

SPECIAL ISSUE

Kenya Gazette Supplement No. 11 (Busia County Acts No. 7)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

BUSIA COUNTY ACTS, 2017

NAIROBI, 4th July, 2017

CONTENT

Act—

PAGE

The Busia County Electricity Reticulation Act, 20171

**THE BUSIA COUNTY ELECTRICITY
RETICULATION ACT, 2017**

No. 7 of 2017

Date of Assent: 29th May, 2017

Date of Commencement: See Section 1

ARRANGEMENT OF SECTIONS

Section

PART I— PRELIMINARY

- 1—Short title.
- 2—Objectives.
- 3—Interpretation.

**PART II—NETWORK OPERATIONS IN THE RETAIL
MARKET**

- 4—Requirement of Licences.
- 5—Service lines.
- 6—Service equipment.
- 7—Electricity meters.
- 8—Requirements as to installation and use of apparatus.
- 9—Customer may choose supplier and contractor.
- 10—Sealing of electrical installations.
- 11—Pricing of electricity for customers.

**PART III—POWERS AND DUTIES OF NETWORK
OPERATORS AND RETAILERS**

- 12—Acquisition of land.
- 13—Erection and placement of electricity works.
- 14—Damage to be made good.
- 15—Altering position of conduit.
- 16—Interference with electricity works by trees.
- 17—Obstruction of electricity works.
- 18—Excavation work affecting electricity works.
- 19—Ownership of electricity works.
- 20—Interruption to electricity supply for maintenance.

PART IV—POWERS OF ENTRY

- 21—A Power of entry.
- 22—Notice of entry.
- 23—Use of force.
- 24—Notification of use of force or urgent entry.
- 25—Care to be taken.
- 26—Recovery of cost of entry and inspection.
- 27—Compensation.
- 28—Certificates of authority to enter land.
- 29—Entry to residential premises.

PART V—MARKET OPERATIONS

- 30—Market operations rules.
- 31—Member of the Executive Committee may direct distribution network service provider to remove structure.
- 32—Inspectors.
- 33—Obstruction of inspectors.
- 34—Inspection of certain electrical equipment.
- 35—Examination and testing of electricity delivery equipment.
- 36—Orders prohibiting the use of unsafe electricity delivery equipment.
- 37—Notification of serious electricity works accidents.
- 38—Investigation of serious electricity works accidents.
- 39—Powers of inspectors.
- 40—Interference with site of serious electricity works accident.
- 41—Publication of details of serious electricity works accidents.

PART VI—OFFENCES

- 42—Theft of electricity.
- 43—Interference with electricity works.
- 44—Entering, climbing or being on electricity works.
- 45—Interference with electricity meters.
- 46—Interference with distribution network service provider's seals.

47—Unauthorised connections.

48—Unauthorised increase in capacity of connections.

49—Unauthorised alterations and additions to electrical installations.

50—Obstruction of authorised officers.

PART VII—MISCELLANEOUS PROVISIONS

51—Transmission systems.

52—Measures to encourage investment in the energy sector.

53—General penalty.

54—Regulations.

**THE BUSIA COUNTY ELECTRICITY
RETICULATION ACT, 2017**

AN ACT of the County Assembly of Busia to regulate the supply of electricity in the retail market; to set out the functions of persons engaged in the conveyance and supply of electricity and for connected purposes.

ENACTED by the County Assembly of Busia, as follows –

PART I —PRELIMINARIES

1. This Act may be cited as the County Electricity Reticulation Act, 2017 and shall come into operation upon expiry of fourteen days after gazettment. Short title

2. The objectives of this Act are—

Objectives

- (a) to promote the efficient and environmentally responsible production and use of electricity and to deliver a safe and reliable supply of electricity;
- (b) to confer on network operators such powers as are necessary to enable them to construct, operate, repair and maintain their electricity works, and
- (c) to promote and encourage the safety of persons and property in relation to the generation, transmission, distribution and use of electricity.

3. In this Act, unless the context otherwise requires—

Interpretation

“authorized officer” means an authorized officer appointed by the Member of the executive committee under this Act or any other authorized officer appointed by other national government agencies dealing in matters related to electricity reticulation;

“Constitution” means the Constitution of Kenya, 2010;

“county *Gazette*” means a *gazette* published by the authority of the county government or a supplement of such *gazette*;

“customer” includes a wholesale customer;

“Department” means the County Government department dealing with matters relating to energy development and electricity and gas reticulation;

“distribution network service provider” means a person who owns or controls a distribution system;

“distribution system” means the electricity power lines and associated equipment and electricity structures that are used to convey and control the conveyance of electricity:

- (a) to the premises of wholesale and retail customers, up to the point of supply in relation to the premises (which may or may not be situated on the building or land comprising the premises),
- (b) from the premises of regulated offer customers that have a complying generator installed and connected from the point of supply to the premises, or
- (c) to, from and along the rail network electricity system,

but does not include a transmission system or any lines, equipment and structures prescribed by the regulations;

“electrical installation” means the electrical wiring and associated equipment that are used to convey and control the conveyance of electricity within premises to which electricity is supplied from a distribution system, but does not include anything connected to and extending or situated beyond an electrical outlet socket;

“electricity delivery equipment” means any machinery, apparatus, appliances, material or other equipment used or intended to be used by any network operator or retailer for or in connection with the generation, transmission or distribution of electricity.

“electricity structure” means any structure (other than a building) that is used to carry overhead lines or associated equipment, and includes any structure that is used for the purposes of street lighting.

“electricity works” means any electricity power lines or associated equipment or electricity structures that form part of a transmission or distribution system.

“executive committee” means the Busia county executive committee established in accordance with Article 176 of the Constitution;

“exercise” a function includes performs a duty;

“generating system” means the electrical equipment and associated electricity structures that are used to generate electricity for supply to a transmission or distribution system but, subject to the regulations, does not include a complying generator.

“government” means Busia county government;

“licence” means a distribution network service provider's licence.

“Member of the Executive Committee” means the Member of the Executive Committee responsible for energy.

“network operator” means a transmission operator or distribution network service provider.

“point of supply”, in relation to the premises of a customer or a class of customers, means the point of supply to an electrical installation supplying electricity to the premises, as determined in accordance with the regulations.

“premises” includes any building or part of a building, any structure or part of a structure, any land (whether built on or not) and any river, lake or other waters;

“serious electricity works accident” means an accident in which electricity works are involved, and as a consequence of which a person dies or suffers permanent disability, is hospitalized, receives treatment from a health care professional or is unable to attend work for any period of time;

“supply”, in relation to electricity, means the supply of electricity by means of a transmission or distribution system;

“transmission operator” means a person who owns or controls a transmission system;

“wholesale customer” means a person to whose premises electricity is supplied under a wholesale supply arrangement.

“wholesale trader” means a person —

- (a) who enters into wholesale supply arrangements, or
- (b) who buys, sells or otherwise deals in rights to the supply of electricity arising under wholesale supply arrangements.

PART II— NETWORK OPERATIONS IN THE RETAIL MARKET

4. A person shall not operate a distribution system in the County for the purpose of conveying electricity, for or on behalf of retailers, otherwise than under the authority of a distribution network service provider’s license.

Requirement of
Licences

5. (1) A distribution network service provider may require the installation of such service lines, and provision for their attachment, as it considers necessary to provide a supply of electricity to or from a customer.

Service lines

(2) The type, construction and route of a service line and its point of connection are to be as determined by the distribution network service provider.

(3) A distribution network service provider may require premises to be provided with more than one point of connection if the distribution network service provider considers it necessary to avoid interference with the supply of electricity to or from any other premises.

6. (1) A distribution network service provider may require the installation of such service equipment, and provision for its mounting, as it considers necessary for the provision of a safe and efficient supply of electricity to or from a customer.

Service equipment

(2) The position and standards of installation of service equipment are to be as determined by the distribution network service provider.

7. (1) A distribution network service provider may require the installation of such electricity meters as it considers necessary to ascertain the quantity of electricity supplied to or received from a customer.

Electricity meters

(2) The position and standards of installation of electricity meters are to be as determined by the distribution network service provider.

8. (1) A distribution network service provider—

Requirements as to
installation and use
of apparatus

- (a) may impose such requirements as to the installation and use of electrical appliances and equipment by the customer as the distribution network service provider considers necessary to prevent or minimize adverse effects on the supply of electricity to or from other customers;
- (b) may impose requirements relating to loading of, and the balancing of the load over, the phases of the customer's electricity supply;
- (c) may impose requirements as to the minimum rupture rating or minimum breaking capacity of the customer's main protective devices, and
- (d) may require the customer to install relays, current transformers and other protective equipment having characteristics to suit the distribution network service provider's protective system.

(2) A customer shall comply with any requirement imposed on the customer under this section.

9. (1) For the purpose of complying with any requirement imposed under this Act, a customer may elect:

Customer may
choose supplier and
contractor

- (a) to have any required electrical or other goods provided by the distribution network service provider (in the case of goods that are available from the distribution network service provider) or by any other person, and
- (b) to have any required electrical or other services provided by the distribution network service provider (in the case of services that are available from the distribution network service provider) or by any other person.

(2) A person who provides electrical or other services of a kind prescribed by the regulations shall be accredited, in accordance with the regulations, to provide those services.

10. A distribution network service provider may attach seals to a customer's electrical installation if it considers it appropriate to do so.

Sealing of
electrical
installations

11. The price for electricity network services that are the subject of an electricity network pricing determination and that are provided by a licensee with respect to customers shall be determined in the manner prescribed.

Pricing of
electricity for
customers

PART III— POWERS AND DUTIES OF NETWORK OPERATORS AND RETAILERS

12. (1) A network operator may acquire land (including an interest in land) for the purpose of exercising its functions under this or any other Act or law.

Acquisition of land

(2) Land that a network operator is authorized to acquire under this section may be acquired by agreement or by compulsory process.

13. (1) For the purpose of exercising its functions under this or any other Act or law, a network operator—

Erection and
placement of
electricity works

- (a) may carry out work to which this section applies, and
- (b) in particular, may carry out any such work on a public road or public reserve.

(2) However, no such work (other than routine repairs or maintenance work) may be carried out unless:

- (a) notice of the proposal to carry out the work, which includes a statement of any anticipated damage, has been given to the County Government;
- (b) the county government has been given a reasonable opportunity (being not less than 40 days from the date on which the notice was given) to make submissions to the network operator in relation to the proposal, and
- (c) the network operator has given due consideration to any submissions so made.

(3) This section does not apply to the carrying out of work to cope with emergencies.

14. (1) If a public road or public reserve is damaged by any work carried out by a network operator, the Member of the Executive Committee may require the network operator to make good the damage without delay.

Damage to be
made good

(2) If the network operator fails to carry out

appropriate work in accordance with any such requirement, the County Government shall carry out the work and recover the costs from the network provider.

15. (1) A network operator may serve a written notice on a person if— Altering position of conduit

- (a) the network operator needs an alteration to be made in the position of a conduit owned by the person, and
- (b) the alteration would not permanently damage the conduit or adversely affect its operation.

(2) The notice—

- (a) shall specify the work to be carried out;
- (b) shall specify a reasonable time within which the work is to be carried out, and
- (c) shall include an undertaking by the network operator to pay the reasonable cost of carrying out the work.

(3) If the work is not carried out as required by the notice, the network operator may carry out the work in a manner that does not permanently damage the conduit or adversely affect its operation.

16. (1) This section applies if a network operator has reasonable cause to believe that a tree situated on any premises— Interference with electricity works by trees

- (a) could destroy, damage or interfere with its electricity works;
- (b) could make its electricity works become a potential cause of bush fire or a potential risk to public safety.

(2) In those circumstances, a network operator—

- (a) may serve a written notice on the owner or occupier of the premises requiring the owner to trim or remove the tree; or
- (b) in an emergency, may, at its own expense, trim or remove the tree itself.

(3) A notice under subsection (2) (a)—

- (a) shall specify the work to be carried out;
 - (b) shall specify a reasonable time within which the work is to be carried out; and
 - (c) shall include an undertaking by the network operator to pay the reasonable cost of carrying out the work.
- (4) Subsection (3) (c) does not apply in either of the following circumstances—
- (a) if, after the electricity works were first laid or installed, an owner or occupier of the premises planted the tree, or caused or permitted the tree to be planted, in circumstances in which the owner or occupier ought reasonably to have known that destruction of, damage to or interference with the works would result;
 - (b) the land in or on which the tree is located, and on or over which the works are located, was the subject of an easement in favour of the network operator (or a predecessor of the network operator) when the tree was planted.
- (5) If the work is not carried out as required by the notice, the network operator may carry out the work itself.
- (6) The cost of carrying out the work may be recovered by the network operator in a court of competent jurisdiction as a debt owed to it by the owner of the premises on which the tree is situated, but only in the circumstances referred to in subsection (4).

17.(1) This section applies if a network operator has reasonable cause to believe that any structure or thing situated in, on or near its electricity works—

Obstruction of
electricity works

- (a) could destroy, damage or interfere with those works, or
- (b) could make those works become a potential cause of bush fire or a potential risk to public safety.

(2) In those circumstances, a network operator—

- (a) may serve a written notice on the person having control of the structure or thing requiring that person to modify or remove it, or
- (b) in an emergency, may, at its own expense, modify

or remove the structure or thing itself.

(3) A notice under subsection (2) (a)—

- (a) shall specify the work to be carried out, and
- (b) shall specify a reasonable time within which the work is to be carried out.

(4) If the person fails to carry out the work in accordance with the requirement, the network operator may carry out the work itself.

(5) The costs of—

- (a) carrying out the work, and
- (b) repairing any damage done to the network operator's electricity works by the structure or thing,

may be recovered by the network operator in a court of competent jurisdiction as a debt owed to it by the person.

(6) A network operator may apply for an injunction to prevent a structure or thing being placed in, on or near its electricity works.

(7) A network operator may take action under this section even if the person having control of the structure or thing owns or occupies the land in, on or over which the network operator's electricity works are situated.

(8) Subsection (5) does not enable the network operator to recover any costs referred to in that subsection from a person referred to in subsection (7).

18. (1) This section applies if a network operator has reasonable cause to believe that the carrying out or proposed carrying out of excavation work in, on or near its electricity works—

Excavation work
affecting electricity
works

- (a) could destroy, damage or interfere with those works; or
- (b) could make those works become a potential cause of bush fire or a potential risk to public safety.

(2) In those circumstances, a network operator may serve a written notice on the person carrying out or proposing to carry out the excavation work requiring the person—

- (a) to modify the excavation work, or

- (b) not to carry out the excavation work, but only if the network operator is of the opinion that modifying the excavation work will not be effective in preventing the destruction or damage of, or interference with, the electricity works concerned or in preventing those works becoming a potential cause of bush fire or a potential risk to public safety.

(3) A notice under subsection (2) shall specify the excavation work that is to be modified or not carried out.

(4) A network operator may recover the following costs in a court of competent jurisdiction as a debt owed to it by a person who carried out excavation work the subject of a notice under subsection (2)—

- (a) the costs incurred in replacing any of the network operator's electricity works destroyed by the excavation work;
- (b) the costs incurred in repairing any damage to the network operator's electricity works caused by the excavation work;
- (c) the costs incurred in remedying or mitigating any interference with the network operator's electricity works caused by the excavation work.

(5) A network operator may apply for an injunction to prevent the carrying out of excavation work in, on or near its electricity works.

(6) A network operator may take action under this section even if the person carrying out the excavation work owns or occupies the land in, on or over which the network operator's electricity works are situated.

19. A network operator or retailer is the owner of its electricity works, whether or not the land in, on or over which they are situated is owned by the network operator or retailer.

Ownership of
electricity works

20. A network operator or retailer may interrupt the supply of electricity to a customer, at such reasonable times as the network operator or retailer determines—

Interruption to
electricity supply
for maintenance

- (a) for the purpose of inspecting, testing or carrying out repairs or maintenance work on its electricity works, or

- (b) for such other purpose as the network operator or retailer considers necessary for the safe and efficient operation of its electricity works.

PART IV— POWERS OF ENTRY

21. (1) An authorized officer of a network operator may enter any premises for the purpose of exercising any function conferred or imposed on a network operator by or under this or any other Act or law, including— A Power of entry

- (a) carrying out preliminary investigations in connection with the proposed installation or extension of electricity works;
- (b) installing, extending, maintaining, repairing or removing electricity works;
- (c) reading electricity meters;
- (d) checking if the network operator's conditions relating to tariffs and the use of electricity are being complied with, or
- (e) ascertaining whether an offence against this Act or the regulations has been committed.

(2) An authorized officer of a retailer may enter the premises of a customer for the following purposes in respect of electricity works prescribed by the regulations—

- (a) carrying out preliminary investigations in connection with the proposed installation or extension of electricity works;
- (b) installing, extending, maintaining, repairing or removing electricity works;
- (c) reading electricity meters;
- (d) checking if the retailer's conditions relating to tariffs and the use of electricity are being complied with;
- (e) ascertaining whether an offence against this Act or the regulations has been committed.

(3) Except in emergencies, a power of entry may be exercised only during daylight hours.

22. (1) Before an authorized officer of a network operator or retailer exercises a power of entry under this Act, the network operator or retailer concerned shall give Notice of entry

the owner or occupier of the land written notice of the intention to enter the land.

(2) The notice shall specify the day on which the authorized officer intends to enter the land and shall be given before that day.

(3) This section does not require notice to be given—

- (a) if entry to the land is made with the consent of the owner or occupier of the land;
- (b) if entry is required for the sole purpose of reading an electricity meter, or
- (c) if entry is required in an emergency.

23. (1) Reasonable force may be used for the purpose of gaining entry to any land (other than such part of a building as is being used for residential purposes) under a power conferred by this Act, but only if authorized by the network operator or retailer concerned in accordance with this section. Use of force

(2) The authority—

- (a) shall be in writing;
- (b) shall be given in respect of the particular entry concerned, and
- (c) shall specify the circumstances that shall exist before force may be used.

24. (1) An authorised officer—

- (a) who uses force for the purpose of gaining entry to land, or
- (b) who enters land in an emergency without giving written notice to the owner or occupier of the land,

Notification of use
of force or urgent
entry

shall promptly advise the network operator or retailer concerned of that fact.

(2) The network operator or retailer shall give notice of the entry to such persons or authorities as appear to the network operator or retailer to be appropriate in the circumstances.

25. (1) In the exercise of a power under this Part, an authorized officer shall do as little damage as possible. Care to be taken

(2) As far as practicable, entry onto fenced land is to be made through an existing opening in the enclosing fence or, if entry through an existing opening is not practicable, through a new opening.

(3) Any new opening is to be properly closed when the need for entry ceases.

(4) If, in the exercise of a power under this Division, any pit, trench, hole or bore is made, the network operator or retailer concerned shall, if the owner or occupier of the land so requires:-

- (a) fence it and keep it securely fenced so long as it remains open or not sufficiently sloped down, and
- (b) without unnecessary delay, fill it up or level it or sufficiently slope it down.

26. If an authorized officer enters any land for the purpose of making an inspection and, as a result of the inspection, the network operator or retailer concerned requires any work to be carried out on the land, the network operator or retailer may recover the reasonable costs of the entry and inspection from the owner or occupier of the land. Recovery of cost of entry and inspection

27. The network operator or retailer concerned shall pay compensation to the owner or occupier of any land in respect of which a power has been exercised under this Act for any loss or damage arising from the exercise of the power, but is not so liable to the extent to which the loss or damage arises from work done for the purposes of an inspection which reveals that there has been a contravention by the owner or occupier, as the case requires, of any provision of this Act or the regulations. Compensation

28. (1) A power of entry under this Act may not be exercised by an authorized officer unless the authorized officer— Certificates of authority to enter land

- (a) is in possession of a certificate of authority issued by the network operator or retailer concerned, and
- (b) produces the certificate when required to do so by the owner or occupier of the land.

(2) The certificate of authority—

- (a) shall state that it is issued under this Act;
- (b) shall give the name of the person to whom it is issued;
- (c) shall describe the nature of the powers conferred and the source of those powers;
- (d) shall state the date (if any) on which it expires;
- (e) shall describe the kind of land to which the power extends, and
- (f) shall be under the seal of the network operator or retailer or shall bear the signature of the principal officer of the network operator or retailer, of a prescribed officer of the network operator or retailer or of an officer belonging to a prescribed class of officers of the network operator or retailer.

29. A power of entry conferred by this Act is not exercisable in relation to such part of a building as is used for residential purposes except—

Entry to residential premises

- (a) with the consent of the occupier of that part of the premises;
- (b) for the sole purpose of reading an electricity meter, or
- (c) under the authority conferred by a warrant of entry.

PART V— MARKET OPERATIONS

30. (1) The Member of the Executive Committee may make rules for or with respect to the following matters—

Market operations rules

- (a) procedures for measuring electricity consumption or generation of customers;
- (b) provision of services and equipment relating to the measurement and control of customers' electricity consumption or generation and persons who may or may not provide such services;
- (c) requirements for equipment used to measure and control customers' electricity consumption or generation;

- (d) the circumstances in which ownership of any such equipment may be transferred and the procedures for the transfer, or
 - (e) any other matter prescribed by the regulations.
- (2) A rule may make provision for or with respect to a matter by applying, adopting or incorporating, with or without modification, the provisions of any Act or statutory rule or any other publication, whether of the same or of a different kind.
- (3) A rule may—
- (a) apply generally or be limited in its application by reference to specified exceptions or factors;
 - (b) apply differently according to different factors of a specified kind, or
 - (c) authorise any matter or thing to be from time to time agreed, determined, applied or regulated by any specified person or body.

31. (1) The Member of the Executive Committee may, by notice in writing served on a distribution network service provider, direct the service provider to remove or relocate an electricity structure specified in the notice if—

Member of the Executive Committee may direct distribution network service provider to remove structure

- (a) the structure is erected within the service provider's distribution district, and
- (b) the structure is on or adjacent to a public road that is—
 - (i) a traffic route, or
 - (ii) a public road that the Member of the Executive Committee has, for the purpose of traffic safety and having regard to the volume and nature of the vehicular traffic carried on it, determined requires the removal or relocation of the structure.

(2) A distribution network service provider shall comply with a notice served on it under subsection (1).

32. (1) The Member of the Executive Committee may appoint any person as an inspector for the purposes of any

Inspectors

or all of the provisions of this Act or the regulations.

(2) The Member of the Executive Committee may at any time and for any reason revoke a person's appointment under subsection (1).

(3) An inspector is to be provided by the Member of the Executive Committee with a certificate of identification.

(4) An inspector shall, when exercising in any place any function of the inspector under this Act or the regulations, produce the inspector's certificate of identification to any person apparently in charge of the place who requests its production.

33. A person shall not—

Obstruction of
inspectors

- (a) without reasonable excuse, refuse or fail to comply with any notice given or requirement made, or to answer any question asked, by an inspector under this Act or the regulations;
- (b) provide information or give evidence in purported compliance with a requirement made or question asked by an inspector under this Act or the regulations knowing the information or evidence to be false or misleading in a material particular;
- (c) willfully delay, hinder or obstruct an inspector in the exercise of the inspector's functions under this Act or the regulations, or
- (d) falsely represent himself or herself to be an inspector.

34. (1) An inspector may enter any place at any reasonable time for the purpose of inspecting any electrical installation, corrosion protection system or stray current source in the place.

Inspection of
certain electrical
equipment

(2) An inspector may require—

- (a) the relevant distribution network service provider for an electrical installation to disconnect the installation if the inspector reasonably believes that it is necessary for the installation to be disconnected in the interests of safety, or
- (b) any person who claims to be an authorised electrician to produce for inspection by the

inspector, within such time as the inspector specifies, the person's licence or other authority to do electrical wiring work.

(3) If the Member of the Executive Committee believes on reasonable grounds that there are in any place documents evidencing conduct in connection with relevant electrical equipment in contravention of this Act or the regulations, an inspector may, with the written authority of the Member of the Executive Committee, enter the place, inspect any documents and make copies of them or take extracts from them.

(4) An inspector may not exercise the inspector's functions under this section in relation to a part of any premises being used for residential purposes except—

- (a) with the permission of the occupier of that part of the premises, or
- (b) under the authority conferred by a search warrant.

35. (1) The Member of the Executive Committee may from time to time cause any electricity delivery equipment to be examined and tested for the purpose of determining whether the equipment can be used safely.

Examination and testing of electricity delivery equipment

(2) An inspector may enter any place at any reasonable time for the purpose of examining or testing any electricity delivery equipment that is in the place.

36. (1) If the Member of the Executive Committee is satisfied that electricity delivery equipment cannot be used safely, the Member of the Executive Committee may, by order served on the network operator or retailer using or proposing to use the equipment, prohibit the use of the equipment.

Orders prohibiting the use of unsafe electricity delivery equipment

(2) An order under this section may permanently prohibit the use of the electricity delivery equipment concerned or prohibit the use of the equipment until such time as it is repaired or altered to the satisfaction of the Executive Committee.

37. (1) A serious electricity works accident shall be notified in accordance with subsection (2) to the Member of the Executive Committee by the distribution network service provider or transmission operator that owns or

Notification of serious electricity works accidents

controls the distribution system or transmission system of which the electricity works.

(2) A notice of an accident shall be given within 7 days after the accident in such manner as may be prescribed by the regulations.

(3) The regulations may exclude a person, or a person belonging to a class of persons, prescribed by the regulations from any requirement under this section to notify the Member of the Executive Committee of a serious electricity works accident.

38. The Member of the Executive Committee may arrange for an inspector to investigate and report to the Member of the Executive Committee concerning serious electricity works accident, whether or not notice of the accident is given under this Act.

Investigation of
serious electricity
works accidents

39. (1) For the purposes of this Act, an inspector may, in any place where a serious electricity works accident has or may reasonably be expected to have occurred do any one or more of the following—

Powers of
inspectors

- (a) enter and inspect the place;
- (b) examine and test any electrical installation or other electrical equipment;
- (c) take photographs;
- (d) take for analysis a sample of any substance or thing that in the inspector's opinion may relate to the accident;
- (e) require any person in the place to produce any record that may be of relevance to the occurrence of the accident;
- (f) take copies of, or extracts or notes from, any such record;
- (g) require any person in the place to answer questions or otherwise furnish information relating to the accident;
- (h) require the owner or occupier of the place to provide the inspector with such assistance and facilities as are reasonably necessary to enable the inspector to exercise the inspector's functions under this section.

(2) If the Member of the Executive Committee believes on reasonable grounds that there are in any place documents evidencing conduct in connection with a serious electricity works accident in contravention of this Act or the regulations, an inspector may enter the place, inspect any documents and make copies of them or take extracts from them.

(3) An inspector may not exercise the inspector's functions under this section in relation to a part of any premises being used for residential purposes except—

(a) with the permission of the occupier of that part of the premises, or

(b) under the authority conferred by a search warrant .

40. A person shall not disturb or interfere with the site of a serious electricity works accident before it has been inspected by an inspector except:

Interference with site of serious electricity works accident

(a) to make it safe, or

(b) with the permission of an inspector, or

(c) as provided by the regulations.

41. The Member of the Executive Committee may publish such details of serious electricity works accidents as the Member of the Executive Committee considers necessary in the interests of public information and safety.

Publication of details of serious electricity works accidents

PART VI— OFFENCES

42. A person shall not abstract, cause to be wasted or diverted, consume or use any electricity from a generating, transmission or distribution system unless authorized to do so under a wholesale supply arrangement or customer retail contract.

Theft of electricity

43. A person shall not interfere with a network operator's or retailer's electricity works unless authorized to do so by the network operator or retailer concerned.

Interference with electricity works

44. (1) A person shall not enter, climb or be on a network operator's or retailer's electricity works unless authorized to do so by the network operator or retailer concerned.

Entering, climbing or being on electricity works

(2) A person is not guilty of an offence under this section if the person establishes that he or she had a

reasonable excuse for entering, climbing or being on the electricity works or entered, climbed or was on the electricity works for a lawful purpose.

45. A person shall not alter or otherwise interfere with a meter that is connected to a distribution network service provider's distribution system unless authorized to do so by the distribution network service provider.

Interference with
electricity meters

46. A person shall not alter or otherwise interfere with any seal that has been attached to an electrical installation by a distribution network service provider unless authorized to do so by the distribution network service provider.

Interference with
distribution
network service
provider's seals

47. A person shall not connect an electrical installation to a distribution network service provider's distribution system unless authorised to do so by the distribution network service provider.

Unauthorised
connections

48. A person shall not increase the capacity of an existing connection to a distribution network service provider's distribution system unless authorised to do so by the distribution network service provider.

Unauthorised
increase in capacity
of connections

49. A person shall not alter or add to an electrical installation that is connected to a distribution network service provider's distribution system so as to cause the supply of electricity to the installation or any part of it to be incorrectly metered unless authorised to do so by the distribution network service provider.

Unauthorised
alterations and
additions to
electrical
installations

50. A person shall not—

Obstruction of
authorised officers

- (a) prevent an authorised officer from exercising any function conferred or imposed on the authorised officer under this Act;
- (b) hinder or obstruct an authorised officer in the exercise of any such function, or
- (c) impersonate an authorized officer.

PART VII — MISCELLANEOUS PROVISIONS

51. (1) The Member of the Executive Committee may, by order published in the County Gazette, declare any specified electricity power lines and associated equipment and electricity structures to be a transmission system for the purposes of this Act.

Transmission
systems

(2) An order under this section takes effect on the day on which it is published in the County Gazette or on such later day as is specified in the order.

52. The Department shall in consultation with the Member of the Executive Committee formulate and implement immediate, medium term and long term administrative or policy measures to encourage the participation of development partners and the private sector in the development of the energy sector in Busia County.

Measures to encourage investment in the energy sector

53. Where a person is convicted of an offence under this Act for which no penalty is expressly provided, the person shall be liable to a fine not exceeding three million shillings or to imprisonment for a term not exceeding two years, or to both such fine and such imprisonment.

General penalty

54. (1) The Member of the Executive Committee may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Regulations

(2) The regulations prescribed under subsection (1) shall be approved by the County Assembly before they take effect.