



Tuvalu

**TUVALU ELECTRICITY AUTHORITY
CORPORATION ACT 1990**

Act 7 of 1990



Tuvalu

TUVALU ELECTRICITY AUTHORITY CORPORATION ACT 1990

Arrangement of Sections

Section

| | | |
|--|---|----------|
| PART I - PRELIMINARY | | 5 |
| 1 | Short title and commencement..... | 5 |
| 2 | Interpretation..... | 5 |
| PART II - ESTABLISHMENT, FUNCTIONS AND POWERS | | 6 |
| 3 | Establishment of Corporation | 6 |
| 4 | Functions of corporation | 6 |
| 5 | Declaration of supply areas..... | 6 |
| 6 | Corporation sole right to supply electricity..... | 7 |
| 7 | Powers of corporation..... | 7 |
| 8 | Powers of entry to inspect installation equipment and read meters | 8 |
| 9 | Additional powers..... | 8 |
| 10 | Ministerial directions | 8 |
| PART III - BOARD, MANAGEMENT AND EMPLOYEES | | 9 |
| 11 | Board..... | 9 |
| 12 | Constitution of Board..... | 9 |
| 13 | Acting Directors..... | 10 |
| 14 | Chairman and Deputy Chairman | 10 |
| 15 | Meetings of Board | 10 |
| 16 | Disclosure of interest | 11 |
| 17 | Management..... | 11 |
| 18 | Officers and staff | 12 |

PART IV - FINANCIAL PROVISIONS 13

19 Funds and property of corporation13
20 Vesting of Government assets etc in corporation.....13
21 Commercial conduct of business.....13
22 Profits13
23 Reserve fund.....14
24 Financial year14
25 Estimates14
26 Annual reports and accounts etc.....14
27 Audit.....15

PART V - MISCELLANEOUS 15

28 Service of notices15
29 Application for compensation15
30 Non-liability for reasonable failure to supply16
31 Equipment not to be subject to distress16
32 Dangerous and dishonest tampering.....16
33 Other offences17
34 Compensation for17
35 Obstructing corporation.....17
36 Regulations.....17
37 Repeal of Electricity Act (cap. 41).....18

Supporting Documents

ENDNOTES 19

Table of Legislation History19
Table of Renumbered Provisions.....19
Table of Endnote References.....19



Tuvalu

TUVALU ELECTRICITY AUTHORITY CORPORATION ACT 1990

Act 7 of 1990

**AN ACT TO PROVIDE FOR THE ESTABLISHMENT AND
INCORPORATION OF THE TUVALU ELECTRICITY AUTHORITY
CORPORATION; AND FOR CONNECTED PURPOSES**

ENACTED BY THE PARLIAMENT OF TUVALU

Commencement [20 December 1990]

PART I - PRELIMINARY

1 Short title and commencement

This Act may be cited as the Tuvalu Electricity Authority Corporation Act 1990 and shall come into operation on 20 December 1990.

2 Interpretation

In this Act, unless the context otherwise requires —

“**Board**” means the Board of Directors of the Tuvalu Electricity Authority Corporation established under section 11

“**Chairman**” means the Chairman of the Board appointed under section 14

“**Corporation**” means the Tuvalu Electricity Authority corporation established by section 3 (1);

“**Deputy Chairman**” means the Deputy Chairman of the Board appointed under section 14

“**Director**” means a Director of the Board;

“**General Manager**” means the General Manager of the Corporation appointed under section 17.(3)

PART II - ESTABLISHMENT, FUNCTIONS AND POWERS

3 Establishment of Corporation

- (1) There is established by this Act a corporation to be called the Tuvalu Electricity Authority Corporation.
- (2) The corporation —
 - (a) shall be a body corporate with perpetual succession;
 - (b) shall have a common seal;
 - (c) subject to section 5 (restriction of alienation of native land) of the Native Lands Act, may acquire, hold and dispose of property of every description;
Cap. 22
 - (d) may sue or be sued in its corporate name; and
 - (e) may do anything which a body corporate may lawfully do and perform which is necessary or helpful to carry out its functions.

4 Functions of corporation

The Corporation shall carry on the general business of supplying electricity either for sale or otherwise.

5 Declaration of supply areas

The Minister taking into account the advice of the Board of Directors may by notice declare any part of Tuvalu to be an electricity supply area.

6 Corporation sole right to supply electricity

- (1) Subject to subsection 2, the Corporation, acting for and on behalf of the Government, shall have the sole and exclusive right to supply electricity for sale within any supply area.
- (2) Where the Corporation is unable to provide a reasonable supply of electricity to any person or in any part of a supply area or in any other particular case or circumstance, he may license such person as he may consider fit and suitable to supply electricity for sale to any person or in any part of a supply area upon such conditions as may be prescribed in any such licence.
- (3) Any person generating, distributing and supplying electricity in a supply area for sale contrary to subsection (1) shall be guilty of an offence and shall be liable to a fine of \$500.

7 Powers of corporation

- (1) In exercise of the powers conferred upon the Corporation by this Act, the Corporation and any persons acting under its powers and directions may do all or any of the following —
 - (a) enter, survey and take levels of any land or any part thereof, and also dig, cut, remove and carry away from any such land any earth, stone, soil and gravel whatever, and any trees or timber suitable for the construction, maintenance or alteration of any works or for any purpose in connection with the supply of electricity under this Act;
 - (b) erect and maintain in or upon any land such works, posts, stay-wires, poles or pillars, and lay, attach, place and maintain on, under or over any land wires, lines, conduits, apparatus or other appliances and things necessary for the supply of electricity and take such other action as may be necessary to render and maintain the supply of electricity safe and efficient;
 - (c) cut and remove from any land any tree or vegetation as may in any way affect or interfere with, or be likely to affect or interfere with, the safe and efficient supply of electricity;
 - (d) open or break up any roads:
Provided that the same shall be repaired and re-laid by the Corporation when any necessary work has been completed;
 - (e) cause lamp-posts, lamp-irons, insulating material, brackets, stays or other apparatus to be put up or fixed upon any land in such places and manner as may be required, and cause such number of lamps of such sizes and types to be put and affixed to such lamp-irons, lamp-

posts and brackets as may be deemed necessary, and cause the same to be lighted during such hours as may be deemed necessary.

- (2) Before doing any act in the exercise of the powers conferred by subsection (1) the Corporation shall, except in cases of urgency which involve risk of injury or damage to persons or property, give 7 days' prior notice to the owner or occupier of the land which is, or is likely to be affected, stating as fully and accurately as possible the nature and extent of the acts intended to be done, and such notice shall also be copied to the council concerned, and shall be publicized for the benefit of the public.
- (3) within 1 days from receipt of such notice the owner or occupier of such land may appeal against the proposals of the Corporation to the Minister whose decision shall be final.

8 Powers of entry to inspect installation equipment and read meters

Any person authorised in writing by the Corporation may at all reasonable times enter any premises to which electricity is or has been supplied by the Corporation in order to inspect electric lines, meters, apparatus and works and for the purpose of ascertaining the quantity of electricity consumed or supplied, or removing money from any coin meter or, where a supply of electricity is no longer required or where the Corporation desires to take away and cut off the supply of electricity from any premises, for the purpose of removing all lines, works and apparatus laid, placed or erected by the Corporation.

9 Additional powers

In addition to any other powers conferred on it by this Act the corporation shall have power —

- (a) to do in Tuvalu either alone or jointly with any other organization or person, all things necessary or convenient to be done for or in connection with or consequential on any of its powers or functions;
- (b) to make such charges for its services under this Act as the Minister, on the advice of the Board may approve; and
- (c) to undertake such other activities in furtherance of its functions as the Minister may, after consultation with the Board of Directors, allow by order.

10 Ministerial directions

In carrying out its powers, duties and functions under this Act the Corporation shall act in accordance with any policy directions (not inconsistent with this Act)

in the national interest given to it from time to time in writing by the Minister after taking into account the views of the Board of Directors.

PART III - BOARD, MANAGEMENT AND EMPLOYEES

11 Board

- (1) There shall be a Board of Directors of the Corporation which —
 - (a) is the governing body of the Corporation with authority, in the name of the Corporation, to exercise and perform the powers, duties and functions of the corporation under this Act; and
 - (b) shall, subject to this Act, be responsible for the policy, control and management of the Corporation.
- (2) It shall be the duty of the Board to ensure that the policy of the Corporation is directed towards the national interest.

12 Constitution of Board

- (1) The Board shall consist of Directors who shall be —
 - (a) ex-officio the Secretary of the Ministry for the time being responsible for the administration of this Act; and
 - (b) not more than four other Directors appointed by the Minister.
- (2) Directors shall be appointed for a period to be determined by the Minister but shall be eligible for reappointment.
- (3) No person shall be eligible for appointment as a Director, who —
 - (a) is a Member of Parliament;
 - (b) is an officer or employee of the corporation;
 - (c) has been declared bankrupt or insolvent by a court in Tuvalu or elsewhere and has not received his discharge;
 - (d) is found lunatic or becomes of unsound mind; or
 - (e) has been convicted anywhere of an offence involving dishonesty.
- (4) A Director may resign his office by giving notice in writing to the Minister.
- (5) With exception of an ex-officio Director the Minister shall by notice terminate the appointment of a Director if —
 - (a) the Director is without the prior written permission of the Chairman absent from 3 consecutive meetings of the Board;

- (b) in relation to the Director any circumstances arise which, if he were not a Director, would make him ineligible for appointment under subsection (3).
- (6)
 - (a) Except for an ex-officio Director the Minister, after consultation with the Board, may for any reason other than those specified in sections 12(5) (a) and (b) above) by notice terminate the appointment of any Director but shall inform that Director of the reasons for so doing.
 - (b) A Director shall not be entitled to compensation for loss of office.
- (7) Directors other than public officers shall be paid by the corporation such fees and allowances as may be determined by the Board and approved by the Minister.

13 Acting Directors

- (1) If the Minister is satisfied that a Director of the Corporation is incapacitated by illness, absence, or other sufficient cause from performing the duties of his office, the Minister, may appoint a person to act for that Director during his incapacity.
- (2) An acting Director appointed under this section is, while he acts as such, deemed for all purposes to be a Director of the Corporation.

14 Chairman and Deputy Chairman

- (1) The Minister shall appoint two of the Directors to be Chairman and Deputy Chairman respectively of the Board for such periods as the Minister determines but such an appointment shall cease immediately on the Chairman or Deputy Chairman ceasing to be a Director.
- (2) The Chairman or Deputy Chairman may resign his appointment by giving notice in writing to the Minister.
- (3) The Minister may by notice terminate the appointment of the Chairman or Deputy Chairman but shall inform him of his reasons for so doing.

15 Meetings of Board

- (1) The Board shall meet as often as the business of the Corporation may require but not less frequently than once in every 6 months.

- (2) Board meetings shall be at such times and places as the Board shall determine or as the Chairman, or, in his absence the Deputy Chairman, shall direct.
- (3) The Chairman or, in his absence the Deputy Chairman, shall be chairman at meetings of the Board and in the absence of both the Chairman and the Deputy Chairman from any meeting or any part of a meeting one of the other Directors shall be appointed by the Board at or during the meeting to be chairman of that meeting or part of a meeting.
- (4) Three Directors shall form a quorum at a meeting of the Board.
- (5) Each Director shall have one vote.
- (6) Questions arising at a Board meeting shall be resolved by a simple majority of the votes of the Directors present and voting except that in the event of an equality of votes, the chairman of the meeting or part of a meeting shall have a second or casting vote.
- (7) The General Manager shall, unless otherwise directed by the Board or given leave of absence in writing by the Chairman of the Board, be present at all meetings of the Board but shall not be entitled to any vote.

16 Disclosure of interest

- (1) Where a Director has any interest, direct or indirect, in any matter before the Board he shall fully disclose that interest to the Board —
 - (a) at any meeting during the course of which he becomes aware of the relevant facts; or
 - (b) at the first meeting after he becomes aware of the relevant fact.
- (2) After a Director has under subsection (1) disclosed any interest in any matter before the Board, he shall not take part in any further deliberation or in any decision of the Board on that matter:

Provided that the holding of any such interest shall not disqualify the interested Director for the purpose of constituting a quorum at any meeting or part of a meeting.

17 Management

- (1) The chief executive of the corporation shall be the General Manager who shall be responsible to the Board for the effective operation of the day to day activities of the corporation including supervision and direction of the staff of the Corporation.

- (2) In exercise of his functions under this Act the General Manager shall act in accordance with such directions as he may, from time to time, receive from the Board.
- (3) The General Manager shall be appointed by the Board with the approval of the Minister.
- (4) The General Manager shall hold office for a period not to exceed 3 years on such terms and conditions as may be determined by the Board, subject to the approval of the Minister.
- (5) The General Manager is eligible for reappointment.
- (6) The General Manager shall devote the whole of his services to the Corporation and shall not while holding office, without the approval of the Minister, —
 - (a) receive any remuneration from any office or any employment other than with the corporation;
 - (b) hold any other office or employment, whether for remuneration or not, except as a nominee of the Corporation.
- (7) Where the General Manager is prevented by illness, absence from Tuvalu or any other cause from exercising his functions as General Manager, the Board with the approval of the Minister may appoint an acting General Manager who shall act as the General Manager until the General Manager is able to resume his functions.
- (8) The Board may by written resolution authorise a Director, the General Manager or another officer of the corporation to act, to enter into contracts and to sign instruments and documents, all on behalf of the Corporation.
- (9) The General Manager shall be paid by the Corporation such salary and allowances as are determined by the Board and approved by the Minister.

18 Officers and staff

- (1) The Board shall appoint, employ or dismiss such other officers and staff as may be reasonably necessary for the purposes of or in connection with the business of the Corporation under this Act on such terms and conditions as the Board may determine.
- (2) The Board may provide for the training, career development and discipline of the officers and staff of the Corporation.
- (3) The officers and staff shall be under the administrative control of the General Manager subject to any directions given to him by the Board.

PART IV - FINANCIAL PROVISIONS

19 Funds and property of corporation

The funds and property of the Corporation shall consist of —

- (a) money appropriated by an Appropriation Act and paid to the corporation;
- (b) rights, interests, assets or liabilities of the Government vested in the Corporation under section 20;
- (c) all moneys received by the Corporation for goods or services provided under this Act;
- (d) money paid to the Corporation by way of grants, subsidies, donations, loans, rent and repayments of principal or interest;
- (e) money from the sale of property held by or on behalf of the Corporation;
- (f) sums due on any investment made by the Corporation;
- (g) other money and property lawfully received by the corporation for the purposes of the corporation; and
- (h) accumulations of income derived from any money or property of the Corporation.

20 Vesting of Government assets etc in corporation

At the commencement of this Act, the rights, interests, assets and liabilities of the Government formerly managed by the Tuvalu Electricity Authority shall transfer to and vest in the corporation.

21 Commercial conduct of business

The Corporation shall conduct its business in accordance with prudent commercial principles and shall ensure so far as possible that its revenue is sufficient both to meet its expenditure properly chargeable to revenue and to derive a profit.

22 Profits

- (1) The net profits of the Corporation in any financial year shall be determined by the Board after allowing for the expenses of operation during that year and making such provisions for depreciation, repayment of any advances, a credit to the reserve fund under section 23(1), and such

contingencies and other purposes as are usually made by public electricity authorities.

- (2) The net profits of the Corporation in any financial year shall be allocated as the Board, with the approval of the Minister, determines.

23 Reserve fund

- (1) The Corporation shall have a reserve fund which shall consist of such sums as are placed to the credit of the reserve fund as the Board, with the approval of the Minister, determines.
- (2) There may be transferred from time to time from the reserve fund to the working capital of the Corporation such sums as the Board, with the approval of the Minister, determines.

24 Financial year

- (1) The financial year of the Corporation shall end on 31st December in each year.
- (2) The Minister may amend subsection (1) by order.

25 Estimates

- (1) For each financial year the Board shall prepare and submit to the Minister for his approval, not later than such date as the Minister directs, estimates of the income and expenditure of the Corporation, including its capital budget, for the coming financial year and for any longer period required by the Minister.
- (2) The Board shall cause to be kept all proper books and records of account of its income, expenditure, assets and liabilities.

26 Annual reports and accounts etc

The Board shall as soon as practicable after the end of each financial year and in any event not later than 6 months from the end of the financial year, prepare —

- (a) a report on the operations of the Corporation during that year; and
- (b) accounts and financial statements, in the appropriate forms, in respect of that year.

27 Audit

- (1) The Auditor-General shall inspect and audit and report at least once in every financial year to Parliament on the accounts finances and property of the corporation.
- (2) The Auditor-General shall satisfy himself (i) that the accounts of the Corporation have been properly prepared in accordance with generally accepted international accounting principles taking into consideration the requirement for good stewardship and developing practices with respect to the reporting of public finances; (ii) that expenditure has been incurred with due regard to economy and the avoidance of waste and in his report he shall state —
 - (a) whether the accounts and statements have been properly prepared in accordance with the books and records of the Corporation and give a true and fair view of the financial operations and the current financial position of the corporation;
 - (b) whether the books and records of the Corporation have been properly kept and contain information adequate for the purposes of the audit;
 - (c) whether the financial affairs of the Corporation have been properly conducted; and
 - (d) all other matters arising out of the accounts and statements which he considers should be made known to the Minister and to Parliament.

PART V - MISCELLANEOUS**28 Service of notices**

Any notice or other document required to be served under this Act may be served either personally or by registered post:

Provided that when a person to be served cannot, after reasonable enquiry, be found or is out of Tuvalu it shall be deemed sufficient service to affix the notice on the land to which it relates.

29 Application for compensation

- (1) In the exercise of the powers given by section 7 the Corporation shall do as little damage as may be and shall make full compensation for any damage or loss sustained by reason or in consequence of the exercise of such powers:

Provided that no compensation shall be due for any act done in maintaining or repairing the system for the supply of electricity, if compensation with respect to such act has already been paid or agreed to be paid when installing the system.

- (2) If any dispute arises concerning the amount or application of compensation, it may be determined by civil action in a court of appropriate jurisdiction.

30 Non-liability for reasonable failure to supply

No liability shall be incurred for any damage to persons or property by reason of any partial or total failure of the supply of electricity which may be due to unavoidable accident, fair wear and tear, overloading due to the unauthorised connection of apparatus, or to the reasonable requirements of the system for the supply of electricity.

31 Equipment not to be subject to distress

Any electric lines, meters, works or apparatus whatsoever placed in or upon any premises for the supply of electricity, and not belonging to the consumer, shall not be subject to distress nor be liable to be taken in execution under any process of a court or under any proceedings in bankruptcy or insolvency against the consumer.

32 Dangerous and dishonest tampering

- (1) Any person who —
- (a) so tampers with any part of an installation as to cause, or to be likely to cause, danger to any person or to property shall be liable to a fine of \$300 and to imprisonment for 18 months;
 - (b) dishonestly tampers with any meter, or with any part of an installation related to a meter, so as to prevent the meter from recording correctly the true amount of electricity supplied shall be liable to a fine of \$50 and to imprisonment for 3 months.
- (2) Where there has been any tampering with a meter or with any part of an installation related to a meter, such tampering shall be prima facie evidence of a dishonest tampering, and the consumer using the meter shall be deemed to have abetted the offence, whether the principal offender has been identified or not, unless he satisfies the court that the offence was committed without his participation or connivance and that he had taken all reasonable precautions to prevent the commission of the offence.

33 Other offences

Any person who, wilfully or negligently —

- (a) causes electricity to be diverted from its proper course or to be wasted;
- (b) breaks, throws down, causes to fall or damages any electric line, any post, or any apparatus connected with the supply of electricity;
- (c) extinguishes, removes, destroys or damages any public lamp or street light,

shall be liable to a fine of \$300 and to imprisonment for 18 months.

34 Compensation for

Where any person is convicted of any offence under sections 32 to 33 the court may, in addition damage to any penalty which may be imposed, order him to pay full compensation for the damage he may have done, and such order may be enforced as if it were a judgment in a civil action or suit.

35 Obstructing corporation

Any person who unlawfully obstructs or impedes the Corporation or any persons acting under its powers and directions in the exercise of their powers and duties under this Act shall be guilty of an offence and shall be liable to a fine of \$50 and to imprisonment for 3 months.

36 Regulations

The Minister may make regulations for the better carrying out of the objects and purposes of this Act including any of the following matters

- (a) in respect only of supply areas —
 - (i) the procedure for the supply and use of electricity and the incidence of the charges in respect of the cost of connecting consumers ' premises with the mains;
 - (ii) the fixing and levying of charges in respect of electricity supplied by the corporation and of the fees payable in respect of the inspection, testing and maintenance of consumers ' installations and apparatus, and in respect of any other services properly rendered on account of consumers;
 - (iii) the terms and conditions on which electricity will be supplied, and the conditions for the discontinuance of supply;

- (iv) the standards of construction and the condition of repairs of any premises to which electricity is to be supplied;
- (v) the methods of wiring of premises, the types of apparatus that may be used, and such other matters as may appear expedient;
- (vi) the minimum return to be guaranteed by persons in any sparsely populated or outlying area before supplying them with electricity;
- (b) in respect of any part of Tuvalu to which such regulations may be applied, as therein specified —
 - (i) the testing and licensing of persons who are competent to carry out the duties of electricians in respect of electrical installations in any premises;
 - (ii) the licensing of contractors who are equipped and competent to undertake contracts for electrical installations in any premises;
 - (iii) the prohibition of persons who are not licensed as required by any regulations made under this section, from carrying out electrical work or undertaking contracts for electrical installations;
 - (iv) the standards of materials and workmanship of any electrical installation or appliance;
 - (v) ensuring the safety of persons and property in the supply or use of electricity.

37 Repeal of Electricity Act (cap. 41)

The Electricity Act (cap. 41) is hereby repealed.

ENDNOTES

Table of Legislation History

| Legislation | Year and No | Commencement |
|-------------|-------------|--------------|
| | | |
| | | |
| | | |
| | | |
| | | |

Table of Renumbered Provisions

| Original | Current |
|----------|---------|
| | |
| | |
| | |
| | |

Table of Endnote References