



Renewable Energy Act 2013

Ministry of Energy

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A BILL ENTITLED

AN ACT to establish legal, economic and institutional basis to promote the use of renewable energy resources and for connected matters.

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ENACTED by the President and the National Assembly.

1. Short title

This Act may be cited as the Renewable Energy Act, 2013.

2. Definitions

(1) In this Act, unless the context otherwise requires-

“aerothermal energy” means energy stored in the form of heat in the ambient air;

“Authority” means The Public Utilities Regulatory Authority;

“bio fuels” means liquid or gaseous fuel for transport produced from biomass;

“bio gas” means a fuel gas produced from biomass or from the bio degradable fraction of waste, that can be purified to natural gas quality, to be used as bio fuel or wood gas;

“bio mass” means non-fossil, bio degradable organic material originating from naturally occurring or cultured plants, animals and micro-organisms, including products from agriculture (including vegetal and animal substances), forestry and related industries including fisheries and aquaculture, as well as the biodegradable fraction of industrial and municipal waste;

“capacity” means the rated power output;

“consumer” means any person or entity receiving electricity from the distribution or transmission network for his or her or its own use;

“Electricity Act” means the Electricity Act;

[cap 32.05]

“Feed In Tariff Rules” means the rules to establish the Feed In Tariff system and to regulate the method of establishing and approving the Feed In Tariffs;

“generation licence” has the meaning given to it in the Electricity Act;

“geothermal energy” means energy stored in the form of heat beneath the surface of solid earth;

“grid” means a number of transmission and distribution systems linked together, as provided for under the Electricity Act;

"hybrid systems" means any power or energy generation facility which makes use of more than one fuel source with a minimum of ten percent of the annual energy output provided by renewable energy sources, including but not limited to integrated combined solar and wind systems, combined biomass and fossil fuel systems, combined hydro and fossil fuel systems, integrated solar and biomass systems, integrated wind and fossil fuel systems;

“hydrothermal” means energy stored in the form of heat in surface water;

"hydropower" means water-based energy systems;

“Minister” means the Minister responsible for Energy and “Ministry” shall be construed accordingly;

"off-grid" means not connected to the grid;

“registry” means a registry established by the Ministry to monitor renewable energy facilities;

"renewable energy resources" means energy from non-fossil sources such as wind, solar, hydropower, biogas, biomass, landfill gas, sewage treatment plant gas, geothermal, aero thermal, hydrothermal and ocean;

“Responsible Network Utility” means the holder of a distribution or transmission licence (as applicable) granted by the Authority under the Electricity Act at the receiving point at which electric energy is delivered directly from a generating facility;

"solar resources" means the energy derived from solar radiation

which can be converted into useful thermal or electrical energy;
and

"wind resources" means energy derived from wind, converted into useful electrical or mechanical energy.

(2) A word or phrase not specifically defined in this Act, but defined in the Electricity Act shall have the meaning assigned to it in that Act.

3. Responsibilities under this Act

(1) The Ministry shall have the following functions under this Act-

- (a) recommend national targets for the use of renewable energy resources, as set out under section 4;
- (b) in collaboration with the Ministry responsible for Finance, determine the equipment that is eligible for tax exemption under section 14;
- (c) carry out an impact assessment of the use of biomass for energy purposes, as detailed under section 15;
- (d) work with other relevant Ministries and authorities to prepare and co-ordinate the permitting process for facilities using renewable energy resources within the meaning of this Act, and summarise such information for potential developers, as detailed under section 16;
- (e) work with other Ministries, universities and other training providers to promote the implementation of educational programmes within the renewable energy sector;
- (f) encourage the development of technical and standard requirements and certification of renewable energy installations for Renewable Energy Systems, to ensure the quality of these systems especially in small scale installations, whether residential or commercial;
- (g) establish and manage a registry to monitor renewable energy facilities; and

(h) undertake such reporting duties as are required by this Act.

(2) The Authority shall have the following functions under this Act-

(a) the management of the Renewable Energy Fund established under section 5;

(b) formulating the Feed In Tariff Rules as provided for under section 11;

(c) acting as arbitrator on matters provided for under this Act between the Responsible Network Utility and persons who are already generating or plan to generate electricity from renewable energy resources;

(d) maintain a register of appropriately qualified installers of systems using renewable energy resources;

(e) require importers of systems using renewable energy resources to provide details of compliance with internationally recognised performance and safety standards; and

(f) undertake such reporting duties as are required by this Act, in particular section 18.

(3) The Responsible Network Utility shall have the following functions under this Act-

(a) determining the safety and technical capability of the grid to connect electricity generated from renewable energy resources, and whether any required grid development is excessive; and

(b) undertake such reporting duties as are required by this Act, in particular section 18.

4. Targets

(1) The Ministry shall recommend middle and long-term national targets for the use of renewable energy resources in electricity generation, which may include targets related to geographic location and diversity.

(2) The Ministry shall report annually to the Cabinet on progress towards these targets, including a review of the performance of the incentives provided under this Act.

5. Establishment of the Renewable Energy Fund

(1) There is established by this Act, the Renewable Energy Fund.

(2) Moneys from the Fund shall be used for -

(a) the promotion, development, sustainable management and utilisation of renewable energy sources;

(b) the provision of financial incentives, feed-in-tariffs, capital subsidies, production based subsidies and equity participation for –

(i) grid interactive renewable electricity,

(ii) mini-grid and off-grid renewable power systems for remote areas and islands,

(iii) renewable energy projects for non-electricity purposes, and

(iv) any other renewable energy activity that the Ministry may determine;

(c) the promotion of renewable energy projects especially community based projects;

(d) the promotion of renewable energy for industrial use;

(e) scientific, technological and innovative research into renewable energy;

(f) the production or fabrication of equipment for the development and utilization of renewable energy in the country;

(g) programmes to adopt international best practices and innovative approaches to the development and utilisation of renewable energy sources;

- (h) the development of infrastructure for renewable energy; and
 - (i) capacity building for renewable energy development.
- (3) For the purposes of this section, 'equity participation' means the participation in the ownership of an organisation or venture through an investment for renewable energy.

6. Sources of money for the Fund

The moneys in the Fund shall be derived from –

- (a) moneys appropriated by the National Assembly;
- (b) registration fees of individuals and organisations involved in renewable energy for commercial gains;
- (c) donations, grants and gifts received for renewable energy activities;
- (d) moneys generated by the Authority from the provision of services for renewable energy activities;
- (e) moneys generated by the Authority from the licences issued to Independent Power Producer`s utilising renewable energy resources for electricity generation, including solar energy;
- (f) any levy that may be introduced by the Government; and
- (g) moneys from any other source approved by the Minister responsible for Finance.

7. Management of the Fund

- (1) The Authority is responsible for the management of the Fund and to that end shall –
- (a) pursue policies to achieve the object of the Fund;
 - (b) collect or arrange to be collected, moneys lawfully due

to the Fund, through procedures determined by the Minister;

- (c) keep moneys of the Fund in bank accounts separate from other funds of the Authority;
- (d) ensure accountability of the Fund by defining appropriate procedures for the utilisation of the Fund;
- (e) prepare and publish the criteria for the disbursement of moneys from the Fund with the approval of the Minister;
- (f) disburse moneys from the Fund;
- (g) receive and examine reports from designated persons or institutions in respect of financial assistance granted to those persons or institutions; and
- (h) perform any other function assigned to it under this Act or incidental to the achievement of the object of the Fund.

(2) The administration expenses of the Fund related to the management of the Fund shall be charged on the Fund.

8. Tax exemption

The Fund is exempt from the payment of tax.

9. Accounts and audit

(1) The Authority shall within three months before the end of each financial year, prepare and submit to the Minister for approval, estimates of the income and expenditure of the Fund for the succeeding financial year.

(2) The Authority shall keep proper records and books of accounts of the income and expenditure of the Fund for each financial year.

(3) The Authority shall within two months of the end of each financial year, submit the statement of accounts of the Fund to the Auditor General for auditing.

10. Annual report

(1) The Authority shall not later than three months after the end of each financial year, submit to the Minister an annual report on the activities of the Fund during the preceding year.

(2) The report under subsection (1) shall include-

- (a) audited Financial Statements;
- (b) information with regard to the operation and performance of the Fund; and
- (c) such other information as the Minister may require.

(3) The Minister shall, not later than three months after the end of the financial year cause the report to be laid before the National Assembly.

11. Support for on-grid renewable electricity (Feed in Tariff)

(1) To accelerate the development of renewable energy resources, a tariff system (the "Feed In Tariff") for electricity produced from eligible renewable energy resources, including such portion of electricity from hybrid systems that is directly attributable to eligible renewable energy resources, shall be introduced.

(2) Eligibility for the Feed in Tariff shall be defined in the Feed In Tariff Rules.

(3) The Authority shall formulate, with the approval of the Minister, Feed In Tariff Rules within six months of this Act coming into force, which shall conform to the following-

- (a) the Responsible Network Utility shall pay the Feed In Tariff only on the basis of electricity from renewable energy resources delivered into the Grid;
- (b) the rules defining eligibility for the tariff;

- (c) electricity generated outside of The Gambia shall not be eligible;
- (d) hybrid systems shall receive the Feed In Tariff only for that portion of the electricity from renewable energy resources delivered into the Grid;
- (e) only biomass deemed sustainable by the Biomass strategy, to be adopted by the Government as specified under section 15, shall be eligible;
- (f) a duration for power purchase agreements (“Feed In Tariff Power Purchase Duration”) and standard contract terms established under the Feed In Tariff Rules;
- (g) the principles and methodology for determining the Feed In Tariff level and how often the Feed in Tariff will be revised;
- (h) the Feed In Tariff payment during the Feed In Tariff power purchase duration shall be adjusted based on a reasonable and fair indexation formula set by the Authority;
- (i) priority connection to the grid for any electricity producer that is eligible under the Feed In Tariff Rules; and
- (j) the priority purchase and transmission of, and payment for, such electricity that is eligible under the Feed In Tariff Rules.

(4) The Authority in consultation with the Responsible Network Utility, shall determine -

- (a) a maximum national capacity limit of electricity production that is eligible under the Feed In Tariff Rules and this level shall be published by the Authority in the Feed In Tariff Rules; and
- (b) the fixed tariff to be paid for electricity produced from each type of renewable energy and the mandated number of years for the application of these rates, which shall not be less than fifteen years.

(5) The maximum capacity limit may be reviewed and revised by the Authority, based on evidence of the impact on the safety and reliability of the electricity system or the financial impact that it may be having in the power sector in accordance with the provisions set out in the Feed In Tariff Rules.

(6) Retrospective changes shall not be made during the Feed In Tariff Power Purchase Duration.

(7) Financial Institutions may offer preferential loans with financial interest subsidy, capital subsidies or other complementary mechanisms to renewable energy projects, without affecting their eligibility for Feed In Tariffs.

12. Support for on-grid renewable electricity not qualifying for Feed in Tariff

The tariff paid for electricity generated from renewable energy resources that do not qualify for the Feed In Tariff regime shall be governed as follows-

- (a) provided the Responsible Network Utility ensures the safety and technical capability of the grid to integrate the project, the electricity produced may be purchased at a negotiated rate which shall not be higher than the alternative cost of electricity generation;
- (b) the Authority shall be responsible for assessing the alternative cost of electricity generation referred to in paragraph (a);
- (c) required grid connection will be carried out with the division of costs normally applied for new grid developments, as approved by the Authority, unless the required grid development is considered excessive in the reasonable judgement of the Responsible Network Utility;
- (d) in the event that the required grid development is considered excessive in the reasonable judgement of the Responsible Network Utility, the developer of a potential electricity generation project using renewable energy resources may carry out these justified grid development activities at their own expense; and
- (e) the Authority shall act as arbitrator in the event of a disagreement between the Responsible Network Utility and the developer of a potential electricity generation project using renewable energy resources.

13. Support for off-grid renewable electricity

(1) Electricity generation from renewable energy resources or hybrid systems in off-grid areas which build the required facilities to connect end consumers ("Private Wire Network") are allowed to charge electricity tariffs to end consumers up to the current national retail tariff rates ("Approved Electricity Tariffs"), as determined by the Authority, provided the capacity of generating facility on such private wire networks system is no greater than two hundred kilowatts.

(2) Private Wire Networks with a capacity of generation from renewable energy resources or hybrid systems greater than two hundred kilowatts or wishing to charge tariffs greater than the approved electricity tariff may also be permitted, but shall justify any tariff to the Authority following the normal procedures under the Electricity Act.

14. General incentives

(1) The operators of facilities using renewable energy resources, including hybrid systems in proportion to and to the extent of the renewable energy component, for both power and non-power applications, as duly certified by the Ministry, shall be entitled to the following incentives-

- (a) duly registered projects producing electricity from renewable energy resources within the meaning of this Act shall be exempted from import tax;
- (b) all renewable energy equipment that fulfil the eligibility criteria shall be exempted from import duty;
- (c) duly registered projects producing electricity from renewable energy resources within the meaning of this Act shall be exempted from corporate tax for a period of fifteen years from commissioning subject to performance assessment every five years;
- (d) duly registered projects producing electricity from renewable energy resources within the meaning of this Act shall be exempted from value added and any retail tax for a period of fifteen years from commissioning; and
- (e) all proceeds from the sale of carbon emission credits shall be exempt from sales taxes.

(2) The fiscal incentives shall apply from the coming into force of this Act.

(3) Grid connection and administrative expenses reasonably incurred by the Responsible Network Utility for the purchase of renewable power and other reasonable expenses may be included with other reasonable costs and recovered through the regulated selling price.

(4) Qualified and registered generating facilities based on intermittent renewable energy resources, including but not limited to solar and wind, shall enjoy the benefit of priority dispatch whenever it is technically possible.

15. Biomass strategy

(1) Within one year of this Act coming into force, the Ministry shall carry out an impact assessment of the use of biomass for electricity and other energy purposes (heating, cooling and transport fuel).

(2) The assessment shall include, but not be limited to-

- (a) the potential impacts of growing energy crops specifically for electricity generation, heat or transport fuels, or for export (competition with food crops for the use of land, potential increase in food prices, etc.);
- (b) the most appropriate use for waste biomass, considering cooking fuel and electricity generation applications;
- (c) forestry impacts of using different biomass energy sources;
- (d) agricultural impacts of using different biomass energy sources;
- (e) the feasibility of using different biomass energy sources; and
- (f) potential economic impacts.

(3) Until such impact assessment is complete, biomass energy sources beyond one megawatt total capacity shall not benefit from the Feed In Tariff or any other incentive.

(4) Following completion of the impact assessment, the Government shall prepare and adopt a strategy for the sustainable use of biomass energy sources ("*Biomass Strategy*").

16. Streamlined permitting

(1) The Government shall simplify as far as reasonably possible, the permitting process for facilities using renewable energy resources to facilitate timely development of these facilities.

(2) The Ministry shall work with other relevant ministries and authorities to coordinate and simplify the permitting process, including where applicable on environmental impact, generation, distribution, land use, water use and construction.

(3) The Ministry shall issue clear guidelines for the processing of applications for the development of projects using renewable

energy resources, which shall include the following-

- (a) requiring the relevant agency to respond within ten business days acknowledging receipt of any permit application and informing the applicant of any missing information required to assess their application;
 - (b) an application process that reflects the scale and potential impact of the development (simpler processes for those developments that may have lower impacts);
 - (c) establishing a timeline for the processing of each application;
 - (d) specific deadlines for decisions and actions on permit applications;
 - (e) complete permit applications for developments using renewable energy sources shall be assessed and responded to within sixty days after submission, unless otherwise agreed with the applicant;
 - (f) if any agency fails to comply with any deadline with respect to a permit application, they shall notify the applicant every ten days with specific information regarding the reasons for the delay and an estimate of the time the permit decision will be made; and
 - (g) establish a deadline by which the applicants must use the permit or forfeit their right to it.
- (4) The Ministry shall compile details of all relevant permit application processes and summarise them for potential developers, including making the information and relevant application forms available on their website.
- (5) For avoidance of doubt, application fees, timelines for construction, penalties, and other provisions set out in regulation shall remain unchanged.

17. Quality of installation

- (1) Installers of systems using renewable energy resources, including electricity generation and thermal energy systems shall be appropriately trained to install the equipment that they offer, with appropriate certification where relevant.
- (2) Installers of systems using renewable energy resources shall provide a quality guarantee for the proper installation according to

best practice.

(3) The minimum obligatory duration of such guarantee shall be six months or such other period set by announcement by the Authority.

18. Reporting under the Act

(1) The Authority shall, within two weeks after the end of each quarter, publish on an appropriate website, a report setting out the following-

- (a) the number of applications for the connection of renewable energy generating facilities to a Relevant Network Utility received by the Relevant Network Utility during the period as well as the capacity involved;
- (b) the number of renewable energy generating facilities connected to a Relevant Network Utility by the Relevant Network Utility during the period; and
- (c) the total number of renewable energy generating facilities connected to a Relevant Network Utility's network and their capacity, and comparing this to the maximum overall national capacity of electricity production that is eligible under the Feed In Tariff Rules.

(2) The Responsible Network Utility shall make available to the Authority without delay-

- (a) the information the Authority requires to prepare the report mentioned in sub-section (1); and
- (b) the data the Authority requires to record tariff payments and recovery mechanisms of the Feed In Tariff regime.

(3) Developers of systems using renewable energy resources shall-

- (a) register facilities with the Ministry for inclusion in the Registry;
- (b) inform the Responsible Network Utility of the location and installed capacity of the installation as well as of the quantity of electricity expected to be fed into the grid (where applicable); and
- (c) by 31 January of each year, provide the Responsible Network Utility with the data required for the final accounts of the previous year.

(4) Responsible Network Utilities shall determine the quantities of electricity and tariff payments based on actual measurements.

(5) The Authority shall publish in an anonymised form on a shared website, the quantities of electricity purchased at the Feed In Tariff and the surcharge if any, on the consumers.

(6) The Authority may disclose the surcharge to final consumers.

(7) This surcharge shall be laid out in a manner which is understandable to consumers without the need for further information.

19. Regulations

The Minister may make regulations for the implementation of this Act.

20. Miscellaneous

(1) The Ministry shall be the lead agency mandated to implement the provisions of this Act, and shall work closely with the Authority on such aspects that pertain to electricity generation.

(2) All prior rules and guidelines issued by the Authority not consistent with this Act are hereby repealed or modified accordingly.

OBJECTS AND REASONS

The objectives of this Act are to-

- (a) promote the use of renewable energy resources, including hybrid systems, to achieve greater energy self-reliance and thereby reduce the exposure to fossil fuel price fluctuations, reduce harmful emissions, and promote economic growth and protection of the environment in The Gambia;
- (b) increase the development of renewable energy by development of national and local capabilities and providing both fiscal and non-fiscal incentives;
- (c) enhance the use of renewable energy resources;

- (d) establish the roles of each relevant institution; and
- (e) contribute to observe the regional decisions adopted in Accra regarding the ECOWAS Regional Renewable Energy Policy.

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TENENG MBA JAITEH
MINISTER OF ENERGY