



**TO ESTABLISH AND MANAGE THE ZANZIBAR UTILITIES
REGULATORY AUTHORITY
ACT NO. 7 OF 2013**

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ACT NO. 7 OF 2013

I ASSENT

(DR. ALI MOHAMED SHEIN)
PRESIDENT OF ZANZIBAR
AND

CHAIRMAN OF THE REVOLUTIONARY COUNCIL

19 August
....., 2013

**AN ACT TO ESTABLISH AND MANAGE THE ZANZIBAR UTILITIES
REGULATORY AUTHORITY, FOR THE REGULATION OF UTILITY
SERVICES IN THE INTEREST OF CUSTOMERS AND PROVIDERS
OF UTILITY SERVICES IN ZANZIBAR**

ENACTED by the House of Representatives of Zanzibar

**PART ONE
PRELIMINARY PROVISIONS**

Short title and commencement. 1. This Act may be cited as the Zanzibar Utilities Regulatory Authority Act 2013, and shall come into operation upon such date as the Minister may, by notice published in the Gazette, appoint.

Interpretations. 2. In this Act unless the context otherwise requires :-

"annual report" means the report submitted to the Minister under the provisions of this Act;

"Authority" means the Zanzibar Utilities Regulatory Authority and also known by its acronym as 'ZURA' established under the section 3 of this Act;



"Board" means the Board of Directors of the Authority established under section 9 of this Act;

"Chairperson" means the Chairperson of the Board appointed under section 10 of this Act;

"confidential material" means and includes only the material or information in which the Authority certifies that its disclosure could adversely affect the competition or business or reputation of any person;

"consumer or customer" means a person to whom a utility service is provided or is required to be provided under this Act or any Utility legislation;

"Court" means High Court of Zanzibar;

" Director General" means the Director General of the Authority appointed under section 4 of this Act;

"Deputy Director General " means the deputy administrator of the Authority appointed under section 4 of this Act;

"Gazette" means an official gazette of the Revolutionary Government of Zanzibar;

"License" means a technical and legal document authentically issued as per provisions of this Act and any other utility legislation and the term licensee shall be construed accordingly; by which permission is granted to a legal entity for commercial use of authorized energy and water facilities.

"Minister" means the Minister responsible for utility regulation as assigned by the President;

"person" means a natural person or legal entity;

"President" means the President of Zanzibar and the Chairman of the Revolutionary Council;

"public register" means the register of the Authority kept by the Authority as prescribed under section 25 of this Act;

"public utility" means a natural or legal person providing water, electricity, petroleum and any other related services;



"regulated goods" means any goods produced, supplied or offered for supply or for use in a regulated sector and includes any goods the Authority declares under this Act;

"regulated services" means any services supplied or offered for supply in a regulated sector and includes services which the Authority declares to be such services under this Act;

"regulated sector" means sector directly responsible for electricity, petroleum, natural gas pipeline transmission and natural gas distribution and distribution of water and sewage;

"secretary" means secretary to the Board;

"standards" include standards relating to the content applied in the electricity supply, water and sanitation, petroleum and natural gas distribution;

"tariff" means any rate, fee or charge for utility services;

"utility area" means service territory, plant and equipment owned or reserved for utility services;

"utility legislation" means any legislation governing each utility and any statutes amending or replacing those statutes;

"utility" means electricity, water supply and sanitation, petroleum and any other as defined by the Minister from time to time;

"year" means a financial year;

"ZBS" means Zanzibar Bureau of Standards

PART TWO COMPOSITION AND MANAGEMENT OF THE AUTHORITY

Establishment
of the
Authority.

3.(1) There is hereby established an authority to be known as the Zanzibar Utilities Regulatory Authority or in its acronym "ZURA".

(2) The Authority shall be an autonomous body corporate with perpetual succession with common seal and shall be capable in its name to:

- (a) acquire, hold or dispose of its own property whether movable or immovable;
- (b) enter into any contract with an individual person or an organization;



- (c) sue and being sued;
- (d) borrowing and lending money.
- (e) doing or performing all other things or acts necessary for the proper performance of its functions under this Act which may lawfully be done by a body corporate

Composition.

4. The Authority shall have the following composition:

(1) Director General as the Chief Executive Officer of the Authority who shall be appointed by the President.

(2) The Director General shall be responsible for the day today administration of the Authority and for implementation and execution of its decisions.

(3) The Director General shall possess the following qualifications:

- (a) Must be a Zanzibari;
- (b) Must be a Master degree's holder or its equivalent from a recognised Institution in petroleum or water or management or business or engineering or electricity or law or any other related field with experience in such field at least five years;

(4) The Director General shall be appointed to serve on such terms and conditions as shall be set out in the letter of his appointment.

(5) Deputy Director General is the Deputy Chief Executive Officer of the Authority who may be appointed by the President.

(6) The Departmental directors shall be appointed by the Board subject to Public Service Act No.2/2011 for the duration specified in the letter of appointment;

(7) Other staff shall be employed by the Board in line with the organization structure of the Authority subject to Public Service Act No.2/2011.

Establishment of the Board.

5. There is hereby established a Board of Directors of the Authority which shall be subject to this Act responsible for governing affairs of the Authority and shall be answerable to the Minister.



Composition and tenure of the Board.

6.(1) The Board of Directors shall consist of seven members :-

- (a) Chairperson who shall be appointed by the President for the duration of four years and may be reappointed for another term;
- (b) Director General as an ex officio;
- (c) Five members who shall be appointed by the Minister whereby at least two members are female, for the duration of three years and may be reappointed for another term;

(2) Subject to subsection (1) of this section, The members except ex officio appointed by the Minister shall hold at least degree or its equivalent in business or engineering or water or law or petroleum or finance and any other related fields whereby two members from private sector.

(3) The Board shall elect one of its members to be a Vice-Chairperson

(4) The Board shall be responsible to the Minister.

Qualification of Chairperson.

7.(1) A Chairperson shall possess the following qualifications:-

- (a) must be a Zanzibari;
- (b) Must be at least a Degree holder or its equivalent from a recognized Institution with experience of not less than five years in the field of management or law or economic or engineering or business administration or any other related field;

Scope of Authority to petroleum sector.

8. ZURA has the following mandate:-

- To issue, review and cancel all Regulatory petroleum license
- To regulate tariffs in consultation with the Minister
- promoting effective competition and economic efficiency;
- Control quality, standard in consultation with ZBS
- Lease agreement

Scope of the Authority to water sector

9. Control water quality and standards

- To regulate water tariff, fees, charges with the consultation with the Minister
- To control efficient of water supply
- To issue regulatory water development, supply license.



Scope of the Authority to electricity sector.

- 10.** - To issue, review and cancel all Regulatory generation, transmission, distribution, supply license
- To regulate tariffs in consultation with the Minister
 - To regulate feed in tariff on energy
 - Promoting effective competition on generation.
 - Control quality, and standard
 - Installation and fittings
 - Power purchase agreements

Functions of the Authority.

- 11.(1)** The Authority shall have mandate to:
- (a) establish standards for regulated goods and services; terms and conditions of supply of goods and services.
 - (b) ensure that all utility suppliers provide adequate service and have means to finance their activities;
 - (c) The Authority may prepare codes of conduct, reporting requirements, scheme of service, staff Regulations and any other actions which necessary to regulate utilities effectively;
 - (d) facilitate and encourage private sector participation, fair competition, and participation in investments in public utilities;
 - (e) ensure compliance by public utilities with the laws governing their activities;
 - (f) prepare and issue rules and directives to public utility sector;
 - (g) establish and implement adequate systems for monitoring the compliance by licensees with standards and applicable regulations, and making such information publicly available;
 - (h) establish an appropriate procedure for receiving, enquiring and resolving complaints by customers in relation to any utility services within time provided under the regulations of this Act;
 - (i) facilitate the resolution of complaints and disputes.;
 - (j) disseminate information about matters of its functions;



- (k) have due regard to the preservation and protection of the environment, the conservation of natural resources and health and safety of users
- (l) issue orders to regulated public utility .

licenses.

12.(1) The Authority shall issue licenses on regulated public utilities as follow:-

- (1) Electricity
 - (a) generation,
 - (b) supply
 - (c) sale
 - (d) transmission
- (2) Water
 - (a) supply
 - (b) development of water resources
- (3) Petroleum
 - (a) distribution
 - (b) importation
 - (c) whole sale and retailer and any other related.

(2) new market entrants, public or private delivering utility services or goods;

(3) The Authority shall promote the continuity and reliable supply of utility services; it may issue rules for the procurement of new resources by licensed utilities and new utilities;

(4) The Authority shall ensure a fair balance between the interests of the consumers and the requirements of service providers;

(5) The Authority may do all things which appear requisite and advantageous in furtherance of its objectives or as directed by the Sector legislation.

(6) The Authority shall not issue or cancel a major or exclusive license having a term of five or more years without prior consultation with the Minister and the relevant sector Minister

Powers of the Authority.

13. Subject to power conferred by the sector legislation, the Authority shall have the following powers to:

- (a) receive, issue, modify, revoke licenses as prescribed under this Act;



- (b) prepare and issue rules, order and directives to public utility sector;
- (c) prescribe conditions and terms of licenses issued under this Act;
- (d) publish in the gazette all the tariffs, rates, and charges;
- (e) obtain information from any person where the Authority has reason to believe that person is capable to supplying information , producing a document or giving evidence that may assist in the performance of any of its functions;
- (f) regulate respective public utilities providing energy and water services under this Act and other utility legislation;
- (g) in consultations with the Minister set rates, tariffs and other charges imposed by a licensee in accordance with any rules specified in the Regulation and other relevant Utility legislation;
- (h) conduct an inquiry where it considers its necessary or desirable for the purpose of carrying out its functions.
- (i) make and enforce directions to ensure compliance with licenses issued under this Act;
- (j) set performance standards for energy and water utilities, including customer service standards and service quality standards;

Rates and charges.

14. (1) Subject to the provisions of utility legislation and licenses granted under this Act, the Authority shall carry out regular reviews of rates and charges of any public utility and such review may be initiated by a public utility or ZURA or other party as may be prescribed in the Regulations.

(2) In making any determination, approving revenue requirements to be included in rates and charges or establishing the method for regulating such rates and charges, the Authority may take into account:

- (a) the full costs of producing or purchasing, and supplying the goods or services;
- (b) the return of assets in the regulated sector;
- (c) any relevant benchmarks including international benchmarks for prices, costs and return on assets and for performance, reliability and quality of service in comparable industries;
- (d) the financial implications of the determination;



- (e) the desirability of establishing maximum rates and charges, and in carrying out regular reviews of rates and charges;
- (f) multi-year tariffs;
- (g) performance based tariffs
- (h) any other factors specified in the relevant utility legislation;
- (i) performance standards;
- (j) any tariffs contained in power purchase agreements or other bulk supply agreements relating to power, fuel or water, shall not be effective until and unless they are approved by ZURA, excepting power purchase agreements entered into prior to the effective date of this Act. ZURA will honor financial commitments made by Zanzibar utilities and pass costs set by the agreements into retail tariffs.
- (k) any other factors the Authority considers relevant.

(3) In making determination concerning rate design, the Authority may consider the following factors:

- (a) the public and investor interest;
- (b) the desire to promote competitive rates and attract market;
- (c) interruptible prices , load balancing prices and other mechanisms intended to improve energy efficiency;
- (d) the encouragement of the use of demand side management principles as well as pricing that takes into account environmental and customer protection issues;
- (e) the use of seasonal and time of use prices and tariffs where appropriate pursuant to Regulations prescribed by this Act;
- (f) cross subsidies should be minimized, and where possible, eliminated; Any direct subsidization of customers shall be the responsibility of the Government.
- (g) other rate mechanisms designed to serve the public interest.

(4) The Authority shall develop Regulations for automatic adjustments and/or indexation formulas which may be applied to utility tariffs on a monthly basis, upon the request of a regulated utility or on the Order of ZURA.



(5) The Authority shall publish within thirty working days after the Board's approval in the Gazette all the rates, tariffs and charges relevant to this Act.

Functions of the Board.

15. (1) The Board is responsible to:-

- (a) monitor the management of the Authority
- (b) promote the interests of users and potential users who require goods and services provided by certain public utilities in respect of the price and quality, and when appropriate, the variety of those goods and services;
- (c) monitor the adherence to all legislation affecting the activities and operating of the Authority;
- (d) determine the staffing requirements of the Authority and assign responsibilities of employees and setting their terms and conditions of employment, appointment and dismissal;
- (e) carry out the general and specific regulatory duties laid down by the regulated sector and any administrative work associated with these powers;
- (f) monitor the appropriation and disposal of assets necessary for the fulfillment of its responsibilities.
- (g) set strategies, action plans and appropriate work targets for each department;

(2) The Board shall at all time act in an independent, open, transparent and objective manner, and shall not show any form of discrimination when carrying out its activities.

Powers of the Board.

16. The Board shall have the powers to:

- (a) approve the budget of the Authority and monitor its implementation;
- (b) appoint directors and other senior staffs of the Authority as may consider necessary subject to Public Service Act No. 2/2011;
- (c) convene an interview panel for the purpose of employing personnel within the Authority subject to Public Service Act No. 2/2011;
- (d) approve capital investment;
- (e) issue Orders of the Authority duly prepared by the staff, when appropriate



procedures have been followed, including provision for public hearings. Signatures of a majority of the members of the Board present at a meeting shall be considered issuance of an Order.

- (f) Consider and approve financial and staff Regulations

- Termination. **17.** An individual member of the Board ceases to be a member when:-
- (a) a resignation letter is written by the member and approved by the appointing authority;
 - (b) it becomes clear that physical or mental incapacity prevents him from carrying out his duties as ascertained by an authorized doctor;
 - (c) he takes up another office which adversely affects the interest of the Board or Authority;
 - (d) proven guilty of any offence punishable with more than six months imprisonment;
 - (e) he is declared bankrupt by a court of law;
 - (f) his appointment is revoked by the appointing authority
 - (g) he is absent from three consecutive meetings of the Board without reasonable explanation.
- Secretary. **18.** The Board shall appoint a qualified lawyer of the Authority to be a secretary of the Board.
- Ordinary Meeting. **19.**(1) An ordinary meeting of the Board shall be called once in three months by an order of the Chairperson after consultation with the Secretary.
- Extra Ordinary Meeting. **20.** The Chairperson in consultation with the Director General may call an extra ordinary meeting at any time if in his opinion, there is an urgent matter that needs to be discussed and decided by the Board. The Secretary shall issue a short notice before the day of the meeting posted on the ZURA website and notification given to interested parties.
- Quorum. **21.** The quorum at the meeting of the Board shall be the majority of the members in office.
- Minutes. **22.** Minutes of each Board meeting shall be kept in appropriate form and shall be confirmed by the Board in the next meeting and shall be sent to the Minister.



Remuneration. **23.** The members of the Board shall be paid such fee, remuneration and allowances as determined by the Board and approved by the Minister in consultation with the Minister responsible for Finance.

PART THREE FINANCIAL PROVISIONS

Funds of the Authority. **24.** (1) The funds of the Authority shall consist of:

- (a) a subvention from the Government;
- (b) all such sums of money, fees, charges, grants, donations, loans and other payments to the Authority from licensees, as provided for under any Utility legislation;
- (c) all assets of the Authority
- (d) such sums as may be provided by the Government for the purpose of the Authority in a specified time as agreed by the Government;
- (e) all such sums as may be paid as fees under this Act;
- (f) any grants, loans, donations or other contributions from development partners.

(2) The Board shall ensure that the Authority has different activities that render it self-financing.

Budget. **25.**(1) Before the end of each financial year, the Authority shall prepare and submit not less than six months before the end of the financial year to the Board a budget attached with comparison for the following financial year showing estimates of its projected revenue and expenditures for the following year.

(2) Subject to the provision of subsection (1), the Board shall submit for approval a copy to the Minister of its budget for the following year.

(3) Where the Authority sees necessary and with solid recorded arguments, may present a supplementary budget to the Minister through the Board for approval.

Account and Audits. **26.**(1) The Authority shall keep accounts and records of all of its transactions and shall ensure that all money received and paid by the Authority is properly accounted for.

(2) The annual statement of accounts of the Authority shall be audited in accordance with the provisions of the establishment of the Auditor-General Act No.11/2003.



Annual report.

27.(1) The Board shall prepare or cause to be prepared and submit to the Minister within six months after the close of each financial year an annual report which shall provide details information regarding the exercise of the functions and power of the Authority during the year which it relates and shall include:

- i. copy of audited account of the Authority together with the Auditors report and accounts;
- ii. performance report of the Authority during the year;
- iii. a statement of all directives given by the Minister to the Authority under this Act during the year;
- iv. such other information and other material as the Authority may be required by this Act or the regulations to include in the annual report.

(2) The annual report shall be published in the public media including ZURA's official website.

(3) The Minister, shall lay before the House of Representatives the annual report with the audited accounts and report of the Authority.

PART FOUR ACCOUNTABILITY OF THE AUTHORITY

Maintenance
of a public
register.

28.(1) The Authority shall establish and maintain in such written form as it may determine a public register and they shall maintain a website on which the Register shall appear

(2) The register shall be made freely available to the offices and sub-offices to the public for inspection during normal office working hours.

(3) The Authority shall cause to be entered in the Register in the timely manner every:

- (a) under taking authorization either granted by the Authority or administered under the relevant utility legislation as well as its particulars, modification, revocation or exemption; and
- (b) Regulatory decision by the Authority together with filings, reasoning, appealing and reconsiderations where applicable.

(4) The Authority shall ensure that the public register be published in the Gazette and accessible to the public by ZURA's official website.



Transparency. **29.**(1) The Authority shall ensure that public utilities provide good or services in transparency to meet all reasonable demands to any person.

(2) The Authority shall at all time act in an independent, open, transparent and objective manner and shall not show any form of discrimination when carrying out its activities.

(3) All persons under the Authority or the Board shall always act with reasonable conduct free of corruption, political pressure, misrepresentation and undue influence.

Code of conduct. **30.**(1) The Authority shall adopt and apply a code of conduct expressing standard of behavior to be observed by the members of the Board and employees of the Authority in the performance of their duties within twenty four months after commencement of this Act.

(2) The code of conduct shall be published in the Gazette and local public newspapers and on ZURA Websites where possible for the purpose of public understanding.

(3) The code of conduct adopted or expressed under this section shall be binding on the Authority and the Board and may be amended from time to time. Board Members and staff must sign a document indicating their intent to comply with the Code of Conduct upon commencement of their duties.

Confidentiality. **31.**(1) Any person or employee of the Authority who gives or discloses any material or information to the Authority, whether under compulsion of law or otherwise, the Authority shall direct to that person or employee that he has a right to claim confidentiality in respect of whole or any part of the material.

(2) The Authority shall setout procedures and manners and cause to be published them in the Gazette or internet where possible on how it will disclose its confidential materials or information.

Conflict of interest. **32.**(1) A member of the Board or staff of the Authority shall be considered to have a conflict of interest for the purposes of this Act, if he knowingly acquires any pecuniary advantage or other interest that could conflict with the proper performance, or assists in the acquisition of any pecuniary advantage by another person.

(2) Where at any time a member of the Board or staff of the Authority has a conflict of interest in relation to:

- (a) any matter before the Authority for consideration or determination;
- (b) any matter the Authority could reasonably expect might come before it for consideration or determination,



the member or staff must immediately disclose the conflict of interest to other members or staff of the Authority and refrain from taking part, or any further part, in the consideration or determination of the matter.

(3) Where the Chairperson becomes aware that a member or staff has a conflict of interest in relation to any matter before the Authority, shall direct the member to refrain from taking part, or taking any further part, in the consideration or determination of the matter.

(4) Where the Authority determines that the conflict is likely to interfere significantly with the staff or member's proper and effective performance of the functions and duties, the appointing authority must order such staff or member to resign.

(5) The Authority shall report to the Minister any determination of the conflict which is likely to interfere significantly with performance.

(6) The Annual report shall disclose details of all conflicts of interest and the determination arising there from.

(7) A member or staff of the Authority who is subject to this Act shall be considered to have breached the code if:

- (a) he fails without reasonable cause to make declaration of his interests as required;
or
- (b) he knowingly makes a declaration false or misleading in a material particular thereby affecting the decision,

that person shall be guilty of an offence of which will be resigning from office.

Consumer
Representative
Council.

33.(1) There is hereby established a Council to be known as the Consumer Representatives Council.

(2) The Council shall consist of not less than five (5) members and not more than seven (7) members appointed by the Minister from amongst a list of an organisation or organisations legally recognised as being representative of private sector interest,

(3) Before making the appointment of members pursuant to subsection (2) of this section the Minister shall by notice published in the Gazette, and in any newspaper or newspapers circulating widely in Zanzibar invite nominations for appointments and having received them publish the names and call for comments, objections or representations from the public concerned within twenty one days from the date of publication.



(4) In nominating and appointing persons for the Council, the members of the private sector and the Minister shall have regard to the desirability of the Council as a group having knowledge and understanding of the interests of consumers and that of the regulated services.

(5) The Council shall make its own rules for regulating its procedure and other matters relating to its functions.

Functions and Powers of the Council.

34.(1) In carrying out its functions conferred under this Act, the Council shall:-

- (a) represent the interests of consumers by providing views and information to the Authority, Minister and regulated sector according to this Act;
- (b) receive and disseminate information and views on matters of interest to consumers of regulated goods or services;
- (c) consult with industries, Government and other consumer groups on matters of interests to consumers of regulated goods or services;

(2) The Council shall have power to regulate its own procedure in relation to the performance of its business.

(3) The Authority may take the advice of the Council under consideration; the advice of the Council is in no way binding upon the decision made by the Authority.

Funds of the council.

35. The Authority shall facilitate the council with the fund for the execution of the operational functions of the Council.

Public hearing.

36.(1) The Authority shall conduct public hearing for the purpose of carrying out of its functions at any public place to enable stakeholders to participate effectively and give out their comments;

(2) Date, time and place to conduct the public hearing shall be specified by the Authority and published in the Gazette or major public newspapers;

(3) The public hearing shall be conducted in matters relating to:

- (a) grant, renew or cancel license;
- (b) regulate any rate or charge;
- (c) Any other matters that the Authority may choose.

(4) The Authority shall invite at its public hearing industry, Government and other consumer groups on matters of interest to consumers of regulated goods and service.



(5) The Authority shall include a report concerning the public hearing as specified in the Regulation made under this Act as part of the Order issued by the Authority in the matter.

Competition.

37.(1) The Authority shall, in carrying out its functions and exercising its powers under this Act and utility legislation in relation to particular markets for regulated services, take into account whether:

- (a) the conditions for effective competition exist in the market;
- (b) any such detriments to the public are likely to outweigh any benefit to the public resulting from the exercise of the powers.

(2) The Authority shall deal with all competition issues which may arise in the cause of the discharge of its functions and may investigate and report on those issues, and making appropriate recommendations to the Zanzibar Bureau of Standards or any other relevant authority;

PART FIVE COMPLAINTS AND DISPUTE SETTLEMENT

Complaints.

38.(1). The Authority shall have power to hear and solve complaints raised by or between consumers, utility or supplier of the regulated goods as may be referred to it by the aggrieved party, provided that the dispute has been the subject of negotiations between the licensed utility and the complainant prior to the matter being raised with the Authority. The Authority may dismiss a complaint if it deems the complaint to be untrue or unfeasible.

(2) Where a complaint is referred to the Authority, the Authority may summon the parties and may request information or documentation which it considers necessary for conducting an investigation.

(3) The Authority shall investigate into the complaint and attempt to resolve them amicably within sixty days from the date when complain has been referred to it.

(4) If the Authority fails to resolve the dispute within the period provided under this section, it shall refer the matter to the Board together with its findings and recommendation.

(5) The Board shall consider the opinion of the Authority and may summon parties or any interested party to the dispute and shall make its decision within thirty days.

(6) The complainant or parties to the dispute may refer the matter to the court where they are not satisfied with the decision of the Board.



PART SIX OFFENCES AND PENALTIES

Disclosure of the information.

39.(1) Any person, staff of the Authority or member of the Board who discloses confidential material or information or cause leakage of Authority or Board's materials or information otherwise than as authorized by the Authority or Board commits an offence and upon conviction shall be liable to a fine of not less than Three Million Shillings and not exceeding five million Shillings or Two years imprisonment or both.

(2) Any recipient or beneficiary of the information received under subsection (1) of this section shall be guilty of a misdemeanour offence and shall be liable when convicted to a fine of not less than one Million Shillings and not two exceeding or one year imprisonment or both.

Compound offences.

40.(1) The Authority may compound an offence committed by a person under this Act or its Regulations by requiring him to pay the fine prescribed for such offence , provided that the person:

- (a) admits that he has committed an offence in writing and shall take due care that not repeat such offence, and
- (b) pays other sums payable under this Act or its Regulations.

(2) If the fine imposed under subsection (1) of this section is not paid on demand, the Authority may institute court proceedings or may take steps for the recovery of the fine in any manner prescribed in this Act.

General offences.

41.(1) Any person who destroys or misuses utility areas by erecting structure or building or dumping or digs holes in any utility area without permission or uses utility areas in such manner contrary to the direction and procedures established by this Act or any other relevant or utility legislation, commits an offence and shall upon conviction be liable to a fine or imprisonment as stipulated under the relevant or utility legislation or if no punishment prescribed from utility legislation he shall be liable for misdemeanour or fine of not less than one Million Shillings and not exceeding Five Million.

(2) Any person found guilty of an offence under the provision of subsection (1) of this section, shall be required to remedy any damage caused by his misuse of the utility area.

(3) In addition to the penalty provided for under the provisions of subsection (1) and (2) of this section, the Authority may issue any order which it deems fit.

(4) Any staff of the Authority or member of Board who receives any improper remuneration, in any form, which is provided in order to facilitate a decision under this Act or acts considered inappropriate in any way, shall be guilty of an offence and shall be liable to



be punished upon conviction to a fine of not less than Two Million Shillings and not exceeding Three Million Shillings or imprisonment of not less than six months and not exceeding two years or both fine and imprisonment.

- (5) Any person who for the purpose of this Act, without lawful excuse:
- (a) furnishes any information or produces any document which is false or misleading in material particulars; or
 - (b) obstructs any officer in the performance of his functions under this Act; or
 - (c) otherwise contravenes the provisions of this Act;

Commits an offence and upon conviction shall be liable to a fine of not less than Twenty Million Shillings or imprisonment for a term of not less than ten years or both.

PART SEVEN APPEAL

Recalcula-tion. **42.**(1). Any person who is given an order by the Authority may ask the Authority for a recalculation of the numbers and facts in that order, within ten days of the issuance of the order.

(2) The Authority shall issue a written response within ten days of the filing of a recalculation request explaining the reasons for the conclusions reached in the decision.

Reconside-ration. **43.**(1) Any person who is given an order by the Authority may ask for reconsideration of the order to them, within fifteen days of the issuance of the order, stating the reasons for seeking reconsideration.

(2) The Authority shall issue a response to the request for reconsideration within 30 days of the filing of the request explaining the reasons for the conclusions reached in the decision

Appeal. **44.**(1) Subject to section 40 and 41 of this Act Any party who is not satisfied with recalculation or reconsideration decision may appeal to the High Court. No party may petition to the Court without having first exhausted the remedies contained in the recalculation and reconsideration requests. The Authority shall make all documents of the case available to the Court.

(2) Without prejudice subsection (1) of this section, Any party who is aggrieved by the decision of the Authority may appeal to the High Court.



PART EIGHT MISCELLENEOUS

- Powers of the Minister. **45.**(1) The Minister may issue general recommendation to the Authority in writing on matters concerning utility services to the extent that such recommendations are not inconsistent with this Act or relevant utility legislations.
- (2) Notwithstanding with subsection (1) of this section (1), the Minister, from time to time as it deems necessary, may give to the Authority directions of a specific or general issues, arising in relation to any regulated sector, for the purposes of securing the effective performance by the Authority of its policy, functions and compliance with the code of conduct.
- (3) The Minister shall, with respect to the formulation and implementation of the policy of the respective sector ensure adherence to the environmental and other related national sector policies.
- Regulated Public Utilities. **46.** The Regulated public utilities requiring licensing are:
- (a) Electricity
 - (b) Petroleum Products
 - (c) Water and Sewerage
 - (d) Any other public utilities as the Minister after consultation with other responsible Ministers, may prescribe by an order published in the Gazette.
- Protection from liability. **47.** Chairperson, Director General, Deputy Director General, member or any officer of the Authority shall have no liability, civil or criminal in nature in respect of any act or omission done in good faith in the execution of his duties under this Act.
- Regulations. **48.**(1) The Minister may make Regulations not inconsistent with this Act as he considers necessary or desirable to give effect to the provisions of this Act.
- Rules. **49.**(1) The Board with prior approval of the Minister may make Rules of proceedings with respect to code of conduct; standard of regulated goods and services, license, tariff, rates and charges, fees payable to the Board or any such other matters including transparent mechanisms for new investments and private participation, Model Power Purchase Agreements and feed in tariffs for energy projects..
- Planning and investment. **50.**(1) The Public Utilities shall prepare annual business plans that include planning and investment, and submit to the Board for annual review and approval. If the Board finds that a business plan is not consistent with the best interests of the customers, the plan may be



rejected, and reasons shall be stated and a new plan must be prepared and submitted. No regulated utility may seek a tariff change until and unless they have an approved business plan.

(2) In planning for new investments, public utilities shall consider private investment and public-private partnerships and include such considerations in their plans.

(3) Public Utilities shall seek approval from the Board for any investments for which they will subsequently seek recovery through tariffs. This requirement shall include power purchase agreements and amendments thereto.

Declaration. **51.**(1) The Authority apart from other functions upon which the Authority is empowered to perform, it can also make declarations on-

- (a) particular on regulated goods or services, or particular on classes of goods or services for the purposes of this Act;
- (b) particular on activities in connection with a regulated sector; or
- (c) varying, amending, reviewing or revoking previous declarations made under this section.

(2) Declarations made by the Authority shall not be inconsistent with this Act, sector legislation or Regulation made under this Act.

(3) Before making any declaration under this section, the Authority shall furnish to the Minister with a draft of the proposed declaration, and shall give the Minister the opportunity to consult with any related sector Minister or Authority about the draft declaration within twenty days after the draft is submitted to the Minister;

(4) A copy of any declaration made under this section shall be placed on the Public Register.

Repeal of sector legislation. **52.**(1) The following provisions under the Zanzibar Electricity Corporation Act No. 3/2006 are hereby repealed:

- (i) section 10(d);
- (ii) section 27;
- (iii) Section 44.



(2) The following provisions under the Water Act No.4/2006 are hereby repealed:

- (i) section 5 (h), (j);
- (ii) section 14(d);
- (iii) Section 55 concerning variations of fees and standards.

PASSED by the House of Representatives on 8th April, 2013.

(YAHYA KHAMIS HAMAD)
CLERK OF THE HOUSE OF REPRESENTATIVES
ZANZIBAR