

ENERGY EFFICIENCY ACT

Act 3 of 2011 – 18 November 2011

(unless otherwise indicated)

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ENERGY EFFICIENCY ACT

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Energy Efficiency Act.

2. Interpretation

In this Act—

“Central Electricity Board” means the Central Electricity Board constituted under the Central Electricity Board Act;

“Clean Development Mechanism” means the mechanism developed under the Kyoto Protocol to the United Nations Framework Convention for Climate Change;

“Committee” means the Energy Efficiency Committee referred to in section 8;

“Consumer Protection Unit” means the Consumer Protection Unit set up within the Ministry responsible for the subject of consumer protection;

“Customs Department” means the Customs Department referred to in section 3 (4) of the Mauritius Revenue Authority Act;

“dealer” means a retailer or other person who—

- (a) imports or displays regulated machinery; or
- (b) sells, hires or offers to hire regulated machinery to any person;

“Director” means the Director appointed under section 12;

“energy audit” means the verification, monitoring and analysis of use of energy, including the submission of a technical report containing recommendations for improving energy efficiency with economic and cost analysis and an action plan to reduce energy consumption;

“energy auditor” means a person who is certified, by such institution as may be prescribed, to conduct energy audits;

“energy consumer” means any undertaking, premises, building, enterprise or activity using energy and prescribed as such;

“enforcement officer” means an officer designated under section 14 (3);

“labelling requirements and specifications” means such requirements and specifications as may be prescribed;

“large energy consumer” means an energy consumer which consumes energy in excess of such amount as may be prescribed;

“Mauritius Accreditation Service” means the Mauritius Accreditation Service established under section 3 of the Mauritius Accreditation Service Act;

“Mauritius Standards Bureau” means the Mauritius Standards Bureau established under section 3 of the Mauritius Standards Bureau Act;

“member” —

- (a) means a member of the Committee; and
- (b) includes the Chairperson;

“minimum energy performance standards” means such standards, criteria or specifications as may be prescribed;

“Minister” means the Minister to whom responsibility for the subject of energy is assigned;

“Office” means the Energy Efficiency Management Office referred to in section 4;

“officer” —

- (a) means a public officer appointed under section 14 (1); and
- (b) includes —
 - (i) the Director;

(ii) an enforcement officer;

“person responsible for an energy consumer” means the person having the charge, management or control of an energy consumer;

“regulated machinery” means such equipment, machinery or other appliance as may be prescribed;

“supervising officer” means the supervising officer of the Ministry;

“technical committee” means any technical committee set up under section 11.

[S. 2 amended by s. 14 (b) of Act 27 of 2013 w.e.f. 17 February 2014.]

3. Application of Act

(1) This Act shall bind the State.

(2) The Minister may, in the public interest, exempt any energy consumer from the application of this Act or any regulations made under it and for such period as he may determine.

PART II – ENERGY EFFICIENCY MANAGEMENT OFFICE

4. The Office

There shall be for the purposes of this Act an Office, within the Ministry, to be known as the Energy Efficiency Management Office.

5. Objects of Office

The objects of the Office shall be to—

- (a) promote the efficient use of energy;
- (b) promote national awareness for the efficient use of energy as a means to reduce carbon emissions and protect the environment.

6. Functions of Office

The Office shall have such functions as are necessary or expedient to attain its objects most effectively and shall, in particular—

- (a) develop and implement strategies, programmes and action plans, including pilot projects, for the efficient use of energy;
- (b) establish procedures to monitor energy efficiency and consumption;
- (c) issue guidelines for energy efficiency and conservation in all sectors of the economy;
- (d) establish energy consumption standards;
- (e) collect and maintain data on energy efficiency and consumption;
- (f) compile and maintain a database for energy auditors;
- (g) formulate and recommend innovative financing schemes for energy efficiency projects;

- (h) devise and assist in the preparation of educational courses and school curricula on the efficient use of energy;
- (i) establish links with regional and international institutions and participate in programmes pertaining to the efficient use of energy;
- (j) encourage and assist project developers in applying for carbon credits for energy efficiency projects using the Clean Development Mechanism;
- (k) devise, in collaboration with the Mauritius Standards Bureau, the Customs Department, the Mauritius Accreditation Service and the Consumer Protection Unit, and any other relevant authorities, minimum energy performance standards regarding any regulated machinery which is imported, manufactured or sold in Mauritius;
- (l) devise labelling requirements and specifications regarding any regulated machinery which is imported, manufactured or sold in Mauritius;
- (m) develop criteria to classify energy consumers;
- (n) prepare and submit to the Minister an annual report on energy efficiency and consumption; and
- (o) deal with such other matters as referred to it by the Committee.

[S. 6 amended by s. 14 (a) of Act 27 of 2013 w.e.f. 17 February 2014.]

7. Powers of Office

The Office shall have such powers as are necessary or expedient to attain its objects and discharge its functions most effectively and may, in particular—

- (a) set up such technical committees as may be necessary;
- (aa) by notice in writing, direct a person responsible for an energy consumer to submit, in such form and manner as the Office may approve and within such period as the Office may specify, such information or document as it considers necessary in relation to the energy use and consumption of that energy consumer;
- (b) do all such other acts or things as may be necessary or desirable for the attainment of its objects.

[S. 7 came into operation on 18 November 2011; amended by s. 14 (c) of Act 27 of 2013 w.e.f. 17 February 2014.]

PART III – ADMINISTRATION

8. Energy Efficiency Committee

(1) The Office shall be administered and managed by the Energy Efficiency Committee, which shall consist of—

- (a) a Chairperson, with an engineering background and having experience and knowledge in energy management, to be appointed by the Minister;
- (b) a representative of the Ministry;

- (c) a representative of the Ministry responsible for the subject of environment;
- (d) a representative of the Ministry responsible for the subject of industry;
- (e) a representative of the Ministry responsible for the subject of local government;
- (f) a representative of the Ministry responsible for the subject of public infrastructure, with experience in engineering or architecture;
- (g) a representative of the National Transport Authority;
- (h) a representative of the Joint Economic Council;
- (i) a representative of the Institution of Engineers;
- (j) a representative of the Mauritius Association of Architects; and
- (k) 2 technical experts, with qualifications and experience in energy efficiency matters, one of whom shall be from the University of Mauritius, to be appointed by the Minister.

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(2) No person shall be qualified to be a member where he is—

- (a) a member of the Assembly;
- (b) a member of a local authority; or
- (c) otherwise actively engaged in politics.

(3) Subject to subsection (4), a member, other than an ex officio member, shall hold office for a period of 2 years but shall be eligible for reappointment.

(4) A member, other than an ex officio member, shall cease to hold office—

- (a) on the completion of his term of office;
- (b) on his resignation;
- (c) where he becomes a member of the Assembly or local authority, or otherwise actively engaged in politics; or
- (d) where he, without sufficient cause, fails to attend 3 consecutive meetings of the Committee.

(5) For the purposes of subsections (2) and (4), a person who—

- (a) is a candidate, an agent or an official representative of a candidate at an election; or
- (b) is an officer or member of a political party,

shall be deemed to be actively engaged in politics.

(6) Every member shall be paid such fees or allowances as the Minister may determine.

(7) The appointment of any person to serve as a member of the Committee shall be published in the *Gazette*.

(8) Where a vacancy occurs in the membership of the Committee, the vacancy shall be filled by a person appointed by the Minister, who shall hold office for the remainder of the term of office of that member.

(9) Any member may be removed or suspended from the Committee by the Minister for any reason specified in section 37 (3) (b) of the Interpretation and General Clauses Act.

(10) The Committee may co-opt any person who may be of assistance in relation to any matter before it and the co-opted member shall—

- (a) not have the right to vote at any meeting of the Committee; and
- (b) be paid such fees or allowances as the Minister may determine.

(11) No member shall engage in any activity which may undermine the reputation or integrity of the Office.

9. Meetings of Committee

(1) The Committee shall meet as often as is necessary but at least once every month.

(2) A meeting of the Committee shall be held at such time and place as the Chairperson thinks fit.

(3) At any meeting of the Committee, 6 members shall constitute a quorum.

(4) (a) The Chairperson shall preside at a meeting of the Committee.

(b) Where the Chairperson is absent from a meeting of the Committee, the members present shall elect a member to chair the meeting.

(5) The Director shall convene a meeting of the Committee on a request made by not less than 4 members.

(6) The Director shall, unless otherwise directed by the Committee, attend every meeting of the Committee and may take part in its deliberations, but shall not have the right to vote.

(7) (a) The Director shall designate an officer to act as Secretary to the Committee.

(b) The Secretary shall—

(i) give notice of every meeting of the Committee to the members;

(ii) prepare and attend every meeting of the Committee;

(iii) keep minutes of proceedings of any meeting of the Committee; and

(iv) have such other duties as may be conferred upon him by the Committee.

(8) Subject to this section, the Committee shall regulate its meetings and proceedings in such manner as it may determine.

10. Disclosure of interest

(1) Where any member or co-opted member, or any person related to the member or co-opted member by blood or marriage, has a pecuniary or other material interest in relation to any matter before the Committee, that member or co-opted member shall—

(a) disclose the nature of the interest before or at the meeting convened to discuss that matter; and

(b) not take part in any deliberations of the meeting of the Committee relating to that matter.

(2) A disclosure of interest made under subsection (1) shall be recorded in the minutes of proceedings of the meeting of the Committee.

11. Technical Committees

(1) The Committee may set up such technical committees as may be necessary to assist it in the discharge of its functions and the exercise of its powers.

(2) A technical committee shall—

(a) meet as often as may be necessary and at such time and place as the chairperson of the technical committee thinks fit;

(b) meet as and when required by the Committee.

(3) A technical committee shall submit its report within such time as may be fixed by the Committee and the report shall contain its observations, comments and recommendations on any matter referred to it by the Committee.

(4) A technical committee set up under subsection (1) shall be chaired by the Director or such other member as the Committee may determine.

(5) Subject to this section, a technical committee shall regulate its meetings and proceedings in such manner as it may determine.

12. Director

(1) There shall be a Director of the Office who shall be a public officer, to be appointed by the Public Service Commission.

(2) The Director shall, in the discharge of his functions—

- (a) be responsible for the execution of the policy of the Office on energy efficiency and conservation;
- (b) be responsible for the control and management of the day-to-day business of the Office;
- (c) act in accordance with such directions as he may receive from the Committee;
- (d) achieve annual performance targets set by the Committee.

13. Delegation

(1) The Committee may, subject to such instructions as it may give, delegate to the Director such of its powers and functions as may be necessary for the effective management of the day-to-day business and activities of the Office.

(2) The Director may, with the approval of the Committee, delegate his powers and functions to such officer as he may designate.

14. Staff of Office

(1) The supervising officer shall designate such officers as may be necessary to assist the Office in the proper discharge of its functions under this Act.

(2) The officers shall be public officers and shall be under the administrative control of the Director.

(3) (a) The Director may designate any officer as an enforcement officer.

(b) The enforcement officer shall have such duties and powers as may be conferred by this Act.

15. Protection from liability

(1) No liability, civil or criminal, shall be incurred by the Office or any member or any officer in respect of any act done or omitted in good faith by it or him in the discharge of its or his functions or exercise of its or his powers under this Act or any regulations made under it.

(2) This section shall be in addition to, and not in derogation from, the Public Officers' Protection Act, and for the purposes of that Act, every member shall be deemed to be a public officer or a person lawfully engaged, authorised or employed in the performance of a public duty.

16. Confidentiality

(1) No member or officer shall, during or after his relationship with the Office, use or disclose any matter which comes to his knowledge in the discharge of his functions, except for the purposes of administering this Act.

(2) Any person who, without lawful excuse, contravenes subsection (1) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 10,000 rupees and to imprisonment for a term not exceeding 12 months.

17. Legal proceedings

(1) The Office shall act, sue and be sued in its name.

(2) Service of process by or on the Office shall be sufficient if made on behalf of or on the Director.

18. Powers of Minister

(1) The Minister may give such written directions of a general character to the Committee, not inconsistent with this Act, as he considers necessary in the public interest, and the Committee shall comply with those directions.

(2) The Minister may require the Committee to furnish such information in such manner and at such time as he may determine in respect of its activities and the Committee shall supply such information.

PART IV – ENERGY AUDITS

19. Energy audits

(1) The Director may direct any person responsible for an energy consumer to commission an energy audit to be conducted by an energy auditor by such date as the Director may determine.

(2) An energy audit conducted under subsection (1) shall be filed by the person responsible for that energy consumer with the Office, together with the plans for implementing the recommendations of the energy audit.

(3) (a) Where a person responsible for a large energy consumer files an energy audit pursuant to subsection (2), the Director may require the large energy consumer to implement any recommendation of the energy audit within such period as the Director may determine.

(b) Where the person responsible for the large energy consumer fails to comply with paragraph (a), the Director shall notify the Central Electricity Board of that failure and the Central Electricity Board may vary any concessionary tariff charged to that large energy consumer for such period as the Director may determine.

[S. 19 amended by s. 14 (d) of Act 27 of 2013 w.e.f. 17 February 2014.]

20. Confidentiality of audit information

(1) Any energy audit submitted to the Office by a person responsible for an energy consumer shall be confidential and shall not be published without the explicit permission of the person responsible for that energy consumer.

(2) The Office may release an, or part of an, energy audit filed in accordance with section 19 to any other party in such circumstances as the Office may determine.

(3) A party to whom an, or part of an, energy audit is released pursuant to subsection (2) shall not publish or release the contents of such audit without the written authorisation of the Office.

[S. 20 amended by s. 14 (e) of Act 27 of 2013 w.e.f. 17 February 2014.]

21. Powers of enforcement officers

For the purposes of enforcing this Act, an enforcement officer may—

- (a) enter at any time any premises, other than a dwelling house, for the purpose of carrying out an investigation to verify compliance with this Act;
- (b) verify the minimum energy performance standards of any regulated machinery which is imported, manufactured or sold in Mauritius;
- (c) verify the labelling requirements and specifications of any regulated machinery which is imported, manufactured or sold in Mauritius;
- (d) seize, secure or seal any regulated machinery which is imported, manufactured or sold in Mauritius and does not comply with the minimum energy performance standards;
- (e) seize, secure or seal any regulated machinery which is imported, manufactured or sold in Mauritius and does not comply with the labelling requirements and specifications; and
- (f) examine the technical quality of energy audits submitted by the person responsible for an energy consumer, and direct the person responsible to conduct and submit a revised energy audit.

[S. 21 amended by s. 14 (a) of Act 27 of 2013 w.e.f. 17 February 2014.]

PART V – MISCELLANEOUS

22. Offences

(1) Any person who—

- (a) imports, manufactures or sells any regulated machinery which does not comply with minimum energy performance standards;
- (b) imports, manufactures or sells any regulated machinery which does not comply with labelling requirements and specifications;
- (c) fails to comply with a direction under section 7(aa), 19 (1) or 21 (f);
- (d) fails to comply with section 19 (2); or
- (e) contravenes section 20 (3),

shall commit an offence.

(2) Any person who commits an offence under subsection (1) (a) or (b) shall, on conviction, be liable—

- (a) on a first conviction, to a fine not exceeding 100,000 rupees;
- (b) on a second and subsequent conviction, to a fine not exceeding 200,000 rupees.

(3) Any person who commits an offence under subsection (1) (c) or (d) shall, on conviction, be liable—

- (a) on a first conviction, to a fine not exceeding 50,000 rupees;
- (b) on a second and subsequent conviction, to a fine not exceeding 100,000 rupees.

(3A) Any person who commits an offence under subsection (1) (e) shall, on conviction, be liable to a fine not exceeding 50,000 rupees.

(4) The Court convicting a person of an offence under this Act may, in addition to any penalty provided for under subsection (2), order that any equipment or appliance related to the perpetration of the offence be recalled in such manner as may be prescribed or forfeited.

[S. 22 amended by s. 14 (a) and (f) of Act 27 of 2013 w.e.f. 17 February 2014.]

23. Regulations

(1) The Minister may, for the purposes of this Act, make such regulations as he thinks fit.

(2) Any regulations made under subsection (1) may provide—

- (a) for the minimum energy performance standards for any regulated machinery which is imported, manufactured or sold in Mauritius;
- (b) for the labelling requirements and specifications for any regulated machinery which is imported, manufactured or sold in Mauritius;
- (c) for the criteria to classify energy consumers;
- (ca) for the criteria and manner of registration of regulated machinery, dealers and energy auditors;
- (cb) for the levying of fees and charges;
- (d) for the minimum qualification standards for certification of energy auditors and related procedures for energy audits;
- (e) for any other matter related to energy efficiency;
- (f) that any person who contravenes them shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100,000 rupees.

[S. 23 amended by s. 14 (a) and (g) of Act 27 of 2013 w.e.f. 17 February 2014.]

24. —
