PARLIAMENT OF THE DEMOCRATIC

SOCIALIST REPUBLIC OF

SRI LANKA

—————————

SRI LANKA SUSTAINABLE ENERGY

AUTHORITY ACT, No. 35 OF 2007

—————————

[Certified on 18th September, 2007]

Printed on the Order of Government

—————————

Published as a Supplement to Part II of the Gazette of the Democratic

Socialist Republic of Sri Lanka of September 21, 2007

PRINTEDATTHE DEPARTMENTOFGOVERNMENTPRINTING,SRI LANKA

TOBEPURCHASEDATTHEGOVERNMENTPUBLICATIONSBUREAU,COLOMBO5

Price : Rs. 24.00 Postage : Rs. 12.50

Sri Lanka Sustainable Energy Authority 1

Act, No. 35 of 2007

[Certified on 18th September, 2007]

L.D.—O. 40/2006

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF THE SRI LANKA

SUSTAINABLE ENGERGYAUTHORITY; TO DEVELOP RENEWABLE

ENERGY RESOURCES; TO DECLARE ENERGY DEVELOPMENT AREAS;

TO IMPLEMENT ENERGY EFFICIENCY MEASURES AND CONSERVATION

PROGRAMMES; TO PROMOTE ENERGY SECURITY, RELIABILITY AND

COST EFFECTIVENESS IN ENERGY DELIVERY AND INFORMATION

MANAGEMENT; TO REPEAL THE ENERGY CONSERVATION FUNDACT,

NO. 2 OF1985AND TO PROVIDEFOR MATTERSCONNECTED THEREWITH

OR INCIDENTAL THERETO.

BE it enacted by the Parliament of the Democratic Socialist

Republic of Sri Lanka as follows :—

1. This Act may be cited as the Sri Lanka Sustainable Short title and

Energy Authority Act, No. 35 of 2007, and shall come into date of

operation.

operation on such date as may be appointed by the Minister

by Order published in the Gazette (hereinafter referred to as

the “appointed date”).

PART I

ESTABLISHMENT OF THE SRI LANKA SUSTAINABLE

ENERGYAUTHORITY

2. (1) There shall be established an authority which Establishment of

shall be called the Sri Lanka Sustainable Energy Authority the Sri Lanka

Sustainable

(hereinafter referred to as the “Authority”). Energy

Authority.

(2) The Authority shall by the name assigned to it by

subsection (1), be a body corporate and shall have perpetual

succession and a common seal and may sue and be sued in

such name.

2 Sri Lanka Sustainable Energy Authority

Act, No. 35 of 2007

Constitution of 3. (1) The management and administration of the affairs

the Board of of the Authority shall be vested in a Board of Management

Management of

the Authority. (hereinafter referred to as “the Board”) which shall consist

of:—

(a) the following ex-officio members –

(i) the Secretary to the Ministry of the Minister in

charge of the subject of Power and Energy or

his nominee;

(ii) the Secretary to the Ministry of the Minister

in charge of the subject of Local Government

and Provincial Councils or his nominee;

(iii) the Secretary to the Ministry of the Minister in

charge of the subject of Industries and

Investment Promotion or his nominee;

(iv) the Secretary to the Ministry of the Minister in

charge of the subject of Lands or his nominee;

(v) the Secretary to the Ministry of the Minister in

charge of the subject of Agriculture or his

nominee;

(vi) the Secretary to the Ministry of the Minister in

charge of the subject of Plantation Industries

or his nominee;

(vii) the Secretary to the Ministry of the Minister in

charge of the subject of Environment or his

nominee;

(viii) the Secretary to the Ministry of the Minister in

charge of the subject of Irrigation and

Mahaweli Development or his nominee;

(ix) the Secretary to the Ministry of the Minister in

charge of the subject of Transport or his

nominee;

Sri Lanka Sustainable Energy Authority 3

Act, No. 35 of 2007

(x) the Secretary to the Ministry of the Minister

in charge of the subject of Finance or his

nominee;

(xi) the Secretary to the Ministry of the Minister in

charge of the subject of Science and

Technology or his nominee; and

(xii) the Director-General of the Public Utilities

Commission of Sri Lanka:

Provided that where two or more of the subjects

specified in sub-paragraphs (i) to (xi) of this

paragraph are assigned to or remain in charge of a

single Minister, the Secretary to the Ministry of that

Minister or where more than one Secretary is

appointed to such Ministry, then one of such

Secretaries alone, shall become a member of the

Board under this paragraph;

(b) the following persons to be appointed by the

Minister (hereinafter referred to as “appointed

members”)-

(i) a representative of the Sri Lanka Energy

Managers Association, nominated by such

Association;

(ii) a person to represent the development finance

banks in Sri Lanka, nominated by the

Governor of the Central Bank of Sri Lanka;

(iii) a person to represent the renewable energy

industry;

(iv) a representative of the Ceylon Chamber of

Commerce, nominated by such Chamber;

4 Sri Lanka Sustainable Energy Authority

Act, No. 35 of 2007

(v) three persons who are qualified and have

proven knowledge and experience in the field

of business, engineering, finance, management

or law;

(vi) a person to represent the rural energy service

sector; and

(vii) a person having experience in the area of

renewable energy development or energy

conservation and efficiency, who shall be the

Chairman of the Board.

(2) The provisions of the Schedule to this Act shall apply

to and in relation to the members of the Board, its meetings

and the seal of the Board.

Objects of the 4. The objects of the Authority shall be to —

Authority.

(a) identify, assess and develop renewable energy

resources with a view to enhancing energy

security and thereby derive economic and

social benefits to the country;

(b) identify, promote, facilitate, implement and

manage energy efficiency improvement and

energy conservation programmes for use of

energy in domestic, commercial, agricultural,

transport, industrial and any other relevant

sector;

(c) promote security, reliability and cost-

effectiveness of energy delivery to the country,

by policy development and analysis and

related information management; and

(d) ensure that adequate funds are available for

the Authority to implement its objects,

consistent with minimum economic cost of

energy and energy security for the nation.

Sri Lanka Sustainable Energy Authority 5

Act, No. 35 of 2007

PART II

POWERS, DUTIES ANDFUNCTIONS OF THE BOARD

5. The Board shall exercise, perform and discharge the Powers, duties

following powers, duties and functions:— and functions of

the Board.

(a) assist the Minister in the formulation of the national

policy on energy;

(b) identify, conserve and manage all renewable energy

resources and appropriate conversion technologies,

conversion and utilization norms and practices,

including the :—

(i) preparation, maintenance and updating of an

inventory of all renewable energy resources

in Sri Lanka, indicating the geographical

location of sites, exploitable potential, land

ownership and existing infrastructure

facilities; and

(ii) preparation, maintenance and updating of an

inventory of all renewable energy

technologies, indicating their level of maturity

for commercial deployment and typical

performance data;

(c) develop a conducive environment for encouraging

and promoting investments for renewable energy

development in the country, including :—

(i) development of guidelines on renewable

energy projects and disseminating them

among prospective investors;

(ii) development of guidelines in collaboration

with relevant state agencies, on evaluation

and approval of on-grid and off-grid

renewable energy projects;

6 Sri Lanka Sustainable Energy Authority

Act, No. 35 of 2007

(iii) entertainment of applications for carrying on

of on-grid and off-grid renewable energy

projects;

(iv) providing assistance to investors by

formulating project proposals in new types of

renewable energy resources and technologies;

and

(v) exploring avenues and facilitating the process

of overcoming technical or any other

limitations that retard the growth of renewable

energy development, in accordance with the

national policy on energy;

(d) analyse and recommend policies and prepare plans

aimed at promoting and developing renewable

energy resources, including :—

(i) preparing long-term development plans with

interim targets for specific technologies and

promotion and facilitation of the

implementation of such plans; and

(ii) devising incentive mechanisms based on

principles of competitiveness and specific

technologies based on actual energy

production;

(e) develop a conducive environment for the

encouragement and promotion of investments in

renewable energy development, energy efficiency

improvement and conservation, rural energy

services and for ensuring the sustainability and well-

being of the energy sector in the country,

including:—

(i) the promotion of programmes to mobilise

funds for renewable energy development,

promotion of energy efficiency, improvement

Sri Lanka Sustainable Energy Authority 7

Act, No. 35 of 2007

and conservation and rural energy services

through credit enhancement and other

facilities ; and

(ii) the provision of funds, including subsidies

and seed capital for pilot projects in renewable

energy development, energy efficiency

improvement, conservation and rural energy

services that reduce the dependence on

imported energy;

(f) provide technical and financial assistance for

capacity building of the energy sector stakeholders

and for research and development activities carried

out by any stakeholder, consistent with the objects

of the Authority;

(g) function as a National Technical Service Agency of

Clean Development Mechanism (CDM) in Sri Lanka

that provides technical assistance to the Designated

National Agency for Clean Development

Mechanism and project developers, on energy

sector clean development project activities,

including —

(i) design, develop and implement innovative

schemes that assist project developers to

overcome barriers and access commercial

financing; and

(ii) facilitate and assist project developers to

access concessionary finances made available

under any environment protection initiative

by any organisation;

(h) conduct preliminary studies and investigations in

any geographical area to ascertain the renewable

energy potential;

8 Sri Lanka Sustainable Energy Authority

Act, No. 35 of 2007

(i) collect necessary data and carry out renewable

energy resource planning and assessment within any

Development Area, subject to any directions that

may be given by the Minster;

(j) obtain relevant data required for renewable energy

planning and assessment, from any public or private

institutions or any other sources;

(k) monitor, refine and follow up the approval process

of on-grid and off-grid renewable energy projects in

consultation with relevant agencies and to provide

technical and other logistical assistance and

facilities to such agencies to simplify the procedural

requirements and to accelerate the project approving

mechanism;

(l) facilitate the access to green funds for investors in

on-grid and off-grid renewable energy projects, for

energy efficiency improvement and conservation

measures and rural energy services;

(m) provide funds and design, develop and implement

credit enhancement facilities, such as loan guarantee

schemes and access to commercial credit for

investors in on-grid and off-grid renewable energy

projects, investments in energy efficiency

improvement and conservation and knowledge

management in the energy sector;

(n) enter into joint schemes with any person approved

by the Minister, to achieve the objects of the

Authority;

(o) render professional services and undertake projects

connected with the development of renewable

energy resources and the improvement of energy

efficiency, energy conservation and demand

Sri Lanka Sustainable Energy Authority 9

Act, No. 35 of 2007

management for and on behalf of state and private

sector organizations, and charge as fees such

amounts as may be determine by the Board; and

(p) initiate and implement any other programmes and

do any other acts as may be necessary or conducive

to the attainment of the objects of the Authority.

6. (1) The Board may subject to such conditions as Delegation of

may be specified in writing, delegate to the Chairman of the powers, duties

and functions of

Board or to any officer or employee of the Authority, any of

the Board.

its powers, duties or functions under this Act, and the

Chairman or such officer or employee shall exercise, perform

or discharge such power, duty or function subject to any

special or general directions that may be issued by the Board.

(2) Notwithstanding any delegation made under

subsection (1), the Board may exercise, perform or discharge

any such power, duty or function so delegated.

7. (1) The Director-General shall within six months of Preparation of

the appointed date, cause a survey and a resource assessment resource maps

and renewable

to be commenced of all renewable energy resources in the energy resources

country and prepare a renewable energy resources inventory inventory.

and a renewable energy resource map in respect of each

Development Area.

(2) In preparing the renewable energy resource map and

the renewable energy resource inventory under subsection

(1), the Director-General shall have regard to relevant data ,

information, maps, documents or reports collected or

compiled by Government Departments, Institutions and any

other agencies or persons and it shall be the duty of the Heads

of such Departments, Institutions or other agencies or persons

to furnish any such data, information, maps, documents or

reports as may be reasonably required by the Director-General

for the purpose of preparing renewable energy resource maps

and renewable energy resource inventories.

10 Sri Lanka Sustainable Energy Authority

Act, No. 35 of 2007

Renewable 8. (1) The Director-General shall not later than three

Energy years after the appointed date, submit to the Board a

Resource

comprehensive Renewable Energy Resource Development

Development

Plans. Plan (hereinafter referred to as “the Plan”) based on the results

of the survey and the renewable resource assessment carried

out under section 7.

(2) The Board shall, within thirty days from the date of

receipt of such Plan, make modifications, if any, to such Plan

and submit the same to the Minister.

(3) The Minister shall by a notice published in one

newspaper each in the Sinhala, Tamil and English languages,

notify the place and times at which the Plan submitted to him

under subsection (2) is available for inspection by the public

and invite the public to make its comments, if any, thereon,

within thirty days of the publication of such notice.

(4) At the end of the period of thirty days referred to in

subsection (3), the Minister may, having regard to any

comments submitted to him by the public under that

subsection, provisionally approve the Plan subject to such

modifications, if any, as he may consider necessary and shall

submit the same to the Cabinet of Ministers for its approval.

(5) Upon approval of the Plan by the Cabinet of

Ministers, the Minister shall cause such Plan to be published

in the Gazette and it shall come into operation on the date of

such publication or on such later date as may be specified

therein.

(6) The Plan shall be revised by the Board once in every

three years commencing from the date of coming into

operation of the Plan, and the provisions of subsections (2),

(3), (4) and (5) shall, mutatis mutandis, apply to and in respect

of every such revision.

(7) The Minister may on the recommendation of the

Board, prescribe such measures as may be necessary to give

effect to the Plan and to the strategies referred to therein.

Sri Lanka Sustainable Energy Authority 11

Act, No. 35 of 2007

PART III

PROJECTAPPROVING COMMITTEE ANDADVISORY COMMITTEES

9. (1) The Board may from time to time establish such Appointment of

Advisory

Advisory Committees as it may consider necessary or

Committees.

appropriate, consisting of such persons selected from among

persons having academic or professional qualifications or

representing professional institutions or non-governmental

organizations, to assist it in the exercise, discharge and

performance of its powers, duties and functions under this

Act.

(2) The Board may assign to an Advisory Committee

established under subsection (1), such of its powers, duties or

functions as it may consider necessary, but however the Board

shall not be divested of any such power, duty or function so

assigned. The Board shall have the power to amend or revoke

any decision made by an Advisory Committee.

(3) The members of an Advisory Committee appointed

under subsection (1) may be paid out of the Fund of the

Authority, such allowances as the Minister may determine

with the concurrence of the Minister in charge of the subject

of Finance.

10. (1) There shall be established a Project Approving Project

Committee which shall consist of the following members:— Approving

Committee.

(a) Director-General of the Central Environmental

Authority appointed under the National

Environmental Act, No. 47 of 1980;

(b) Conservator-General of the Forest Conservation

Department appointed under the Forest Ordinance

(Chapter 451);

(c) Director-General of the Wild life Conservation

Department Appointed under the Fauna; and Flora

Protection Ordinance (Chapter 469);

12 Sri Lanka Sustainable Energy Authority

Act, No. 35 of 2007

(d) Director-General of the Irrigation Department

appointed under Irrigation Ordinance (Chpater 453);

(e) Director-General of the Mahaweli Authority of Sri

Lanka established by the Mahaweli Authority of Sri

Lanka Act, No. 23 of 1979;

(f) General-Manager of the Ceylon Electricity Board

appointed under the Ceylon Electrity Board Act,

No. 17 of 1969;

(g) Land Commissioner appointed under the Land

Development Ordinance (Chpater 464);

(h) Director-General of the Board of Investment of Sri

Lanka appointed under the Lanka Board of

Investment of Sri Lanka Law No. 4 of 1978;

(i) Director-General of the Coast Conservation

Department appointed under the Coast Conservation

Act, No. 57 of 1981;

(j) Director-General of the Authority;

(k) Divisional Secretary of the Divisional Secretary’s

Division within which a development project is to

be implemented; and

(l) Chief Secretary of the Provincial Council established

for the province within which a development

project is to be implemented.

(2) The Minister may nominate one person from among

the members of the Committee, other than the member referred

to in paragraph (k) of subsection (1), as the Chairman of the

Committee.

(3) The Director-General of the Authority shall function as

the convenor of all meetings of the Committee.

Sri Lanka Sustainable Energy Authority 13

Act, No. 35 of 2007

11. The functions of the Committee shall be to — Functions of the

Committee.

(a) advise the Board on the formulation of technical,

environmental and economic guidelines for

subsequent adoption by the Committee, in granting

provisional approval and final approval in respect

of on-grid and off-grid renewable energy projects;

(b) evaluate and assess the possible environmental

hazards and other consequences that may arise due

to the implementation of on-grid and off-grid

renewable energy projects;

(c) impose conditions to be fulfilled by an applicant as

measures to mitigate such environmental hazards,

technical and other socio-economic consequences,

in the event of a final approval being granted for an

on-grid renewable energy project or approval being

granted for an off-grid renewable energy project;

(d) grant provisional and final approval on applications

made for the implementation of on-grid renewable

energy projects and approval for off-grid renewable

energy projects;

(e) monitor and supervise the implementation of on-

grid and off-grid renewable energy projects with a

view to prevent any environmental hazards and other

socio-economic consequences being caused as a

result of the implementation of such project; and

(f) review and examine periodically the renewable

energy policy, the renewable energy resource plans

and renewable energy development strategy in

operation and where necessary, to recommend to

the Board changes in such policy, plans and

strategies.

14 Sri Lanka Sustainable Energy Authority

Act, No. 35 of 2007

PART 1V

DECLARATION OF ENERGY DEVELOPMENTAREA

Declaration of a 12. (1) The Minister may, subject to the provisions of

Energy subsection (3) and having taken into consideration the

Development recommendations made by the Board that any area is suitable

Area.

for the conservation and management of renewable energy

resources or is suitable for the promotion of renewable energy

development projects, by Order published in the Gazette,

declare such area as an Energy Development Area (in this Act

referred to as “Development Area”).

(2) The Minister shall prior to the declaration of any area

as a Development Area under sub-section (1), consult such

Minister or Ministers or any Minister of any Provincial Council,

whom he considers necessary or appropriate to consult in the

declaration of such area as a Development Area.

(3) An Order made under subsection (1) declaring an area

as a Development Area, shall define that area by setting out

the metes and bounds of such Area.

Authority 13. The Authority shall be responsible for conserving

responsible for and managing all renewable energy resources within a

conserving

renewable Development Area and take all necessary measures to promote

energy resources and develop such energy resources, with a view to obtaining

within a the maximum economic utilization of those resources.

Development

Area.

Owner or 14. Notwithstanding anything to the contrary contained

occupier in any written law, an owner or occupier of any land situated

prohibited from

certain acts. within a Development Area shall not, except with the written

approval of the Authority and subject to any terms and

conditions that may be imposed by the Authority for that

purpose, do any act or permit any other person to do any act,

which may change the form of any renewable resource

situated within such Development Area or cause the depletion

of any such resource in such a manner or to such an extent,

that the economic viability of developing that resource is

substantially reduced.

Sri Lanka Sustainable Energy Authority 15

Act, No. 35 of 2007

15. (1) Subject to as hereinafter provided and the rights Republic to have

ownership to

granted to any person by a permit issued under section 18 or

renewable

section 25, the absolute ownership of all renewable energy energy resources

resources on or below the surface of the land or the air space within a

of the land within a Development Area, is hereby vested in Development

Area.

the Republic, notwithstanding any right of ownership or

otherwise which any person may have to such renewable

energy resources within that Area.

(2) Notwithstanding the provisions of subsection (1), any

person who is deprived of his right of ownership or otherwise

to a renewable energy resources on or below the surface of

his land or the air space of such land by virtue of the provisions

of that subsection, shall be entitled to the payment of

compensation as may be determined by an Advisory

Committee, appointed by the Board for that purpose under

section 9 of this Act. In the computation of the amount of

compensation payable under this subsection, the person

concerned shall be given an opportunity of being heard by

such Advisory Committee.

PART V

ON-GRID AND OFF-GRID RENEWABLE ENERGY PROJECTS

16. (1) Notwithstanding the provisions in any other law On-grid

to the contrary and subject to the provisions of section 71, no renewable

energy projects.

person shall engage in or carry on an on-grid renewable energy

project for the generation and supply of power within a

Development Area, except under the authority of a permit

issued in that behalf by the Authority.

(2) A person who is desirous of engaging in and carrying

on an on-grid renewable energy project within a Development

Area, shall make an application to the Director-General for

the same in the prescribed form together with the prescribed

fee and the following documents :—

(a) a copy of a map of the geographical location of the

proposed project;

16 Sri Lanka Sustainable Energy Authority

Act, No. 35 of 2007

(b) a brief description of the project, including the

amount of power to be generated;

(c) the total estimated cost and financial model,

including optimization criteria adopted;

(d) proof of availability of adequate finances or the

manner in which the required finances for the project

are to be obtained;

(e) project location i.e. Weir and Power House relative

to river or stream system if it is a Hydro Power project,

Wind Turbine and Structures if it is a Wind power

project, Energy Plantation, Power House and Water

Source if it is a Biomass Project and Conversion

Facility relative to energy resource, if it is any other

project; and

(f) a statement explaining how the applicant intends

to evacuate electricity generated and the point at

which the generator will be connected to the national

grid and the geographical area traversed by the

power line constructed for this purpose.

(3) On receipt of an application under subsection (2), the

Director- General shall forthwith register such application

along with the documents in a register maintained for that

purpose, and issue a registration number to the applicant.

Provisional 17. (1) The Director-General shall after carrying out such

approval to be preliminary screening of the proposed project as he considers

granted.

necessary and in consultation with the Ceylon Electricity

Board, submit the registered application together with his

observations on the proposed project, to the Committee for

its approval.

(2) The Committee shall where it considers it

appropriate:—

(a) grant provisional approval for the project which shall

be communicated forthwith by the Director- General

Sri Lanka Sustainable Energy Authority 17

Act, No. 35 of 2007

to the applicant in the prescribed form, with a request

to submit such documents and other information as

shall be prescribed for the purpose, within six

months of such communication being received by

the applicant; or

(b) refuse to grant provisional approval for the project

which shall be communicated forthwith by the

Director-General to the applicant, stating the reasons

for such refusal.

(3) An extension of the period given for the submission of

documents and information under paragraph (a) of subsection

(1) may be granted by the Director- General where requested

for, upto a maximum of another six months period.

(4) A provisional approval granted under paragraph (a) of

subsection (1) shall be valid for a period of one year from the

date on which such approval is granted and shall stand

cancelled automatically, if the documents and other

information requested for is not submitted prior to the expiry

of the period of one year.

18. (1) The Director-General shall upon receiving the Final approval.

documents and other information requested for, forthwith

place before the Committee such documents and information

together with the registered application and his

recommendations, to be considered by the Committee for

the purpose of granting the final approval for the proposed

project.

(2) It shall be the duty of the Committee not later than one

month of the receipt of the documents and information sent

by the Director-General under subsection (1), to make its

decision on the same, by—

(a) approving the application and requesting the

Director-General to forthwith communicate to the

applicant their approval by the issue of a permit in

the prescribed form and subject to such terms and

conditions as may be prescribed; or

18 Sri Lanka Sustainable Energy Authority

Act, No. 35 of 2007

(b) refusing to approve the application and requesting

the Director-General to forthwith communicate to

the applicant of such refusal, stating the reasons for

the same.

(3) The Committee shall record its reasons for arriving at

its decision under subsection (2) in the register maintained

by the Director-General under subsection (3) of section 16.

(4) A permit issued on approval of an application under

paragraph (a) of subsection (2) shall be valid for a period of

twenty years, provided that the developer commences the

project and begins to generate electricity within two years of

being issued with the permit.

(5) At the end of the period of twenty years, the Board

may at the request of the developer and in consultation with

the Committee, extend the period, of validity of the permit

by a further period, not exceeding twenty more years.

Payment of 19. (1) A developer shall, for the period during which

royalty. the permit issued is in operation, be liable to pay annually to

the Authority as a royalty on renewable energy resources

being utilized for the project, such charge as shall be

determined by the Minister in consultation with the Minister

in charge of the subject of Finance.

(2) All sums of money paid as a charge under subsection

(1), shall be credited by the Authority to the Energy Fund

established under section 46.

Authority not to 20. Where —

be liable to pay

damages or cost

(a) provisional approval for a project is refused by the

of any

expenditure Committee under paragraph (b) of subsection (2) of

incurred. section 17;

(b) grant of final approval for a project is refused by the

Committee under paragraph (b) of subsection (2) of

section 18; or

(c) a permit is cancelled under section 21,

Sri Lanka Sustainable Energy Authority 19

Act, No. 35 of 2007

the Authority shall not be liable to pay any damages or

reimburse the cost of any expenditure that may have been

incurred by an applicant or the developer, as the case may be,

in providing the documents and other information requested

for under paragraph (a) of subsection (2) of section 17, or any

expenses incurred by a developer on any work commenced

in the project after the permit was granted under paragraph

(a) of subsection (2) of section 18.

21. (1) A permit issued under paragraph (a) of subsection Cancellation of a

(2) of section 18 may be cancelled by the Director-General permit.

with the approval of the Board, where the developer —

(a) fails to commence the project in respect of which

such permit was issued and begin generation of

power within two years of its issue; or

(b) acts in contravention of or fails to comply with, any

terms and conditions subject to which such permit

was issued.

(2) The Board may before it approves the cancellation of

a permit issued, grant an opportunity to the developer

concerned to show cause why the permit should not be

cancelled and may, where it considers appropriate and

reasonable, grant time within which the developer may be

required to comply with any requirement or any terms or

conditions of the permit or refrain from acting in contravention

of any term or condition, as the case may be, which has given

rise to the proposed cancellation of the permit.

22. (1) Any person who is aggrieved by:— Appeals against

refusal to grant

approval or

(a) a refusal to grant provisional approval to an cancellation of a

application; permit.

(b) a refusal to grant final approval to an application;

or

20 Sri Lanka Sustainable Energy Authority

Act, No. 35 of 2007

(c) the cancellation of a permit under section 21,

may, within one month of the receipt of the communication

informing him of such refusal or the date of the cancellation,

as the case may be, appeal against such refusal or cancellation

to the Board.

(2) The Board may prior to arriving at a decision on any

appeal made under subsection (1), obtain the advice and

observations of an Advisory Committee established for that

purpose by the Board under section 9.

(3) Any person who is aggrieved by the decision of the

Board given on any appeal made to it under subsection (1),

may appeal against such decision to the Court of Appeal

within fourteen days of the date on which such decision was

communicated to such person.

(4) Until rules are made under Article 136 of the

Constitution pertaining to appeals under this section, the

rules made under that Article pertaining to an application by

way of revision to the Court of Appeal, shall apply in respect

of every appeal made under subsection (3) of this section.

Off-grid 23. (1) Notwithstanding the provisions in any other law

renewable to the contrary, no person shall engage in or carry on an off-

energy projects. grid renewable energy project for the generation and supply

of power, except under the authority of a permit issued in that

behalf by the Authority.

(2) Any person who is desirous of engaging in an off-grid

renewable energy project shall make an application to the

Director-General for the same in the prescribed form, together

with the prescribed fee and the following documents :—

(a) a copy of a map of the geographical location of the

proposed project;

(b) a brief description of the project, including the

amount of power to be generated and its total

estimated cost;

Sri Lanka Sustainable Energy Authority 21

Act, No. 35 of 2007

(c) the total estimated cost and the financial model,

including optimization criteria adopted;

(d) proof of availability of adequate finances or the

manner in which the required finances for the project

are to be obtained;

(e) project location i.e. Weir and Power House relative to

river or stream system if it is a Hydro Power project,

Wind Turbine and Structures if it is a Wind power

project, Energy Plantation, Power House and Water

Source if it is a Biomass Project and Conversion Facility

relative to energy resource, if it is any other project;

(f) detailed feasibility study report of the project, along

with the following :—

(i) a detailed engineering design of the project;

(ii) a socio-economic survey of those who will

benefit from the project;

(iii) a report from Central Environment Authority,

established by the National Environmental

Act, No. 47 of 1981 pertaining to the likely

environmental consequences of the project;

and

(iv) a time bound action plan as to the manner in

which the project is to be implemented;

(g) a copy each of the applications submitted by the

prospective beneficiaries of the project, for the

purpose of being registered as an “Off-Grid Energy

Consumers Society” with the relevant Provincial

Ministry in charge of energy;

(h) a copy of the Order published in the Gazette by

which an exemption was granted from the

requirement of obtaining a generation licence under

the Electricity Reform Act, No. 28 of 2002;

22 Sri Lanka Sustainable Energy Authority

Act, No. 35 of 2007

(i) a copy of the Order published in the Gazette by

which an exemption was granted from the

requirement of obtaining a distribution licence under

the Electricity Reform Act, No. 28 of 2002, to

distribute generated power to the premises of those

consumers living within the geographical location

referred to in paragraph (a);

(j) a statement explaining how the applicant intends

to distribute the power generated and the names of

such consumers who have consented to obtaining a

power supply from the applicant and a schematic

diagram of the distribution system relative to the

geographical area in which the respective premises

of such consumers are located, for conveying the

generated power to such premises; and

(k) any other information which the Committee may

require.

(3) On receipt of an application made under subsection

(1), the Director-General shall forthwith register such

application along with the documents received in a register

maintained for the purpose and issue a registration number

to the applicant.

Procedure for 24. (1) The Director-General shall within thirty days of

obtaining the registration of an application under subsection (3) of

relevant

section 23, :—

concurrence and

confirmation for

off-grid (a) obtain the concurrence of the relevant Provincial

renewable Ministry and the Divisional Secretary of the

energy projects. Divisional Secretary’s Division within which such

project is to be implemented; and

(b) carry out such preliminary screening of the project

and obtain confirmation from the entity responsible

for power distribution in the area, that a grid

extension is not planned for the particular location

for the next five years.

Sri Lanka Sustainable Energy Authority 23

Act, No. 35 of 2007

(2) The Director-General shall submit to the Committee

for its consideration, the application along with the

concurrence and confirmation obtained by him under

subsection (1) and his observation on the availability of the

site for construction, technical aspect of the project and the

technical and financial capability of the applicant.

(3) The Committee shall make a decision on the

application submitted to it under subsection (2) as

expeditiously as possible, but not later than thirty days from

the date of receipt of such application and communicate its

decision to the Director-General, giving reasons for the same.

The Director-General shall record the decision of the

Committee in the register maintained under subsection (3) of

section 23.

25. The Director-General shall on receipt of the decision Decision of the

made by the Committee under subsection (3) of section 24:– Committee to be

communicated to

the applicant.

(a) where the Committee approves the application,

issue forthwith to the applicant a permit in the

prescribed form, subject to such terms and conditions

as may be prescribed; or

(b) where the Committee does not approve the

application, forthwith inform the applicant of such

refusal stating the reasons for the same.

26. (1) The period of validity of a permit issued under Period of

paragraph (a) of section 25 of this Act on approval of an validity of a

permit and

application shall, having regard to the nature of the project

charges to be

and the capacity of power generated, be as prescribed. paid.

(2) The permit holder shall be required to pay annually

such charge as may be determined by the Minister in

consultation with the Minister in charge of the subject of

Finance, during the period of validity of the permit issued.

(3 All sums of money paid as a charge under subsection

(2), shall be credited by the Authority to the Energy Fund

established under section 46.

24 Sri Lanka Sustainable Energy Authority

Act, No. 35 of 2007

Cancellation of a 27. (1) A permit issued under paragraph (a) of section

permit. 25 may be cancelled by the Director-General with the

approval of the Board, where the permit holder —

(a) fails to commence the project in respect of which

such permit was issued and begin generation of

power within two years of its issue; or

(b) acts in contravention of or fails to conform with,

any terms or conditions subject to which such permit

was issued.

(2) The Board may before it approves the cancellation

of a permit issued, grant an opportunity to the permit holder

concerned to show cause why the permit should not be

cancelled and may, where it considers appropriate and

reasonable, grant time within which the permit holder may

be required to comply with any requirement or any terms or

conditions of the permit or refrain from acting in contravention

of any term or condition, as the case may be, which has given

rise to the proposed cancellation of the permit.

Appeals against 28. (1) Any person who is aggrieved by —

refusal or

cancellation of a (a) the refusal of the Committee to grant a permit

permit. for an off-grid renewable energy project; or

(b) the cancellation under section 27 of a permit

issued,

may appeal against such decision to the Board.

(2) Any person who is aggrieved by the decision of the

Board on any appeal made under subsection (1), may appeal

against such decision to the Secretary to the Ministry of the

Minister, whose decision thereon shall be final.

Developer or 29. (1) It shall be the duty of every developer or permit

permit holder to holder to whom a permit is issued under this Part of this Act,

exercise due

to take all measures necessary to use the renewable energy

diligence.

resource being utilized for the project, with due diligence

and extreme care.

Sri Lanka Sustainable Energy Authority 25

Act, No. 35 of 2007

(2) Where any damage is caused to a renewable energy

resource utilized for any project due to the negligence or

lack of due diligence of a developer or permit holder, as the

case may be, such developer or permit holder shall be liable

to pay to the Authority as compensation, such amount as

may be determined by the Minister in consultation with the

Minister in charge of the subject of Finance.

PART VI

ACQUISITION AND LEASING OF IMMOVABLE PROPERTY FOR PROJECTS

30. (1) Where any land or any interest in a land situated Compulsory

in an area declared as a Development Area under section 12 acquisition of

is required by the Authority for any purpose of the Authority, land for the

Authority under

such purpose shall for the purposes of the Land Acquisition

the

Act (Chapter 460) be deemed to be a public purpose, and the Land Acquisition

land or interest therein may accordingly be acquired under Act.

the Land Acquisition Act by the Government for the Authority,

and the provisions of that Act shall, save as otherwise provided

in subsection (2) of this section, apply for the purposes of the

acquisition of that land or the interest therein.

(2) In the case of any acquisition under subsection (1)

where the public notice of the intention to acquire that land

or interest therein is published as required by the Land

Acquisition Act, at any time within a period of five years

commencing from the date of declaring an area as a

Development Area, notwithstanding anything to the contrary

in the Land Acquisition Act, the market value of the land or

the interest therein for the purpose of determining the amount

of compensation to be paid in respect of that land or the

interest therein, shall be deemed to be the market value which

that land or the interest therein would have had on the date of

declaring such area as a Development Area, increased by

fifty per centum of the difference between that market value

and—

(a) in the case of any land or interest therein in respect

of which an Order under the proviso to section 38 of

the Land Acquisition Act has not been made, the

market value of the land or interest therein as on the

26 Sri Lanka Sustainable Energy Authority

Act, No. 35 of 2007

date of publication in the Gazette of the notice under

section 7 of that Act; or

(b) in the case of any land or interest therein in respect

of which an Order under the proviso to section 38 of

the Land Acquisition Act has been made, the market

value of the land or interest therein as on the date of

publication of such Order in the Gazette.

State property 31. Where any immovable property of the State is

to be made required for any purpose of the Authority, such purpose shall

available to

the Authority. be deemed to be a purpose for which a special grant or lease

of property may be made under section 6 of the Crown Lands

Ordinance (Chapter 454) and accordingly the provisions of

that Ordinance shall apply to a special grant or lease of such

property made to the Authority.

Lease of 32. (1) the Authority may with the approval of the

land or interest Minister, grant to a developer or a permit holder, as the case

in land held by may be, by way of a lease, any land or interest in land held by

Authority.

the Authority for the purpose of any project for which a permit

has been issued under Part V of this Act, subject to such terms

and conditions as may be determined by the Minister,

including the amount to be paid as lease rental, and in

particular, but without prejudice to the generality of the

foregoing provisions of this section, a condition to the effect

that the lease agreement may be cancelled or amended in the

event of a failure to comply with any term or condition

specified in such agreement, or in the event of any money

due to the Authority under such lease agreement remaining

unpaid, for any such period as may be specified therein.

(2) Nothing in the Crown Lands Ordinance shall affect or

be deemed or construed to affect the grant of a lease of any

state land, held by the Authority.

(3) In the event of a cancellation of a permit issued to a

developer or a permit holder to whom any land or interest in

any land was granted under a lease agreement under

subsection (1) of this section, such lease agreement shall,

Sri Lanka Sustainable Energy Authority 27

Act, No. 35 of 2007

notwithstanding anything to the contrary in the lease

agreement or in any other law, be deemed to be cancelled

with effect from the date of the cancellation of such permit.

33. Notwithstanding the provisions of any other law to No action to lie

the contrary, no action shall lie against the Authority or any in respect of the

cancellation of a

officer or employee of such Authority in respect of the lease agreement.

cancellation of a lease agreement under subsection (3) of

section 32.

34. (1) A developer or a permit holder, as the case may Removal of

be, to whom any land has been leased by the Authority under movable

property from

section 32 of this Act, shall be required within six months of

location or site.

the expiry of the period of validity of such permit or where

the permit is cancelled, within six months of the date of such

cancellation, to remove all movable property, including any

fixtures attached to the land, which belongs to such developer

or permit holder, from the location or site in which the project

was commenced or carried on, in such manner as may be

prescribed.

(2) The developer or the permit holder, as the case may be,

shall be liable to pay to the Authority such compensation as

may be determined by the Minister, for any damage caused

to the renewable energy resource or to the land leased, due to

the negligence of such developer or the permit holder, as the

case may be, in removing his property from the location or

site under subsection (1).

PART VII

ENERGY EFFICIENCY AND CONSERVATION PROGRAMMES

35. (1) The Board shall be responsible for the adoption Energy

and implementation of measures to conserve energy and efficiency and

conservation

improve efficiency in harnessing energy, processing,

programmes.

conversion, transportation, storage, co-generation and heat

recovery techniques, in the use of energy in all consumer

sectors.

28 Sri Lanka Sustainable Energy Authority

Act, No. 35 of 2007

(2) For the purpose of carrying out its responsibilities

under subsection (1), the Board shall :—

(a) identify, analyse, develop and recommend policy

measures which can be implemented by all

consumer sectors, to prevent wastage of energy used

by them in their various activities;

(b) promote and facilitate the implementation of energy

efficiency and energy conservation policy measures,

by organizing seminars, workshops and courses in

energy efficiency, demand management or

conservation;

(c) educate and provide information to the public

regarding energy demand management and

conservation;

(d) improve any or all aspects of energy demand

management which promotes rational use of energy

and reduces the use of non-renewable energy

sources in Sri Lanka;

(e) identify the available technologies and facilitate

deployment of such technologies for improving

efficiency in the harnessing of energy, processing,

conversion, transportation, storage and use of

energy;

(f) implement energy labeling programs for appliances

and devices and establish benchmarks;

(g) specify and enforce standards, norms, codes,

measurement and verification protocols and

building codes, for the efficient use of energy and

for reduction of wastage of energy in buildings; and

(h) initiate, promote, conduct and co-ordinate research,

surveys and investigations in regard to specific

aspects of energy efficiency, conservation and

demand management.

1-25T 7

Sri Lanka Sustainable Energy Authority 29

Act, No. 35 of 2007

36. (1) The Board may from time to time by regulations Establishment of

made in that behalf, establish specific energy consumption energy

consumption

benchmarks to be complied with by all energy consumers.

benchmarks.

(2) For the purpose of ensuring that the benchmarks

established under subsection (1) are being complied with,

the Board may, where it considers it necessary:-

(a) enter and inspect with the consent of relevant persons

concerned, any premises, compound or facility,

collect information, verification of information and

conduct any other investigations;

(b) direct any person to furnish information relating to

energy utilization, production, procurement and

sales;

(c) monitor, with the consent of all relevant persons

concerned, energy consumption in buildings and

industrial premises and monitor fuel efficiency of

land vehicles, ships and aircrafts, in association with

relevant agencies;

(d) specify in association with relevant agencies,

energy consumption limits and energy

performance standards of appliances and direct the

display of such particulars on labels attached to

appliances, in such manner as may be prescribed

from time to time;

(e) control the manufacture, import, sale or purchase of

appliances which do not conform to the

specifications prescribed under paragraph (d);

(f) enforce limits and codes of practices for existing

and proposed buildings, industrial premises, land

vehicles, ships and aircraft, in association with

relevant agencies; and

(g) develop educational material and recommend

educational curricula, on efficient and rational use

of energy and conservation of energy.

30 Sri Lanka Sustainable Energy Authority

Act, No. 35 of 2007

Consumption of 37. (1) Where the Board is of the view that any person

energy beyond

or categories of persons (including any public body), is

acceptable

limits. consuming unacceptable levels of energy in their respective

premises or installations, over and above the benchmarks

established by the Board under section 36 of this Act, such

person or category of persons may be called upon to submit

to the Board a detailed audit report compiled by an

accredited energy auditor and a detailed plan of action on

remedial measures that are proposed to be taken by such

person or category of persons, as the case may be, to reduce

the energy consumption to acceptable levels.

(2) The failure to submit a detailed audit report and a

detailed plan of action when called upon to do so by the

Board under subsection (1) and to implement such plan on

approval by the Board, shall be an offence under this Act.

(3) Where any person or category of persons who has been

called upon to submit to the Board a detailed plan of action

under subsection (1), incurs in the course of the

implementation of such plan, any expenses which is beyond

the anticipation of a reasonable person, such person or

category of persons shall be entitled to the payment of a

reasonable amount as compensation, which shall be

determined by the Board in agreement with the person or

category of persons concerned.

Accreditation 38. (1) The Board shall appoint and rank persons having

of energy such qualifications as prescribed, to be –

managers,

energy auditors

etc., (a) Energy Managers, who shall assist in promoting

practices relating to efficient energy management;

(b) Energy Auditors, who shall be qualified to conduct

energy audits; and

(c) Energy Service Providers,

and issue to those appointed, a Certificate of Accreditation.

Sri Lanka Sustainable Energy Authority 31

Act, No. 35 of 2007

(2) Every person who is issued with a Certificate under

subsection (1) shall be required to sit for such examinations

periodically held by the Board from time to time and where

the Board so requests, submit performance reviews at such

intervals as specified by the Board. The Board shall maintain

a register of all accredited Energy Managers, Energy Auditors

and Energy Service Providers, appointed by it.

39. (1) The Board shall from time to time by rules made Conduct of

in that behalf, specify :— energy audits.

(a) the persons or categories of persons including public

bodies, who shall be required to have an energy

audit carried out in their respective installations or

premises; and

(b) the manner and the periods during which an energy

audit shall be required to be carried out.

(2) An energy audit shall be conducted by an Accredited

Energy Auditor, who shall be required to submit a report to

the Board on the result of the energy audit carried out by

such auditor.

40. The Board shall in collaboration with the relevant Delivery of

provincial authorities, take such measures as may be rural energy

services.

necessary to :–

(a) provide for basic domestic energy needs of the rural

population, by making available affordable energy

services to rural and remote areas of the country

which have no access or a limited access to modern

and commercial energy services;

(b) prepare a long term plan for delivery of energy

services to rural and remote areas of the country, by

identifying un-served areas, their energy needs and

available resources and promoting suitable

technologies; and

32 Sri Lanka Sustainable Energy Authority

Act, No. 35 of 2007

(c) develop a conducive environment for the promotion

of investments on rural energy delivery, including

the development of guidelines in collaboration with

relevant state agencies on rural energy project

development and to disseminate them among

prospective investors.

Energy policy 41. The Board shall be responsible for promoting

development security and reliability and ensuring cost effectiveness of

and information

energy delivery within Sri Lanka, and for that purpose :—

management.

(a) examine the energy sector performance, review and

integrate institutional and sub-sectoral plans,

conduct policy analysis, review compliance with

national energy policy and strategies and make

policy recommendations to the Ministry on the

energy sector in general, and more specifically on

renewable energy resources and energy efficiency;

(b) conduct surveys and investigations, collect and

compile data in collaboration with the Department

of Census and Statistics, publish national energy

balance reports and other documents providing

information relating to the energy sector in general,

and more specifically to energy resources,

conversion, supply, utilization, conservation and

economics;

(c) identify and analyse policy measures and

recommend to the Ministry and other relevant

agencies, specific policy measures pertaining to

fiscal incentives and disincentives, including

pricing policies, taxation and institutional

arrangements;

(d) obtain information relating to energy resources,

research, reserves, conversion facilities and

conversion levels, storage facilities and storage

levels, transmission and distribution systems, sales,

customers, costs, prices, income from sales, losses,

Sri Lanka Sustainable Energy Authority 33

Act, No. 35 of 2007

employees and development plans of any

institution, company or individual engaged in the

business of energy or having jurisdiction over

resources that possess an energy value; and

(e) inspect and obtain information about potential or

existing energy supply facilities and their utilization

and consumption.

42. (1) The Board shall be required to submit annually Annual report on

to the Minister, a report on the performance of energy sector energy

in Sri Lanka during the preceding year and the Minister shall consumption.

table such report in Parliament for its consideration.

(2) In the preparation of its annual report under subsection

(1), the Board shall obtain the services of any persons

appointed under section 38.

PART VIII

FINANCE

43. The initial capital of the Authority shall be five Capital of the

hundred million rupees which shall be paid out of the Authority.

Consolidated Fund in such installments as the Minister in

charge of the subject of Finance may determine, in

consultation with the Minister.

44. (1) The Authority shall have its own Fund. There Fund of the

shall be credited to the Fund of the Authority, all such sums Authority.

of money :—

(a) received as initial capital of the Authority;

(b) voted from time to time by the Parliament for the

use of the Authority;

(c) received by the Authority by way of fees imposed

for the issue of permits under this Act; and

34 Sri Lanka Sustainable Energy Authority

Act, No. 35 of 2007

(d) received by the Authority by way of loans,

donations, gifts, or grants from any source

whatsoever, whether in or outside Sri Lanka; and

(e) received by the Authority, by way of lease rentals

under section 32.

(2) There shall be paid out of the Fund of the Authority all

such sums of money required to defray expenditures incurred

by the Authority in the exercise, discharge and performance of

its powers, functions and duties under this Act.

Levy of cess on 45. (1) There shall be charged, levied and paid a cess

imports of fossil on all fossil fuel products imported, calculated at such rate

fuel products. as may be determined by the Minister from time to time with

the concurrence of the Minister in charge of the subject of

Finance, by Order published in the Gazette.

(2) The amount imposed as a cess under subsection

(1), may be varied or rescinded by a like Order.

(3) Every Order made by the Minister under this section

shall come into force on the date of it’s publication in the

Gazette and be brought before Parliament for approval within

four months of the date of it’s publication .Any Order which

is not so approved shall be deemed to be revoked as from the

date of it’s disapproval, but without prejudice to the validity

of anything previously done thereunder.

(4) This section shall have effect as though if formed

part of the Customs Ordinance (Chapter 235) and the

provisions of that Ordinance shall apply accordingly.

(5) The proceeds of the cess recovered under this section

shall be paid monthly by the Director-General of Customs to

the credit of the Energy Fund established by section 46 of

this Act.

(6) The cess levied under this section shall be in addition

to any import duty or any other cess levied under any other

written law.

Sri Lanka Sustainable Energy Authority 35

Act, No. 35 of 2007

46. (1) There shall be established a Fund called the “Sri Sri Lanka

Lanka Sustainable Energy Fund” (in this Act referred to as Sustainable

Energy Fund.

“Energy Fund”).

(2) There shall be credited to the Energy Fund:—

(a) an initial grant of five hundred million rupees to be

paid out of the Consolidated Fund;

(b) the proceeds of the cess imposed under section 45;

(c) fees chargeable from developers for managing the

carbon asset of Sri Lanka;

(d) amounts paid as royalty or charges by developers

and permit holders under section 19 and section 26

of this Act;

(e) fees charged by the Board for rendering any

professional services;

(f) money received as lease rentals from the lease of

land or interest in land for carrying on of any on-

grid and off-grid renewable energy project;

(g) fees charged for entertaining applications submitted

to the Director-General for engaging in on-grid and

off-grid renewable energy projects; and

(h) fees and shared savings earned from undertaking

projects connected with the development of

renewable energy resources and the improvement

of energy efficiency, energy conservation and

demand management, for and on behalf of State

and private sector organizations.

(3) There shall be paid out of the Energy Fund, such

sums of money required for the payment of:—

(a) subsidies to selected renewable energy based energy

conversion plants;

36 Sri Lanka Sustainable Energy Authority

Act, No. 35 of 2007

(b) subsidies for promoting the use of energy efficient

appliances and technologies;

(c) capital subsidy for fuel switching, including

industrial thermal applications;

(d) expenses incurred in conducting awareness

programmes through mass media on improving

energy security of Sri Lanka; and

(e) incentives or other similar financial assistance to

any society or community based organization to

encourage the adoption of energy conservation

measures and for the development of rural energy

services in all areas of the country.

(4) The Board may invest monies lying to the credit of

the Energy Fund in such manner as may be determined by

the Minister with the concurrence of the Minister in charge

of the subject of Finance, and all income accruing from any

such investments shall be credited to such Fund.

(5) The Board shall be responsible for the regulation and

maintenance of the Energy Fund and the maintenance of

proper books of accounts pertaining to the same.

(6) The provisions of sections 50 and 51 of this Act shall

apply in regard to the audit of accounts of the Energy Fund.

Sustainable 47. (1) There shall be established a fund called the

Energy “Sustainable Energy Guarantee Fund” (in this Act referred to

Guarantee

as the “Guarantee Fund”) for the purpose of providing

Fund.

guarantees on behalf of investors who apply for loans to carry

on any project relating to energy efficiency.

(2) There shall be credited to the Guarantee Fund:—

(a) an initial capital grant of fifty million rupees to be

paid out of the Consolidated Fund;

Sri Lanka Sustainable Energy Authority 37

Act, No. 35 of 2007

(b) an annual premium of not less than 0.5 per centum

of the guarantee offered to investors;

(c) interest, service charges and penalties recovered

from investors to whom guarantees are provided;

and

(d) all such sums of money as may be received from the

Fund of the Authority.

(3) The amount to be paid as a guarantee and the manner

of the guarantee, qualifications required to be entitled to a

guarantee and all other matters connected with the

management of the Guarantee Fund, shall be as prescribed

by the Minister, with the concurrence of the Minister in charge

of the subject of Finance.

(4) The provisions of sections 50 and 51 of this Act shall

apply in regard to the audit of accounts of the Gurantee Fund.

48. (1) The Board may with the consent of the Minister Borrowing

given in concurrence with the Minister in charge of the powers of the

subject of Finance, borrow temporarily by way of overdraft Board.

or otherwise, such sums of money as the Board may require

for covering expenditure incurred by it in the exercise,

performance and discharge of its powers, duties and functions:

Provided that the aggregate of the amounts outstanding

in respect of any temporary loans raised by the Board under

this subsection, shall not at any time exceed such sum as may

be determined by the Minister in consultation with the

Minister in charge of the subject of Finance.

(2) The Board may with the consent of the Minister given

with the concurrence of the Minister in charge of the subject

of Finance, borrow money for the provision of the working

capital of the Authority otherwise than by way of temporary

loans under subsection (1), by the issue of debentures, referred

to as the “Sustainable Energy Authority Debentures”.

38 Sri Lanka Sustainable Energy Authority

Act, No. 35 of 2007

(3) Sustainable Energy Authority Debentures shall be

issued, transferred, dealt with, redeemed and cancelled in

accordance with such terms as may be determined by the

Board with the approval of the Minister, given with the

concurrence of the Minister in charge of the subject of Finance.

Government 49. (1) The Minister in charge of the subject of Finance

guarantee. shall guarantee the repayment of the principal and of the

interest due on Sustainable Energy Authority Debentures

issued under section 48.

(2) Any sum required for the fulfillment of a guarantee

provided for under subsection (1) may, with the prior approval

of the Parliament, be paid out of the Consolidated Fund.

(3) Any sum paid out of the Consolidated Fund in

fulfillment of a guarantee provided under subsection (1),

shall be repaid by the Authority together with interest thereon,

at such rate and in such manner and over such period of time

as the Minister in charge of the subject of Finance may

determine, with the concurrence of the Minister.

(4) Immediately upon a guarantee being given under

subsection (1), the Minister in charge of the subject of Finance

shall lay before the Parliament, a statement pertaining to

such guarantee.

(5) Where any sum is paid out of the Consolidated Fund

in fulfillment of a guarantee provided under subsection (1),

the Minister in charge of the subject of Finance shall forthwith

lay before the Parliament a statement on such sum paid as a

guarantee.

Financial 50. (1) The financial year of the Authority shall be the

year and calendar year.

audit of

accounts.

(2) The Board shall cause proper books of accounts to be

kept of the income and expenditure, assets and liabilities

and all other transactions of the Authority.

Sri Lanka Sustainable Energy Authority 39

Act, No. 35 of 2007

(3) The provisions of Article 154 of the Constitution

relating to the audit of the accounts of public corporations

shall apply to and in relation to the audit of the accounts of

the Authority.

51. The provisions of Part II of the Finance Act, No. 38 Application of

Part II of the

of 1971, shall mutatis mutandis, apply to and in respect of

Finance Act,

the financial control and accounts of the Authority. No.38 of 1971.

PART IX

STAFF OFTHEAUTHORITY

52. (1) There shall be appointed by the Minister with Director-General

the concurrence of the Board, a person to be the Director- of the

Authority.

General of the Authority, who shall be its chief executive

officer.

(2) The Director-General shall be entitled to be present

at all meetings of the Board and to speak at such meetings,

but shall not be entitled to vote at any such meetings.

(3) The Director-General shall, subject to the general

direction and control of the Board, be responsible for the

conduct of all affairs of the Authority, including the

administrative control of the officers and employees of the

Authority.

(4) The Director-General shall be paid such remuneration

as may be determined by the Board in consultation with the

Minister.

(5) The Minster may with the concurrence of the Board

and for reasons assigned therefor remove from office the

Director-General appointed under subsection (1).

53. The Director-General may with the approval of the Director-General

Board and whenever he considers it necessary to do so, may delegate

his functions.

delegate to any officer of the Authority, any function or duty

40 Sri Lanka Sustainable Energy Authority

Act, No. 35 of 2007

imposed on or assigned to him by this Act and such officer

shall discharge and perform such function or duty, subject to

the direction and control of the Director-General.

Temporary 54. Whenever the Director-General is by reason of illness

absence of the or absence from Sri Lanka or for any other cause unable to

General discharge or perform any of his functions or duties, the

Manager.

Minister may with the concurrence of the Board, appoint any

other senior officer of the Authority to act in his place during

such absence.

Appointment of 55. (1) The Board may appoint such officers and other

staff of the employees as it considers necessary for the efficient exercise,

Authority. discharge and performance of its powers, functions and duties

under this Act.

(2) The officers and other employees appointed under

subsection (1) shall be remunerated in such manner and at

such rates and shall be subject to such conditions of service,

as may be determined by the Board by rules made in that

behalf.

Appointment of 56. (1) At the request of the Board any officer in the

public officers public service may, with the consent of that officer and the

to the staff of the

Secretary to the Ministry of the Minister in charge of the

Authority.

subject of Public Administration, be temporarily appointed

to the staff of the Authority for such period as may be

determined by the Board or with like consent, be permanently

appointed to such staff.

(2) Where any officer in the public service is temporarily

appointed to the staff of the Authority, the provisions of

subsection (2) of section 14 of the National Transport

Commission Act, No. 37 of 1991, shall, mutatis mutandis

apply to and in relation to him.

(3) Where any officer in the public service is permanently

appointed to the staff of the Authority, the provisions of

subsection (3) of section 14 of the National transport

Commission Act, No. 37 of 1991, shall, mutatis mutandis

apply to and in relation to him.

Sri Lanka Sustainable Energy Authority 41

Act, No. 35 of 2007

(4) Where the Authority employs any person who has

agreed to serve the Government for a specified period under

any agreement, any period of service to the Authority by that

person shall be regarded as service to the Government for the

purpose of discharging the obligations of such agreement.

57. (1) At the request of the Board, any officer or servant Appointment of

officers in public

of a public corporation may, with the consent of such officer

corporations or

or servant and the governing body of such public corporation, Higher

be temporarily appointed to the staff of the Authority for Educational

Institutions to

such period as may be determined by the Board or with like

the staff of the

consent, be permanently appointed to such staff on such Authority.

terms and conditions, including those relating to pension or

provident fund rights, as may be agreed upon by the Board

and the governing body of the public corporation concerned.

(2) At the request of the Board, any officer or other

employee of any Higher Educational Institution may, with

the consent of that officer or the employee and the principal

executive officer of that Higher Educational Institution, be

temporarily appointed to the staff of the Authority for such

period as may be determined by the Board or with like consent

be permanently appointed to such staff, on such terms and

conditions, including those relating to pension or provident

fund rights, as may be agreed upon by the Board and such

principal executive officer.

(3) Where any person is temporarily appointed to the staff

of the Authority under subsection (1) or subsection(2), as the

case may be, such person shall be subject to the same

disciplinary control as any other member of the staff of the

Authority.

42 Sri Lanka Sustainable Energy Authority

Act, No. 35 of 2007

PART X

GENERAL

Special and 58. The Minister may from time to time issue such

General special or general directions to the Board relating to the

directions to be

issued by the exercise, performance and discharge of its powers, duties and

Minister. functions under this Act, and it shall be the duty of the Board

to give effect to such directions.

Power to require 59. (1) The Board may for the purpose of the exercise,

maintenance of performance and discharge of its powers, duties and functions

records and the

under this Act, require all developers and permit holders to

furnishing of

returns. whom it has issued a permit:–

(a) to maintain records in respect of such matters as the

Board may consider necessary and in such form as

may be determined by the Board; and

(b) to furnish to the Board returns in respect of such

matters as it may consider necessary and at such

intervals and in such form as may be determined by

the Board.

(2) It shall be the duty of all developers and permit holders

who are required under paragraph (a) of subsection (1) to

maintain records, to preserve the records so maintained for a

period not exceeding six years after the expiry of the period

of validity of the permit issued to such developer or permit

holder, as the case may be.

Power of 60. (1) Any officer of the Authority authorized in that

Authority to call behalf by the Board may by notice in writing, require any

for information.

person within such period as shall be specified in the notice,

to furnish information on the acquisition, storage, transport,

transmission and use of energy in any form and cost incurred

in doing so and to produce such document as shall be

specified in the notice. It shall be the duty of the person who

receives a notice under this subsection, to comply with such

requirement within the time specified in such notice:

Sri Lanka Sustainable Energy Authority 43

Act, No. 35 of 2007

Provided however, nothing in this subsection shall be

read and construed as enabling the Board or any person

authorized in that behalf by the Board, to require any person

to furnish such information or to produce such document, if

the disclosure of such information or the production of such

document is prohibited by any provision in any law.

(2) The information contained in a return furnished under

section 59 and any information furnished or the contents of a

document produced in compliance with the terms of a notice

issued under this section, shall not be published or

communicated by the Board to any other person, except with

the consent of the person furnishing such return or

information or producing such document, as the case may

be, or in the course of the exercise, performance and discharge

of its powers, duties and functions under this Act.

61. (1) It shall be lawful for any member of the Board or Entry and

any officer or other employee of the Authority specifically inspection of

authorized in writing in that behalf, at any reasonable time to buildings and

premises.

enter any building, installations or premises for the purpose

of carrying out any search, survey, examination or

investigation for the purpose of exercising, performing or

discharging any of its powers, duties or functions under this

Act.

(2) For the purpose of carrying out any search, survey,

examination or investigation under subsection (1), consent

to enter the building, installation or premises shall be

obtained from the owner or the occupier or the person in

charge of the building, installation or the premises, as the

case may be.

(3) Where the consent required to be obtained under

subsection (2) is being unfairly refused, the Authority may

obtain from the Magistrate having jurisdiction over the area

in which such building, installation or the premises, as the

case may be, is situated, a search warrant authorizing an officer

named therein to enter such building, installation or the

premises, as the case may be, to carry out the required search,

survey, examination or investigation.

44 Sri Lanka Sustainable Energy Authority

Act, No. 35 of 2007

(4) Every person who obstructs any member of the Board

or any officer or employee of the Authority in the discharge

of his duty under this section, shall be guilty of an offence

under this Act.

Offences. 62. Every person who —

(a) acts in contravention or fails to comply with any

provisions of this Act or any regulation or rule made

thereunder;

(b) fails or refuses to furnish any return when required

to do so by the Board under section 59;

(c) fails or refuses to furnish any information or produce

any document when required by the Board under

section 60; or

(d) knowingly makes any false statement in any return

furnished under section 59 or knowingly furnishes

any false information under section 60,

shall be guilty of an offence under this Act and shall on

conviction after summary trial before a Magistrate, be liable

to a fine not exceeding one hundred thousand rupees or to an

imprisonment of either description for a term not exceeding

two years or to both such fine and imprisonment, and in the

case of a continuing offence, to a fine of one thousand rupees

for each day on which the offence is continued to be

committed after the conviction.

Offences 63. Where an offence under this Act is committed by a

committed by a body of persons, then :—

body of persons.

(a) if that body of persons is a body corporate, every

person who at the time of the commission of such

offence was a Director, Chief Executive Officer,

Secretary or other similar officer of that body; or

Sri Lanka Sustainable Energy Authority 45

Act, No. 35 of 2007

(b) if that body is not a body corporate, every person

who at the time of commission of the offence was

the President, Manager, Secretary or other similar

officer of that body,

shall be deemed to be guilty of that offence, unless he proves

that such offence was committed without his knowledge or

that he exercised all due diligence to prevent the commission

of such offence.

64. (1) All expenses incurred by the Authority in any Expenses to be

paid out of the

suit or prosecution brought by or against it before any court,

Fund of the

shall be paid out of the Fund of the Authority and any costs Authority.

paid to or recovered by the Authority in any such suit or

prosecution, shall be credited to the Fund of the Authority.

(2) Any expenses incurred by a member of the Board, a

member of the Committee or an Advisory Committee or by

the Director-General or any officer or other employee of the

Authority, in any suit or prosecution brought by or against

such person before any court in respect of any act which is

done or purported to be done by such person under this Act

or on the directions of the Minister or the Board, as the case

may be, shall, if the court holds that such act was done in

good faith, be paid out of the Fund of the Authority, unless

such expenses are recovered by him in such suit or prosecution.

65. The Authority shall be deemed to be a Scheduled Authority

deemed to be a

Institution within the meaning of the Bribery Act (Chapter

Scheduled

27) and the provisions of that Act shall be construed Institution.

accordingly.

66. The members of the Board, Committee and Advisory Members,

Committees and the Director-General and officers and other officers etc.,

deemed to be

employees of the Authority, shall be deemed to be public public servants.

servants within the meaning of and for the purposes of the

Penal Code (Chapter 19).

46 Sri Lanka Sustainable Energy Authority

Act, No. 35 of 2007

Regulations. 67. (1) The Minister may make regulations in respect

of any matters required by this Act to be prescribed or in

respect of which regulations are authorized to be made.

(2) Every regulations made by the Minister shall be

published in the Gazette and shall come into operation on

the date of such publication or on such later date as may be

specified in the regulation.

(3) Every regulation shall as soon as convenient after its

publication in the Gazette be brought before Parliament for

approval. Any regulation which is not so approved shall be

deemed to be rescinded as from the date of its disapproval,

but without prejudice to anything previously done

thereunder.

(4) The notification of the date on which any regulation

shall be deemed to be rescinded, shall be published in the

Gazette.

Rules. 68. (1) The Board may make rules in respect of all or any

matters for which rules are authorized or required to be made

under this Act.

(2) A rule made by the Board under this section shall not

have any effect, until it has been approved by the Minister

and thereafter published in the Gazette.

Repeal and 69. (1) The Energy Conservation Fund Act, No.2 of

saving. 1985 is hereby repealed.

(2) Notwithstanding the repeal of the aforesaid Act :—

(a) all contracts, agreements and other instruments

entered into or executed by the Energy Conservation

Fund and subsisting on the day immediately prior

to the appointed date, shall be deemed to be

contracts, agreements or instruments entered into or

executed by the Authority;

Sri Lanka Sustainable Energy Authority 47

Act, No. 35 of 2007

(b) all suits and prosecutions instituted by or against

the Energy Conservation Fund and pending before

any court or tribunal on the day immediately prior

to the appointed date, shall be deemed to be suits

and prosecutions instituted by or against the

Authority;

(c) all debts, liabilities and obligations of the Energy

Conservation Fund shall be deemed to be debts,

liabilities and obligations of the Authority;

(d) every decree, order or judgment entered in favour of

or against the Energy Conservation Fund by any

competent court in any action or proceeding, shall

with effect from the appointed date, be deemed to

be a decree, order or judgment entered in favour of

or against the Authority and may be enforced

accordingly; and

(e) every officer and servant of the Energy Conservation

Fund holding office on the day immediately

preceding the appointed date, and:–

(i) who is offered employment with the Authority

and accepts such offer, shall be employed

therein on such terms and conditions as are

not less favourable than the terms and

conditions of employment that were

applicable to him on the day immediately

preceding the appointed date; or

(ii) who are not offered employment with the

Authority or who are offered such

employment and who do not accept such offer,

shall be entitled to the payment of such

compensation as may be determined by the

Minister, in consultation with the Board.

48 Sri Lanka Sustainable Energy Authority

Act, No. 35 of 2007

Interpretation. 70. In this Act, unless the context otherwise requires :—

“biomass energy” means the energy that can be

derived out of converting the form of material

that is generated out of a biological process,

by processes such as combustion, fermentation

and digestion;

“Committee” means the Project Approving

Committee established by section 10 of this

Act;

“developer” means a person to whom a permit is

issued under paragraph (a) of subsection (2) of

section 18 of this Act, to carry on an on-grid

renewable energy project;

“energy conservation” means the foregoing of

certain non-essential services delivered to a user,

by either complete stoppage of the service or

the curtailed delivery of the service;

“energy efficiency improvement” means the

adoption of efforts to decrease the actual energy

consumption required to deliver a particular

service, without affecting the quality of the

service so rendered;

“green funds” means the funding available for

initiatives taken to preserve the environment

and the ecology of the planet, which may or

may not be available at concessionary terms;

“hydro energy” means the energy that can be

derived from a moving body of water, through

processes such as reaction and impulse;

“off-grid renewable energy project” means an

installation which converts one form of

renewable energy to another form of energy for

Sri Lanka Sustainable Energy Authority 49

Act, No. 35 of 2007

consumption within a local area and which may

or may not be carried on within any

Development Area;

“off-grid energy consumer society” means any

organization representing the energy user

community duly registered with the relevant

Provincial Council, for the development and

utilization of renewable energy resources within

a particular geographical area, with the object

of generating and distributing electricity to its

members, through a distribution network not

connected to the national grid;

“on-grid renewable energy project” means an

installation which converts any form of

renewable energy to electricity and feeds

electricity thus generated to the national

electricity grid operated by Ceylon Electricity

Board and which is carried on within any

Development Area;

“permit holder” means a person to whom a permit is

issued under paragraph (a) of section 25 of this

Act to engage in an off-grid renewable energy

project;

“Public Utilities Commission of Sri Lanka” means

the Public Utilities Commission of Sri Lanka

established by the Public Utilities Commission

of Sri Lanka Act, No. 35 of 2002;

“renewable energy resource” means the sources of

kinetic or thermal energy stemming from either

solar or geothermal activity, which can be

harnessed within the territory of the Republic

of Sri Lanka, without affecting the ability of

the future generations to harness it for their use,

and includes biomass energy, hydro energy,

solar energy and wind energy;

50 Sri Lanka Sustainable Energy Authority

Act, No. 35 of 2007

“rural energy services” means the basic energy

requirements of a rural community or a rural

enterprise, which cannot be met by modern

commercial energy supply channels, such as

the national electricity grid or petroleum

products distribution channels;

“solar energy” means the energy that can be derived

from solar radiation, by intercepting,

concentrating and focusing or by any other

means;

“sustainable energy” means any energy resource

which can be harnessed for useful work, without

affecting the ability of the resource to provide

the same level of utility in the future; and

“wind energy” means the energy that can be derived

from a moving mass of air through processes

such as reaction and impulse.

Existing 71. (1) All persons engaged in carrying on any

projects. renewable energy project which is an on-grid renewable

energy project or an off-grid renewable energy project within

the meaning of this Act as on the appointed date, shall be

entitled to be issued with a permit to enable such persons to

continue to carry on such project, within one year of such

appointed date, on application made in that behalf to the

Board

(2) Every permit issued under subsection (1) shall be

subject to the provisions of this Act, and shall be valid—

(a) in the case of an on- grid renewable energy project,

for the balance period remaining after deducting

from the period of twenty years referred to in section

18, the period during which the project was in

operation from the date of its commissioning; and

(b) in the case of an off-grid renewable energy project,

for such period as may be prescribed.

Sri Lanka Sustainable Energy Authority 51

Act, No. 35 of 2007

72. In the event of any inconsistency between the Sinhala text to

Sinhala and Tamil texts of this Act, the Sinhala text shall prevail in the

event of any

prevail.

inconsistency.

SCHEDULE [Section 3(2)]

Disqualification 1. A person shall be disqualified from being

for appointed or continuing as an appointed member of

appointment. the Board—

(a) if he is or becomes a Member of Parliament,

a Provincial Council or any local authority;

(b) if he is not or ceases to be a citizen of Sri

Lanka;

(c) if he is under any law in force in Sri Lanka

or in any other country, found or declared to

be of unsound mind;

(d) if he is serving or has served a sentence of

imprisonment imposed by any court in Sri

Lanka or any other country; or

(e) if he had been removed from membership

of the Board for misconduct.

Term of 2. Every appointed member shall, unless he vacates

office office earlier by death, resignation or removal, hold

of members. office for a term of three years from the date of his

appointment and unless he has been removed from

office, be eligible for re-appointment.

Termination 3. (1) The Minister may by Order published in the

of office of Gazette, remove from office the Chairman or any other

members. appointed member of the Authority for physical or

mental incapacity or for any act or thing which in the

opinion of the Minister, is likely to bring disrepute to

the Authority.

(2) In the event of the vacation of office by the

Chairman or any other appointed member, the Minister

may appoint another person to succeed such member.

52 Sri Lanka Sustainable Energy Authority

Act, No. 35 of 2007

Leave of 4. Where an appointed member of the Board is, by

absence of reason of illness, infirmity or absence from Sri Lanka

members. for a period not less than three months, is temporarily

unable to perform his duties, it shall be the duty of

such member to inform the Minister in writing of such

inability. Thereupon, the Minister may having regard

to paragraph (b) of subsection (1) of section 3, appoint

some other person to act in his place during the absence.

Remuneration 5. The members of the Board shall be remunerated

of in such manner and at such rates as may be determined

members. by the Minister, in consultation with the Minister in

charge of the subject of Finance.

Meetings of 6. (1) The Chairman of the Board shall if present,

the preside at all meetings of the Board. In the absence of

Board. the Chairman from any such meeting, the members

present shall elect one of the members to preside at

such meeting.

(2) An ex-officio member may at any time by prior

notice in writing, nominate any other person to represent

him at any meeting of the Board to be held on a given

date, if he is unable to attend such meeting due to any

unavoidable circumstances.

(3) The quorum for any meeting of the Board shall

be five members and the Board may regulate the

procedure in regard to the conduct of its meetings and

the transaction of business at such meetings.

Disclosure of 7. A member of the Board, who is directly or

interest by indirectly interested in any business transacted or

members. proposed to be transacted by the Board, shall disclose

the nature of such interest at the meeting of the Board

where such business is being discussed. The disclosure

shall be recorded in the minutes of the Board, and such

member shall not take part in any deliberation or

decision of the Board with regard to such business, and

shall withdraw from such meeting while such

deliberation is in progress or such decision is being

made.

Sri Lanka Sustainable Energy Authority 53

Act, No. 35 of 2007

Proceedings, 8. No act, decision or proceeding of the Board

act shall be invalid by reason only of the existence of a

or decision vacancy among its members or any defect in the

not appointment of a member.

to deemed

invalid by

reason

of any defect

in

the

appointment.

Seal of the 9. The seal of the Authority :—

Authority.

(a) shall be in the custody of such persons as the

Board may from time to time determine;

(b) may be altered in such manner as may be

determined by the Board; and

(c) shall not be affixed to any instrument or

document except with the sanction of the

Board, and in the presence of two members

of the Board who shall sign the instrument

or document in token of their presence.

54 Sri Lanka Sustainable Energy Authority

Act, No. 35 of 2007

Annual subscription of English Bills and Acts of the Parliament Rs. 885 (Local), Rs. 1,180

(Foreign), payable to the SUPERINTENDENT, GOVERNMENT PUBLICATIONS BUREAU, NO. 32, TRANSWORKS

HOUSE, LOTUS ROAD, COLOMBO 01 before 15th December each year in respect of the year following.