

THE RURAL ELECTRIFICATION BILL, 2023

MEMORANDUM

The objects of this Bill are to—

- (a) promote and enhance rural electrification;
- (b) continue the existence of the Rural Electrification Authority and re define its functions;
- (c) constitute the Board of the Authority and provide for its functions;
- (d) continue the existence of the Rural Electrification Fund;
- (e) repeal and replace the Rural Electrification Act, 2003; and
- (f) provide for matters connected with, or incidental to, the foregoing.

M. D. KABESHA,
Attorney-General

RURAL ELECTRIFICATION BILL, 2023

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SCHEDULE

A BILL

ENTITLED

An Act to promote and enhance rural electrification; continue the existence of the Rural Electrification Authority and re define its functions; constitute the Board of the Authority and provide for its functions; continue the existence of the Rural Electrification Fund; repeal and replace the Rural Electrification Act, 2003; and provide for matters connected with, or incidental to, the foregoing.

ENACTED by the Parliament of Zambia.

Enactment

PART I

PRELIMINARY PROVISIONS

1. This Act may be cited as the Rural Electrification Act, 2023. Short title
- 5 2. In this Act, unless the context otherwise requires— Inter-pretation
 - “Authority” means the Rural Electrification Authority continued under section 3;
 - “associate” has the meaning assigned to the word in the Anti Corruption Act, 2012; Act No. 3 of 2012
 - 10 “Board” means the Board of the Authority constituted under section 7;
 - “Chairperson” means the person appointed as Chairperson under section 7;
 - “citizen” has the meaning assigned to the word in the Constitution; Cap. 1
 - 15 “city” has the meaning assigned to the word in the Local Government Act, 2019; Act No. 2 of 2019
 - “Director” means the person appointed as Director under section 14;
 - 20 “emoluments” has the meaning assigned to the word in the Constitution; Cap. 1
 - “Economics Association of Zambia” means the Economics Association of Zambia registered under the Societies Act; Cap. 119

Cap. 1	“Emoluments Commission” means the Emoluments Commission established under the Constitution;	
Act No. 12 of 2019	“Energy Regulation Board” means the Energy Regulation Board established under the Energy Regulation Act, 2019;	
Act No. 17 of 2010	“Engineering Institution of Zambia” means the Engineering Institution of Zambia established under the Engineering Institution of Zambia Act, 2010;	5
	“Fund” means the Rural Electrification Fund continued under section 15;	
Act No. 6 of 2019	“legally disqualified” means the absence of legal capacity as provided under section 4 of the Mental Health Act, 2019;	10
Act No. 2 of 2019	“municipality” has the meaning assigned to the word in the Local Government Act, 2019;	
Act No. 16 of 2009	“non governmental organisation” has the meaning assigned to the word in the Non Governmental Organisations’ Act, 2009;	15
Act No. 3 of 2012	“relative” has the meaning assigned to the word in the Anti Corruption Act, 2012;	
Act No. 20 of 2003	“repealed Act” means the Rural Electrification Act, 2003;	
Act No. 2 of 2019	“rural area” means an area that is not declared a city or established as a municipality under the Local Government Act, 2019;	20
	“Secretary” means the person appointed as Secretary under section 14;	
	“smart subsidy” means a one-off financial support, in cash or in kind, provided by the Authority for the purposes of the initial capital expenditure of a rural electrification project;	25
Cap. 1	“State institution” has the meaning assigned to the words in the Constitution; and	
	“Vice Chairperson” means the person appointed as Vice Chairperson under section 7.	30

PART II

RURAL ELECTRIFICATION AUTHORITY

3. The Rural Electrification Authority established under the repealed Act is continued as if established under this Act and is a body corporate with perpetual succession and a common seal, capable of suing and being sued in its corporate name and with power, subject to the provisions of this Act, to do all acts and things as a body corporate may, by law, do or perform.

Continuation of Rural Electrification Authority

4. (1) The seal of the Authority shall be a device that may be determined by the Board and shall be kept by the Director.

Seal of Authority

(2) The affixing of the seal shall be authenticated by the Chairperson or the Vice Chairperson and the Director or any other person authorised in that behalf by a resolution of the Board.

(3) A contract or instrument which, if entered into or executed by a person not being a body corporate, is not required to be under seal, may be entered into or executed without seal on behalf of the Authority by the Director or any other person authorised in that behalf by a resolution of the Board.

(4) A document purporting to be a document under the seal of the Authority or issued on behalf of the Authority shall be received in evidence and shall be considered to be so executed or issued, without further proof, unless the contrary is proved.

5. (1) The functions of the Authority are to—

Functions of Authority

(a) promote the utilisation of available rural electrification technological options to enhance the contribution of electricity for the development of social and economic activities in rural areas;

(b) develop mechanisms for the procurement of grid extension networks, on grid and off grid systems, for rural electrification;

(c) recommend to the Government, programmes and interventions for the enhancement of access to electricity by rural populations;

(d) implement the rural electrification master plan in order to ensure the systematic electrification of rural areas;

(e) administer and manage the Fund;

(f) mobilise funds within and outside the Republic in support of rural electrification;

- Act No. 8 of 2020
- (g) procure the construction of rural electrification projects in accordance with the Public Procurement Act, 2020;
 - (h) design and offer developers or operators, on a competitive basis, smart subsidy for capital costs on projects that are designed to supply electricity for development of rural areas; 5
 - (i) finance project preparation studies for rural electrification projects in accordance with guidelines developed by the Authority;
 - (j) coordinate rural electrification with the private sector, non governmental organisations and other institutions; and 10
 - (k) provide technical guidance and consultancy services to a State institution, rural community and any other organisation involved in rural electrification. 15
- (2) The Authority shall, in the performance of its functions—
- (a) prepare programmes and detailed plans for the implementation of the rural electrification master plan;
 - (b) monitor institutions, organisations or companies financed from the Fund to ensure that the institutions, organisations or companies utilise the resources from the Fund in accordance with the standards set by the Authority; 20
 - (c) in collaboration with the Energy Regulation Board, develop appropriate tariff structures for electricity supply to consumers in accordance with the Energy Regulation Act, 2019; and 25
 - (d) build and maintain a comprehensive public awareness campaign to enhance support to a rural electrification programme.
- (3) The Minister shall cause the development and review of the rural electrification master plan referred to in subsection (1)(d). 30
- Authority not subject to direction or control of other person
6. Except as otherwise provided in this Act, the Authority shall not, in the performance of its functions, be subject to the direction or control of any person or authority.
- Board of Authority
7. (1) There is constituted a Board of the Authority which consists of the following part time members appointed by the Minister: 35

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- (a) a representative each of the ministries responsible for—
- (i) energy; and
 - (ii) local government;
- (b) a representative of the Attorney General;
- 5 (c) a representative of the Economics Association of Zambia;
- (d) a representative of the Engineering Institution of Zambia;
- (e) a representative of a non governmental organisation engaged in rural development projects; and
- 10 (f) three persons with proven knowledge and experience in matters relating to this Act.

(2) The members under subsection (1)(a), (b), (c), (d) and (e) shall be nominated by their respective ministries, institutions and organisations for appointment by the Minister.

- 15 (3) The Minister shall appoint a Chairperson from among the members under subsection (1), except that the Chairperson shall not be appointed from the members referred to under subregulation (1)(a) and (b).

- 20 (4) The members shall elect the Vice Chairperson from among themselves, except that the Vice Chairperson shall not be elected from among the members referred to in subsection (1)(a) and (b).

(5) A person shall not be nominated or appointed as a member of the Board if that person is—

- 25 (a) legally disqualified from performing the functions of a member;
- (b) an undischarged bankrupt;
- (c) convicted of an offence under any other written law and sentenced to imprisonment for a term exceeding six months without the option of a fine;
- 30 (d) convicted of an offence involving fraud or dishonesty under any written law;
- (e) an employee of the Authority; or
- (f) not a citizen.

- 35 (6) The Minister may enter into performance contracts with the Board for a specified period which shall be consistent with the provisions of this Act.

Functions of Board	<p>8. (1) Subject to the other provisions of this Act, the Board shall perform the functions of the Authority and provide strategic policy direction to the Authority.</p> <p>(2) Despite subsection (1), the functions of the Board are to—</p> <p>(a) promote the effective corporate governance of the Authority;</p> <p>(b) approve the policies, programmes and strategies of the Authority;</p> <p>(c) approve the annual work plans, action plans and activity reports of the Authority;</p> <p>(d) approve the annual budget estimates and financial statement of the Authority; and</p> <p>(e) advise the Minister on matters relating to rural electrification.</p> <p>(3) Despite subsection (1) and (2), the Minister may give the Board general or specific directions relating to the performance of its functions and the Board shall give effect to those directions to the extent that the directions are not inconsistent with this Act.</p> <p>(4) The Board may, by direction in writing and on conditions that the Board considers necessary, delegate to the Director any of the Board’s functions under this Act.</p> <p>(5) A delegation made under subsection (4) shall not prevent the Board from performing the function so delegated.</p>	<p>5</p> <p>10</p> <p>15</p> <p>20</p>
Tenure of office and Vacancy of member	<p>9. (1) A member of the Board shall, subject to the other provisions of this Act, hold office for a term of three years and may be re-appointed for a further and final term of three years.</p> <p>(2) A member shall, on the expiration of the period for which that member is appointed, continue to hold office until a successor is appointed, but in no case shall the further period exceed four months.</p> <p>(3) The office of a member becomes vacant if that member—</p> <p>(a) dies;</p> <p>(b) is adjudged bankrupt;</p> <p>(c) is absent from three consecutive meetings of the Board of which the member has had notice, without prior approval of the Board;</p>	<p>25</p> <p>30</p> <p>35</p>

- (d) resigns, on giving one month's notice to the Minister;
- (e) is legally disqualified from performing the functions of a member;
- 5 (f) ceases to be a member of the ministry, institution or organisation which nominated the member; or
- (g) is convicted of an offence under this Act or any other written law and sentenced to imprisonment for a term exceeding six months without the option of a fine.

(4) The Minister shall, where the office of a member becomes
10 vacant before the expiry of the term of office, appoint another member in place of that member, but that member shall hold office as a member only for the remainder of the term of the Board.

10. (1) Subject to the other provisions of this Act, the Board may regulate its own procedure.

Proceedings
of Board

15 (2) The Board shall meet for the transaction of business at least once in every three months at a place and time that the Chairperson may determine.

(3) The Chairperson shall, on giving notice of not less than seven days, call for a meeting of the Board, or where one third or
20 more of the members so request, in writing, except that if the urgency of a particular matter does not permit the giving of a notice, a special meeting may be called on giving a shorter notice.

(4) Five members shall form a quorum at a meeting of the Board.

25 (5) There shall preside at a meeting of the Board—

- (a) the Chairperson;
- (b) in the absence of the Chairperson, the Vice-Chairperson;
or
- 30 (c) in the absence of the Chairperson and the Vice-Chairperson, a member of the Board that the members present may elect from among themselves for the purpose of that meeting.

(6) A decision of the Board on any question shall be by a majority of votes of the members present and voting at the meeting
35 and, in the event of an equality of votes, the person presiding at the meeting shall have a casting vote, in addition to that person's deliberative vote.

- (7) A member may, where the member referred to under section 7(1)(a), (b), (c), (d) and (e) is for any reason unable to attend a meeting of the Board, nominate another person in writing, from the same ministry, institution or organisation to attend a meeting of the Board in that member's stead and that person shall be deemed to be a member for the purpose of that meeting. 5
- (8) The Board may invite a person whose presence is, in its opinion, desirable to attend and participate in the deliberations of the meeting but that person shall have no vote.
- (9) The Board shall cause to be kept minutes of the proceedings of every meeting of the Board and any committee established by the Board. 10
- 11.** (1) The Board may, for the purpose of performing its functions under this Act, constitute a committee and delegate any of its functions to the committee as it considers necessary. 15
- (2) The Board may appoint, as members of a committee, persons who are or are not members of the Board, except that at least one member of the Board shall be a member of a committee.
- (3) A committee shall have the power to invite a person whose presence is, in its opinion, desirable to attend and participate in the deliberations of the meeting of the committee but that person shall have no vote. 20
- (4) A member of a committee shall hold office for a period that the Board may determine, except that the term of a committee shall not exceed the term of office of the Board. 25
- (5) Subject to any specific or general direction of the Board, a committee constituted under this section may regulate its own procedure.
- 12.** A member of the Board or any committee of the Board shall be paid allowances that the Emoluments Commission may, on the recommendation of the Minister, determine. 30
- 13.** (1) A person who is present at a meeting of the Board or a committee of the Board at which any matter is the subject of consideration, and in which matter that person or that person's relative or associate is directly or indirectly interested in a private capacity, shall, as soon as practicable after the commencement of the meeting, declare the interest and shall not, unless the Board or the committee otherwise directs, take part in any consideration or discussion of, or vote on, any question relating to that matter. 35

(2) A disclosure of interest made under this section shall be recorded in the minutes of the meeting at which the disclosure is made.

- 5 14. (1) The Board shall appoint a Director who shall be—
- (a) the chief executive officer of the Authority; and
 - (b) responsible for the day to day administration of the Authority under the direction of the Board.

Director,
Secretary and
other staff

10 (2) The Director shall attend meetings of the Board or a committee of the Board and may address those meetings, but shall have no vote.

15 (3) The Board shall appoint a Secretary who shall perform corporate secretarial duties for the Board and other functions that the Board may determine, under the direction of the Board and the Director.

(4) The Board shall appoint other staff of the Authority that the Board considers necessary for the performance of the functions of the Authority.

20 (5) The Emoluments Commission shall, on the recommendation of the Board, determine the emoluments of the Director, Secretary and other staff of the Authority.

25 (6) The Board shall determine the terms and conditions of service, other than emoluments, of the Director, Secretary and other staff of the Authority.

PART III

RURAL ELECTRIFICATION FUND

30 15. (1) The Rural Electrification Fund established under the repealed Act is continued as if established under this Act for the purposes of electricity in rural areas.

Continuation
of Rural
Electrification
Fund

- (2) The Fund consists of monies that may—
- (a) be appropriated by Parliament for the purposes of the Fund;
 - (b) be received by way of electricity levy;
 - 35 (c) be received by way of grants or donations; or
 - (d) vest in, or accrue to, the Fund.

	(3) The Minister responsible for finance shall ensure that all monies collected as electricity levy under subsection (2)(b) are paid directly into the Fund within twenty one days of the collection.	
Purpose of Fund	16. The Board shall, with the approval of the Minister, use the monies of the Fund to increase and sustain the availability of electricity in rural areas and ensure access to electricity to the rural population.	5
Management and administration of Fund	17. (1) The Fund shall vest in the Authority and shall be administered and managed by the Authority in a manner that the Board may determine.	10
	(2) The Board shall establish criteria for the application of the monies from the Fund.	
Control of use of Fund	18. The Board shall ensure that prudent controls are established for the Fund relating to—	
	(a) fiscal controls and accounting procedures governing the Fund;	15
	(b) reporting procedures for matters relating to the Fund; and	
	(c) investment of the monies of the Fund.	
Books of accounts	19. The Board shall cause to be kept proper books of accounts and other records relating to the accounts of the Fund.	20
	Auditing of Fund	
Auditing of Fund	20. (1) The Fund shall be audited annually by the Auditor General or an auditor appointed by the Auditor General.	
	(2) The auditor's fees shall be paid by the Authority.	25
Annual report	21. (1) As soon as practicable but not later than ninety days after the end of the financial year, the Board shall submit to the Minister a report concerning the activities relating to the Fund during the financial year.	
	(2) The report referred to under subsection (1) shall include information on the financial affairs relating to the Fund and there shall be appended to the report—	30
	(a) an audited statement of financial position;	
	(b) an audited statement of comprehensive income and expenditure; and	35
	(c) other information that the Minister may require.	

(3) The Minister shall, not later than seven days after the first sitting of the National Assembly next after receipt of the report referred to in subsection (1), lay the report before the National Assembly.

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PART IV

FINANCIAL PROVISIONS

22. (1) The funds of the Authority consist of monies that may— Funds of Authority

(a) be appropriated by Parliament;

10 (b) be paid to the Authority by way of fees, grants or donations; or

(c) vest in, or accrue to, the Authority.

(2) The Authority may—

15 (a) subject to the approval of the Minister, accept monies by way of grants or donations from any source in the Republic and outside the Republic;

(b) subject to the Public Debt Management Act, 2022, raise by way of loans or otherwise, monies that the Authority may require for the discharge of the Authority's functions; or Act No. 15 of 2022

20 (c) in accordance with regulations made under this Act, charge and collect fees for services provided by the Authority.

(3) There shall be paid from the funds of the Authority—

25 (a) the salaries, allowances, loans, gratuities and pension of the staff of the Authority and other payments for the recruitment and retention of staff;

30 (b) reasonable travelling and other allowances for members of the Board or members of a committee of the Board when engaged in the business of the Authority at rates that the Emoluments Commission may, on the recommendation of the Minister, determine; and

(c) any other expenses incurred by the Authority in the performance of the Authority's functions.

35 (4) Subject to the Public Finance Management Act, 2018, the Board may, subject to the approval of the Minister, invest in a manner that the Board considers necessary any of the Authority's funds that the Authority does not immediately require for the performance of the Authority's functions. Act No. 1 of 2018

Financial year	23. The financial year of the Authority shall be a period of twelve months ending on 31st December in each year.	
Accounts	24. (1) The Board shall cause to be kept proper books of accounts and other records relating to the Authority's accounts.	
	(2) The accounts of the Authority shall be audited annually by the Auditor General or an auditor appointed by the Auditor General.	5
	(3) The fees for the Auditor General or an auditor appointed by the Auditor General shall be paid by the Authority.	
Annual report	25. (1) The Board shall, as soon as practicable, but not later than ninety days after the end of a financial year, submit to the Minister a report concerning the functions and activities of the Authority during the financial year.	10
	(2) The report referred to in subsection (1) shall include information on the financial affairs of the Authority and there shall be appended to the report—	15
	(a) an audited statement of financial position;	
	(b) an audited statement of comprehensive income and expenditure;	
	(c) other information that the Minister may require.	
	(3) The Minister shall, not later than seven days after the first sitting of the National Assembly next after receipt of the report referred to in subsection (1), lay the report before the National Assembly.	20
PART V		
GENERAL PROVISIONS		
Immunity	26. An action or other proceedings shall not lie or be instituted against a member of the Board, a member of a committee of the Board or a member of staff of the Authority, for or in respect of any act or thing done or omitted to be done in good faith in the exercise or performance of any of the powers, functions or duties conferred under this Act.	30
Prohibition of publication or disclosure of information to unauthorised person	27. (1) A person shall not, without the consent in writing given by or on behalf of the Authority or as otherwise permitted by any written law, publish or disclose to a person, other than in the course of that person's duties, the contents of a document, communication or information, which relates to, or which has come to that person's knowledge in the course of that person's duties under this Act.	35

(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

5 (3) A person who, having information which to the knowledge of that person has been published or disclosed in contravention of subsection (1), unlawfully publishes or communicates that information to another person, commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty
10 units or to imprisonment for a term not exceeding two years, or to both.

15 **28.** (1) Where a judgment or court order is obtained against the Authority, execution, attachment or process of any nature, shall not be issued against the Authority or against any property of the Authority. Execution of judgement

(2) Despite subsection (1), the Authority shall cause to be paid out of the Authority's funds an amount that may, by judgment or court order, be awarded against the Authority to the person entitled to the money.

20 **29.** The Minister may, by statutory instrument and on the recommendation of the Authority, make Regulations for the better carrying out of the provisions of this Act. Regulations

30. (1) The Rural Electrification Act, 2003, is repealed. Repeal of Act No. 20 of 2003

25 (2) Despite subsection (1), the Schedule applies to the savings and transitional provisions.

SCHEDULE

(Section 30(2))

SAVINGS AND TRANSITIONAL PROVISIONS

Interpretation	<p>1. For the purposes of this Schedule, “former Authority” means the Rural Electrification Authority established under the repealed Act.</p>	5
Staff of former Authority	<p>2. (1) A person who, before the commencement of this Act, was an officer or employee of the former Authority shall continue to be an officer or employee of the Authority, as if appointed or employed under this Act.</p> <p>(2) The service of the persons referred to in subparagraph (1) shall be treated as continuous service.</p> <p>(3) Nothing in the Act affects the rights and liabilities of any person employed or appointed by the former Authority before the commencement of this Act.</p>	10
Member	<p>3. A person who immediately before the commencement of this Act held office as a member of the Board of the former Authority shall continue to hold office as a member for a period of three months after which the Minister shall appoint members of the Board in accordance with this Act.</p>	15
Transfer of assets and liabilities	<p>4. (1) On or after the commencement of this Act, there shall be transferred to, vest in and subsist against the Authority by virtue of this Act and without further assurance, the assets, rights and obligations which immediately before the commencement of this Act were the assets, rights, liabilities and obligations of the former Authority.</p> <p>(2) Subject to subparagraph (1), every deed, bond and agreement, other than an agreement for personnel service, to which the former Authority was a party immediately before the commencement of this Act whether or not of a nature that rights, liabilities and obligations could be assigned, shall, unless its subject matter or terms make it impossible that it should have effect as modified, as provided under this paragraph, have effect as if</p> <p>(a) the Authority had been party to it;</p> <p>(b) for any reference to the former Authority there was substituted, with respect to anything falling to be done on or after the commencement of this Act, a reference to the Authority; or</p>	20 25 30 35

5 (c) for any reference to any officer of the former Authority not being a party to it and beneficially interested therein, there was substituted, with respect to anything required to be done on or after the commencement of this Act, a reference to such officer of the Authority as the Authority shall designate.

10 (3) Where under this Act, any assets, rights, liabilities and obligations of the former Authority are considered to be transferred to the Authority in respect of which transfer a written law provides for registration, the Authority shall make an application, in writing, to the appropriate registration authority for registration of the transfer.

15 (4) The registration authority, referred to in subparagraph (3), shall make entries in the appropriate register that shall give effect to the transfer and, where applicable, issue to the transferee concerned a certificate of title in respect of the property or make necessary amendments to the register and shall endorse on the deeds relating to the title, right or obligation concerned and no registration fees or other duties shall be payable in respect of the
20 transaction.

 5. (1) Any legal proceedings or application of the former Authority pending immediately before the commencement of this Act by or against the former Authority, may be continued by or against the Authority.

Legal
proceedings

25 (2) After the commencement of this Act, proceedings in respect of any right, liability or obligation which was vested in, held, enjoyed, incurred or suffered by the former Authority, may be instituted by or against the Authority.

