision thereof in a manner prescribed by the Authority.

(9) A single buyer shall publish the tariff agreed in each power purchase agreement, as well as the resulting average selling price.”

8. Part IV of the principal Act is amended by—

(a) deleting the heading of Part IV and replacing it with the following heading “TRANSMISSION, DISTRIBUTION, SYSTEM AND MARKET OPERATOR AND SINGLE BUYER LICENSEE”; and

(b) deleting the words “[This Part is not in force]” immediately after the heading.

Amendment  
of the  
heading of  
Part IV of the  
principal Act

Replacement of s. 19 of the principal Act

9. Section 19 of the principal Act is repealed and replaced with the following new section —

"Transmission licence

19.—(1) The Authority shall issue a transmission licence to the system and market operator to build, operate and maintain the transmission network in Malawi.

(2) The Authority shall issue additional transmission licences to generators that need to connect their plants with the network owned and operated by the system and market operator.

(1) On recommendation of the single buyer and upon approval by the Minister, the Authority may issue a transmission licence to a person different from a transmission operator to build, operate and maintain transmission facilities:

Provided that the holder of this licence shall operate under the coordination of the transmission licensee, following the orders of the system and market operator licensee."

Amendment of s.20 of the principal Act

10. Section 20 of the principal Act is amended by deleting paragraphs (a), (b), (c) (d) and (e) and substituting therefor the following new subsections (1) and (2)—

"Duties and functions of a transmission licensee and a distribution licensee

20.—(1) The duties and functions of the transmission licensee shall be to—

(a) build, operate and maintain the transmission network in Malawi;

(b) undertake transmission planning in collaboration with the single buyer licensee;

(c) provide information for the single buyer licensee's planning activities;

(d) coordinate the operation of the transmission system with the system and market operator licensee;

(e) comply with the operation procedures and criteria established in the market rules and Grid Code for the reliable and economic operation of the transmission system; and

(f) coordinate the importation and exportation of electricity as instructed by the single buyer licensee.

(2) The duties and functions of the distribution licensee shall be to—

(a) plan, build, operate and maintain the distribution network in Malawi;

(b) supply electricity to consumers;

(c) take meter readings, prepare and deliver invoices, and collect payments from consumers;

(d) provide information to the single buyer licensee for planning and forecasts purposes;

(e) coordinate the operation of the distribution system with the system and market operator licensee;

(f) forecast the electricity consumption in each node or zone supplied by the licensee at every time segment of the day; and

(g) provide information to the system and market operator licensee for the daily generation dispatch.”.

11. The principal Act is amended immediately after section 20, by inserting the following new sections as sections 20A and 20B—

“Duties and functions of system and market operation licensee

20A. (1) The duties and functions of the system and market operator licensee shall be, to—

(a) guarantee to all generation plants a fair dispatch and non-discriminatory access to the transmission system;

(b) own, manage and operate the Load Dispatch Centre in a non-discriminatory manner and at least cost in the interconnected system;

(c) plan and control the daily operation of the integrated and interconnected system;

(d) dispatch generation in line with market rules and the Grid Code;

(e) optimize the use of reservoirs, taking into consideration other water usages and environmental constraints;

(f) supervise and coordinate the real time operation of the market;

(g) meter and settle transactions between licensees;

(h) determine the actual power of generation units of the interconnected system;

Insertion of new s.20A and 20B into the principal Act

(i) determine the valued balance of the movement of electricity resulting from the integrated operation of the system;

(j) provide accurate information to licensees and companies interested to invest in the sector;

(k) manage imports and exports arising from the operation of the Southern Africa Power Pool's Day Ahead electricity market;

(l) represent Malawi in the Southern Africa Power Pool;

(m) submit periodic reports to the Authority in respect of each of the functions in this subsection; and

(n) perform such other duties incidental to and connected with the objective of the Load Dispatch Centre.

(2) For the purposes of subsection (1), "Southern Africa Power Pool" means a cooperation of the national electricity companies in Southern Africa that have created a common power grid between their countries and a common market for electricity.

Duties and  
functions of  
single buyer  
licensee

**20B.** The duties and functions of the single buyer licensee shall be to—

(a) prepare a long term forecast of demand, taking into consideration the targets of electricity supply coverage and expected economic growth in consultation with the Minister;

(b) undertake least cost long-term generation and transmission expansion plan;

(c) prepare a ranking of generation projects to be tendered out with the approval of the Minister;

(d) prepare a ranking of transmission projects to be built, in coordination with the transmission licensee, with the approval of the Minister;

(e) organize, with the approval of the Minister, open tenders for independent power producers that shall comply with guidelines established by the Authority;

(f) evaluate unsolicited proposals from independent power producers and recommend to the Minister for approval;



(g) negotiate and submit power purchase contracts to the Authority for approval, and sign the contracts with the independent power producers;

(h) prepare the annual generation forecast;

(i) conclude power purchase agreements with generation licensees;

(f) conclude power supply contracts with distribution licensees; and

(k) conclude power purchase agreements for importation and exportation of electricity.”.

12. Section 21 of the principal Act is amended by—

(a) deleting the words “transmission licensee” wherever they appear in subsections (1) and (2) and replacing therefor with the words “single buyer licensee”; and

(b) introducing the following new subsection (3)—

“(3) Upon approval by the Authority, a bulk consumer may buy power directly from generators.”.

Amendment  
of s. 21 of the  
principal Act

13. Section 22 of the principal Act is amended by deleting the words “transmission licensee” where ever they appear in subsections (1) (2) and (3) and substituting therefor the words “single buyer licensee”.

Amendment  
of s. 22 of the  
principal Act

14. Section 24 of the principal Act is amended in subsection (1) by adding at the end therefor, the following proviso—

“Provided that in case of insufficiency of technical availability of capacity, the allocation shall be based on the economical dispatch of generation.”.

Amendment  
of s. 24 of the  
principal Act

15. Part V of the principal Act is amended by—

(a) deleting its heading and replacing it with the following heading “SYSTEM OPERATION”; and

(b) deleting the words “[This Part is not in force]” immediately after the heading.

Amendment  
of the  
heading of  
Part V of the  
principal Act

16. Section 27 of the principal Act is repealed and replaced with the following new section—

Replacement  
of s. 27 of the  
principal Act

“Requirements  
of the Load  
Dispatch  
Centre

27.—(1) The Load Dispatch Centre shall perform daily the economical dispatch of generation, in accordance with the market rules and the Grid Code.

(2) Every generator shall comply with the instructions of the Load Dispatch Centre and shall inform the Load Dispatch Centre daily of its availability.”.

Replacement of s. 29 of the principal Act **17.** Section 29 of the principal Act is repealed and replaced with the following new section—

**29.** A transmission and distribution licensee shall conduct its operations in accordance with the Grid Code.”  
 “Transmission or distribution licensee to conduct operations in accordance with Grid Code

Amendment of s.30 of the principal Act **18.** Section 30 of the principal Act is amended by deleting the words “transmission licensee” and replacing therefor with the words “single buyer”.

Amendment of s.50 of the principal Act **19.** Section 50 of the principal Act is amended by—  
 (a) deleting the marginal note and substituting therefor the following marginal note “Distribution licensee may discontinue supply for non-payment, etc.”; and

(b) deleting the word “customer” in paragraphs (b) and (c) of subsection (1) and in paragraph (a) of subsection (2), and substituting therefor the word “consumer”.

Replacement of s.52 of the principal Act **20.** Section 52 of the principal Act is repealed and replaced with the following new section—

**52.—**(1) The Authority may make by-laws, rules, codes and guidelines to give effect to this Act or for its better administration.

(2) The by-laws, rules, codes and guidelines to be promulgated by the Authority under subsection (1) for distribution licensees shall apply to rural electrification schemes.”

Passed in Parliament this twenty first day of June, two thousand and sixteen.

FIONA. KALEMBA  
 Clerk of Parliament