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## Draft General Notice

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### ELECTRICITY CONTROL BOARD

#### RULES ON THE REDISTRIBUTION AND RESALE OF ELECTRICITY ELECTRICITY ACT, 2007

No. \_\_\_\_\_

2018

The Electricity Control Board has, under section 3(4) of the Electricity Act, 2007 (Act No. 4 of 2007), and with the approval of the Minister of Mines and Energy, made the rules with regard to the redistribution and resale of electricity by entities not licensed as distribution or supply licensees as set out in the Schedule.

**G HINDA**  
**CHAIRPERSON OF THE**  
**ELECTRICITY CONTROL BOARD**

Windhoek, \_\_\_\_\_ 2018

#### SCHEDULE

##### Arrangement of Rules

1. Definitions
2. Objects of these Rules
3. Determination of supplying licensee
4. Requirements relating to redistributors applying for exemption under the Act
5. Registration of redistributors and related matters
6. Metering of resold electricity
7. Resale of electricity where electricity is metered
8. Resale of electricity where electricity is not metered
9. General conditions applicable to the resale of electricity
10. General conditions applicable to redistributors and clients
11. Obligations of redistributors and resellers with regard to information and other matters
12. Complaints and disputes
13. Transitional provisions

#### Definitions

**1.** In these Rules a word or expression to which a meaning has been assigned in the Act bears that meaning and, unless the context indicates otherwise -

“**client**” means a person who receives electricity from a redistributor;<sup>1</sup>

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<sup>1</sup> We have replaced the expression “redistribution customer” with “client” – we believe that not only is this a shorter expression but also avoids using the word “customer” which has a specific meaning in the Act.

**“electrical installation”** means the entire electrical installation on a redistributor’s or client’s premises, including all material, equipment and appliances used or intended to be used for or in connection with the provision of electricity to the redistributor’s or client’s premises, but does not include the metering installation or controlling devices or any part of the connection installed by the supplying licensee;

**“premises”** mean a portion of land forming a separate grant, deed of transfer or certificate of title or, in the event of unsurveyed land, the portion of land formally or habitually occupied by a person or as demarcated in whichever manner for occupation by a person;

**“redistribution”<sup>2</sup>** means the conveyance<sup>3</sup> or delivery<sup>4</sup> of electricity by means of a redistribution network, irrespective of who the owner of such redistribution network is, by a person who is not licensed as a distribution licensee in terms of the Act due to –

- (a) such person being exempted under the Act from having to hold a distribution licence;
- (b) such person not yet having applied for exemption as contemplated in rule 13; or
- (c) any other reason including failure by such person to apply for a distribution licence under the Act or such person undertaking unauthorised distribution<sup>5</sup> or redistribution,<sup>6</sup>

and who conveys or delivers such electricity to a client;

**“redistribution network”** means a distribution power system or an electrical installation, as the case may be, used by the redistributor in order to redistribute electricity to a client or clients;<sup>7</sup>

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<sup>2</sup> After thorough consideration and discussion it was decided to retain the use of the expressions “redistribution” and “resale” for the following reasons: (a) they are known in the industry and have always been used to describe these activities; (b) they are regionally and internationally applied towards these activities; (c) they are short and convenient – we tried other terms but all of them were too long, convoluted and cumbersome; (d) we don’t think that there is a serious danger for confusion.

<sup>3</sup> We have added “conveyance” to the definition since redistribution can consist of: (a) conveyance only – i.e. townhouse complexes; (b) delivery only – where persons occupy a single structure; or (c) conveyance and delivery.

<sup>4</sup> In terms of the Electricity Act “distribution” means conveyance of electricity to a customer and a customer is someone who receives electricity from a licensee. As redistribution customers do not receive their electricity from a licensee it is proposed that the word “delivery” be used in these Rules.

<sup>5</sup> There is a presumption in law that when there is reference to an activity it is assumed to be a valid activity. We here then make it specific that it could also be that activities involved are illegal due to such person not having legalised its activities under the Electricity Act. In such case these reseller rules will still apply to such person. Thus if a person is distributing illegally without a licence, such person must still comply with these rules. If it comes to the ECB’s attention that someone is distributing without a licence, the ECB may act against such person in terms of the Electricity Act (i.e. require person to stop activities, require person to get licensed and/or have person criminally prosecuted). Usually it may be difficult for ECB to require person to stop activities since there are customers depending on that electricity. In the interim while such person then gets legal, the reseller rules will continue to apply and thus give customers/clients protection granted thereby which is what we are trying to achieve here.

<sup>6</sup> We have decided to change the definition of redistribution in order to relate it as closely as possible with the definition of “distribution” appearing in the Act. Note also that we incorporated parts of the previous definition of redistributor in the definition of redistribution and subsequently shortened the definition of redistributor accordingly.

<sup>7</sup> This definition is inserted to provide for situations where the redistributor (main house with granny flat) does not have a distribution power system but rather an electrical installation since it is a private residence. Thus one will get redistributors who operate a distribution power system and redistributors

“**redistributor**<sup>8</sup>” means a person<sup>9</sup> undertaking redistribution;

“**resale**<sup>10</sup>” means redistribution under any arrangement whereby the client compensates the redistributor in any manner or form whatsoever, either in whole or in part, and “resell”, “resold” and “reselling” have corresponding meanings;

“**reseller**” means a redistributor who resells electricity;

“**supplying licensee**” means the supplying licensee as contemplated in rule 3;

“**Technical Rules**” means the Technical Rules as published in Government Gazette No 5950 of 16 February 2016, Notice No. 47 of 2016;

“**the Act**” means the Electricity Act, 2007 (Act No. 4 of 2007);

“**these Rules**” mean these Rules on the Redistribution and Resale of Electricity as amended from time to time.

## **Objects of these Rules**

2. (1) Notwithstanding that section 18 of the Act exempts certain distribution activities from the licensing requirements, section 18(4), read with section 3(4), (5) and (6), of the Act, authorises the regulation of such exempted activities by means of rules of the Board.

(2) The objects of these Rules are –

(a) to establish a regulated environment within which redistribution of electricity can take place in order to ensure the efficient conveyance and delivery of electricity under unlicensed circumstances;

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who only have their own electrical installation (granny flat on premises of a private residence example). “Redistribution network” will be the collective terminology to refer to both situations.

8 As defined here a re-redistributor is included since this definition does not specify that the redistributor must receive the electricity from a licensee – i.e. someone who receives electricity from a redistributor and further distributes it is also a redistributor. A practical example would be where the owner of a shopping centre rents a shop therein to a person which shop is supplied with electricity by such owner. This lessee shares his/her shop with another person whom the lessee splits the electricity account with. Such lessee would in this example be a re-redistributor and qualifies as a redistributor under these Rules.

9 Note that the word “person” here is preferable to the use of the word “customer”. The concern is that by using the word “customer” only those persons who receive electricity from a licensee (see definition of customer in the Electricity Act) are included and not those who receive such electricity from another source such as (a) from own generation – although this should not be a problem since if you generate electricity not for own consumption you are not exempted unless you applied for exemption and was exempted in terms of section 18 in which case the concern remains; and (b) from a person who is not licensed – for example if received from a non-licensed re-distributor for re-redistribution.

10 Note that a differentiation is made between redistribution and resale. Redistribution is the broad category whereas resale is a specific type of redistribution – i.e. redistribution where some form of compensation in exchange for the delivery of electricity takes place. This differentiation is necessary as there are separate requirements for resale of electricity which will not apply to redistributors who do not charge for the electricity or receive some form of compensation for electricity delivered.

- (b) to ensure that the interests of clients, supplying licensees and other electricity licensees operating in the same area as a redistributor or reseller are sufficiently protected as regards pricing, safety and standards on quality of electricity provision and service of electricity so delivered;
- (c) to establish a regulatory environment where redistributors and resellers have the required resources to enable them to satisfy and meet the ongoing needs of their clients;
- (d) to establish an environment where the Board can effectively exercise, monitor and enforce the regulatory oversight of electricity redistribution and reselling including but not limited to –
  - (i) pricing practices;
  - (ii) billing procedures;
  - (iii) standards of service and supply;
  - (iv) the control of monopolistic practices and the elimination of abusive practices;
  - (v) discontinuation of conveyance or delivery of electricity; and
  - (vi) dispute resolution.

### **Determination of supplying licensee**

- 3.** (1) For the purposes of these Rules, a supplying licensee is the licensee who -
- (a) supplies electricity to the redistributor or to a redistributor from whom such first-mentioned redistributor obtains electricity and includes the distribution licensee to whose distribution power system the redistributor’s redistribution network is connected; or
  - (b) would have so supplied electricity as contemplated in paragraph (a) above if the relevant redistributor was connected to the nearest distribution power system.
- (2) In the event where it is not possible to determine the supplying licensee as defined in subsection (1), the Board must determine who is the supplying licensee of a redistributor or a class of redistributors.

### **Requirements relating to redistributors applying for exemption under the Act**

- 4.** (1) Where a prospective redistributor, who applies for exemption from holding a licence under section 18(2) of the Act (hereafter in this rule called the “applicant”), will –
- (a) be connected to the distribution power system of a supplying licensee; or

- (b) receive electricity from a supplying licensee; or
- (c) operate in the licence area of a supplying licensee,

the applicant must, prior to such application for exemption, obtain in writing the opinion, comments and consent of such supplying licensee or supplying licensees, in the event of there being more than one supplying licensee, with regard to the applicant's application for exemption.

(2) The supplying licensee may in such opinion, comments and consent recommend conditions which it deems necessary for the efficient redistribution of electricity within its licence area or for the protection of the rights and interest of such supplying licensee.

(3) The applicant must submit to the Board the opinion, comments, consent and recommended conditions (if any) of all relevant supplying licensees together with its application for exemption.

(4) In the event where the supplying licensee –

- (a) refuses to give its consent, the supplying licensee must provide reasons for such refusal and in such event the applicant must submit the supplying licensee's opinion, comments and refusal with reasons in the same manner as anticipated in subrules (2) and (3);
- (b) fails to provide its opinion, comments, consent or refusal within a period of 20 business days after having been requested therefor, the supplying licensee will be deemed to have consented to the application and the applicant may proceed with the application in the absence of the opinion, comments, consent or refusal of the supplying licensee provided that the applicant must attach to the application form proof that the applicant attempted to obtain such opinion, comments, consent or refusal.

(5) The Board may –

- (a) contact a supplying licensee in order to verify any matter it is of the opinion requires verification, to obtain further information or comments from such supplying licensee or with regard to any other matter the Board wishes to take up with such licensee;
- (b) obtain the opinion or comment of any other person the Board deems relevant to such application.

(6) Where the supplying licensee is a local authority or regional council –

- (a) it must be borne in mind that section 36(7) of the Act applies and thus subrules (1) to (4) apply notwithstanding section 55 of the Local Authorities Act;
- (b) such local authority or regional council must in addition to its opinion, comments, consent or refusal stipulate –

- (i) any conditions it deems necessary as contemplated in section 55(1)(a) of the Local Authorities Act; or
- (ii) that it has no such conditions to propose.

(7) The Board must include all conditions notified under subrule (2) or subrule (6)(b) in its recommendation to the Minister as well as its specific recommendations with regard to such stipulated conditions.

(8) Where the supplying licensee refuses to give its consent or fails to respond as contemplated in this rule, the Board must –

- (a) note such refusal, together with the reasons given for the refusal, if any, or failure to respond;
- (b) provide the Board's opinion on such refusal or failure to respond,

subject thereto that an application can proceed irrespective of such refusal or failure to respond but a refusal together with the reasons given must be taken into consideration when a decision is made on whether to approve or reject an application for an exemption as anticipated in this rule.

(9) A supplying licensee must, for a period of least five years, keep the records of all prospective redistributors who requested the opinion, comments and consent of such supplying licensee under this rule and must provide such records to the Board upon request therefor by the Board.

### **Registration of redistributors and related matters**

**5.** (1) Subject to subrule (5), a redistributor must prior to commencement of such person's redistribution activities register with the supplying licensee in the manner set out in these Rules.

(2) A redistributor must register with the supplying licensee by completing the registration form provided by the supplying licensee for this purpose and submitting to the supplying licensee such information as the supplying licensee may require in this regard, provided that the Board may specify such minimum information requirements as it may deem necessary from time to time.

(3) Such registration can, in the discretion of the supplying licensee, be completed in writing or online via the internet on the supplying licensee's official website or in such other manner as the supplying licensee deems fit.

(4) Except for such information as the supplying licensee deems confidential, whether out of own accord or on application by the relevant redistributor, the supplying licensee may make any information received under this rule or statistics with regard thereto available to any person and in such format the supplying licensee deems appropriate.

(5) The Board may, after consultation with relevant supplying licensees, by notice in the Gazette and by notification in at least two newspapers circulated widely in Namibia, exempt any person or category of persons from the requirement to register as a redistributor under these Rules subject thereto that such exemption from having to register as a redistributor does not relieve such person or category of persons from having to comply with the requirements applicable to redistributors and resellers in terms of these Rules.

(6) The Board must, in writing, give notice of an exemption contemplated in subrule (5) to the relevant supplying licensee or, in the case of a category of persons being exempted, all distribution and supply licensees.

(7) The Board may request a supplying licensee to provide to the Board a copy of any information held by that licensee regarding registered redistributors.

(8) In the event where there is a conflict between these Rules and conditions imposed on a person exempted from having to hold a distribution licence as contemplated in section 18(11) or 34(1) of the Act and such person is a redistributor in accordance with these Rules, such conditions prevail.

(9) A person who contravenes or fails to comply with subrule (1) commits an offence and, on conviction, is liable to a fine not exceeding N\$ 16 000 or to imprisonment for a period of not exceeding two years or both such fine and such imprisonment.

### **Metering of resold electricity**

6. (1) A reseller who resells electricity to a client which electricity is to be used for commercial purposes, or to a client occupying a premises or part of a premises used for commercial purposes, must meter such electricity.

(2) All other resellers may charge for electricity delivered to a client by means of separately metering such electricity or in a manner contemplated in rule (8).

### **Resale of electricity where electricity is metered**

7. (1) Where the resale of electricity is metered, such metering and billing may be done on a pre-paid or post-paid basis.

(2) Where a reseller installs a meter, such meter or type of meter must, before its installation, be approved in writing by the supplying licensee.

(3) Where a reseller implements a billing or vending system, such billing or vending system must be designed and operated in such a manner that no conflict exists or can potentially arise between such system and the billing or vending system applied by the supplying licensee (amongst others, a voucher, invoice or token created by such vending or billing system must clearly indicate that electricity is sold by the reseller and not by the supplying licensee).

(4) The billing periods of a reseller using a post-paid billing system must be the same as the billing periods of the supplying licensee.

(5) A reseller who meters electricity delivered to a client must, at the request of the client, furnish such client with such information as may be necessary to enable the client to determine whether the electricity accounts received are correct and compliant with these Rules.

(6) A reseller who meters electricity delivered to a client must provide a billing service, whether a fully automated metering system (for example a token or other prepayment system) is applied or a post-paid system (for example billing on account), and at least the following billing information must be provided:

- (a) The name and relevant premises of the customer;
- (b) the name of the reseller;
- (c) the billing date and, if applicable, the billing period;
- (d) the meter number or meter identification;
- (e) all charges applied including all applicable levies specifying the nature of the charge and the relevant tariff;
- (f) the relevant number of units purchased or consumed;
- (g) such other information as the reseller may deem relevant or as required by the Quality of Service Standards or other standards, rules or regulations made under the Act.

(7) The requirements and specifications applicable to a meter installed or to be installed by a reseller are the same as those applying to the supplying licensee.

(8) Subject to subrule (9), the tariff rates and tariff structure according to which electricity is resold must be identical<sup>11</sup> to the approved tariff rates and tariff structure that would have been applicable had the client been supplied with electricity by the supplying licensee and, for the purposes hereof, rule 9(2) applies with the necessary changes.

(9) The Board may, if it deems it appropriate under circumstances, upon application by a person or out of own accord approve a deviation from subrule (8) subject thereto that a deviation approved by the Board must be recorded in the register contemplated in regulation 8 of the Electricity Regulations: Administrative as published in Government Gazette No 4652 of 16 February 2011, Notice No. 13 of 2011 and be notified on the Board's official website and such deviation remains in force until such time as it is amended by the Board.

(10) A deviation contemplated in subrule (9) can be specific, can be made applicable generally or can be applied to an identified category or categories of resellers, clients or circumstances.

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<sup>11</sup> In terms of the Model Electricity Supply Regulations applying to redistribution/resale in local authority areas the terminology "not less favourable" is applied. It is the ECB's proposal that these terms should rather be exactly the same where the electricity is metered – i.e. they may not be less favourable either. The rationale for this is that the correct pricing signals must also be sent to resale customers and even where electricity is redistributed it must be done in accordance with principles of sustainability, affordability and the like as applied by the ECB when designing electricity tariffs.

(11) In the event where there is a conflict between tariffs stipulated under this rule and a tariff or tariffs specified in a condition imposed on a person exempted from having to hold a distribution licence as contemplated in section 18(11) or 34(1) of the Act and such person is a reseller in accordance with these Rules, the tariff or tariffs specified in such condition prevail.

(12) A person who contravenes or fails to comply with subrule (3), (5), (6) or (8) commits an offence and, on conviction, is liable to a fine not exceeding N\$ 16 000 or to imprisonment for a period of not exceeding two years or both such fine and such imprisonment.

### **Resale of electricity where electricity is not metered**

**8.** (1) Subject to rule 6(1), a reseller who does not meter electricity resold may charge for electricity in the following manners:

- (a) By means of an agreed or fixed rental amount which includes charges for electricity and provided that the rent does not vary according to the amount of electricity used;
- (a) by means of a charge separate from the rent on the basis of an agreed amount or charge whether fixed or not;
- (b) by means of an apportionment between more than one client of such reseller or between the reseller and such client or clients based on specified criteria;
- (c) by means of any consideration from the client including but not limited to goods and services;
- (d) as contemplated in subrule (2).

(2) Where a reseller wishes to obtain compensation for electricity delivered to a client without metering such electricity and under circumstances not provided for in rule 8(1), such reseller must first obtain the Board's written approval which approval the Board may give in a specific instance or with regard to general categories identified for this purposes by the Board subject thereto that, if the Board gives approval with regard to general categories, the Board must give notice thereof -

- (a) in the Gazette;
- (b) in at least two newspapers circulated widely in Namibia;
- (c) on its official website;
- (d) to the relevant supplying licensee or licensees, and, for an approval applicable to general categories, to all distribution and supply licensees.

(3) In the event of subrule (1)(c), the reseller must make use of objective and fair criteria such as, but not limited to, space occupied, activities conducted, number of persons occupying premises to which electricity is delivered and common comparative usage or usages such as passage lighting, lifts and escalators, security lighting and air-conditioning.

(4) The Board may, upon request by any person or out of its own accord, investigate any electricity charges within the scope of this rule in order to determine the actual charge paid by a client for electricity delivered under this clause, or to attach a value thereto, and may for this purpose apply such methodologies in such calculation as the Board may deem appropriate under circumstances in order to establish compliance with rule 9(1).

(5) Where the Board, subsequent to an investigation under subrule (4), finds that a reseller is charging an amount in excess of what is envisaged by rule 9(1), the Board may, after consultation with the reseller and client or clients involved, instruct the reseller as to the form of compensation which will ensure compliance with rule 9(1) and a reseller must comply with such instruction.

(6) Subject to rule 6(1), a reseller who does not meter electricity delivered to a client must, at the request of the client, furnish such client with such information at the reseller's disposal as may be necessary to enable the client to determine whether the form of compensation for electricity provided to such client is compliant with these Rules.

(7) A person who contravenes or fails to comply with subrule (2) or (6) commits an offence and, on conviction, is liable to a fine not exceeding N\$ 16 000 or to imprisonment for a period of not exceeding two years or both such fine and such imprisonment.

### **General conditions applicable to the resale of electricity**

**9.** (1) Subject to rules 7(8) and 8, the value at which, and the conditions under which, electricity is resold may not be less favourable to the client than those that would have been payable and applicable had the client been supplied with electricity by the supplying licensee.

(2) For the purposes of subrule (1), the applicable value and conditions are:

(a) In the event where there is only one supplying licensee who supplies electricity to the reseller, or the person from whom the reseller obtains or could obtain its electricity, and such licensee is –

(i) a local authority council;

(ii) a regional council;

(iii) a farmers' scheme; or

(iv) a distribution licensee that is supplying in the local authority council's, regional council's or farmers' schemes' area in terms of an agreement between such licensee and the local authority council, regional council or farmers' scheme,

the electricity tariffs and distribution and supply conditions of such supplying licensee;

- (b) in the event where the supplying licensee is a regional electricity distribution company, the electricity tariffs and distribution and supply conditions applying in the local authority council or regional council area in which the client is located;
- (c) in the event where it is not clear who the relevant supplying licensee is or which of such licensee's electricity tariffs and distribution and supply conditions apply, on such terms and conditions as may be determined by the Board which determination can be specific or can be general.

(3) A determination by the Board under subrule (2)(c) must be recorded in the register contemplated in regulation 8 of the Electricity Regulations: Administrative as published in Government Gazette No 4652 of 16 February 2011, Notice No. 13 of 2011, be notified on the Board's official website notice thereof must be given, in writing, to the affected supplying licensee and such determination remains in force until such time as it is amended by the Board.

(4) No reseller is allowed to add any additional cost such as cost for meter reading, vending, billing, compliance services, and the like and recover such cost from the client since the latter cost is already included in the relevant tariff contemplated in subrule (1).

(5) All resellers must familiarise themselves with the approved tariffs of the supplying licensee and must have the applicable tariffs at their disposal at all times.

(6) A reseller must provide and explain such tariffs to the reseller's clients and provide them in writing with the applicable tariff and tariff structure.

(7) A person who contravenes or fails to comply with subrule (1), (4) or (6) commits an offence and, on conviction, is liable to a fine not exceeding N\$ 16 000 or to imprisonment for a period of not exceeding two years or both such fine and such imprisonment.

### **General conditions applicable to redistributors and clients**

**10.** (1) Where the redistributor's redistribution network is physically connected to the distribution power system of the supplying licensee, it is subject to inspection and approval by such licensee and for this purpose the redistributor must give the supplying licensee such access to the redistribution network and information relating thereto as the supplying licensee may require.

(2) A redistributor is responsible for the safe design, installation, maintenance and operation of its redistribution network and must comply with all applicable legal requirements.

(3) A supplying licensee contemplated in this rule may agree to the waiving of the requirement of subrule (2) or parts thereof, thereby accepting responsibility for the safety of the redistributor's redistribution network on such conditions as may be agreed between the licensee, the redistributor and the Board.

(4) A redistributor must design and install its redistribution network in compliance with the connection requirements of the supplying licensee as well as with all applicable laws and regulations, and must apply the same material, design and construction standards as those used by the supplying licensee for similar networks.

- (5) (a) A redistributor must employ or contract -
- (i) personnel with suitable qualifications, experience and skills to safely work on and operate its redistribution network; or
  - (ii) in the event of rule 33 of the Technical Rules applying, a competent person;
- (b) such personnel or competent person must comply with all applicable laws containing requirements for working on such a redistribution network and as may be applicable to the voltage levels and complexity of such redistribution network;
- (c) any person performing installation, alteration, repair or maintenance work on a redistribution network must be registered to perform such work with the supplying licensee, in so far as such registration by the supplying licensee in its license area is required.
- (6) A redistributor whose redistribution network includes any part of such network operating at medium voltage or high voltage must operate and maintain the redistribution network in such a manner that the redistributor complies with all applicable requirements as if it had been licensed.
- (7) A redistributor must provide every client of the redistributor with an emergency telephone or cell phone number where the client can contact the redistributor at all times in case of power failure or emergency.
- (8) The redistributor must respond to power failures or emergencies in a manner that is, under circumstances, appropriate, timeous and effective in addressing the failure or emergency.
- (9) In the event of a power failure, a client must contact the redistributor who redistributes to that client and not the supplying licensee and a redistributor must inform all its clients of this rule.
- (10) Subject to rule 27(2) of the Technical Rules, if applicable, a redistributor's redistribution network may not extend from one premises to another without the prior written approval of the supplying licensee.
- (11) A client's electrical installation is subject to and must comply with the same standards and requirements as are applicable to the electrical installation of a customer of the supplying licensee and must comply with the requirements applicable to electrical installations under the Act.
- (12) A person who contravenes or fails to comply with subrule (4), (5), (6), (8) or (10) commits an offence and, on conviction, is liable to a fine not exceeding N\$ 16 000 or to imprisonment for a period of not exceeding two years or both such fine and such imprisonment.

### **Obligations of redistributors and resellers with regard to information and other matters**

**11.** (1) The Board or the supplying licensee may at any time demand from a reseller –

- (a) to submit to it for inspection the records of the reseller or a client relating to the resale of electricity and the income derived by the reseller from the resale;
- (b) where meters have been installed by the reseller, that the reseller cause any of the meters to be tested to the satisfaction of the Board or the supplying licensee at the reseller's cost; and
- (c) that any meter found to be defective be repaired or replaced.

(2) A supplying licensee or the Board may request any relevant information from a redistributor as such licensee or the Board may require in connection with the redistribution activity including, but not limited to, information relating to the operation and maintenance of the redistribution network, and such redistributor must supply such information to such licensee or the Board upon such request.

(3) Where a redistributor refuses or fails to provide information required by a supplying licensee under subrule (2), such licensee may submit a request for such information to the Board in writing and the Board may in its discretion obtain such information from such redistributor and supply it to the supplying licensee.

(4) A person who contravenes or fails to comply with subrule (1) or (2) commits an offence and, on conviction, is liable to a fine not exceeding N\$ 16 000 or to imprisonment for a period of not exceeding two years or both such fine and such imprisonment.

### **Complaints and disputes**

**12.** (1) Any complaint regarding redistribution or reselling may be submitted in writing to the Board for investigation.

(2) If there is a dispute regarding redistribution or reselling such dispute may be referred to the Board for mediation as contemplated in section 3(2)(c) of the Act.

### **Transitional provisions**

**13.** (1) A redistributor who is not exempted under section 18(3) of the Act must immediately apply for an electricity distribution licence or for exemption under the Act.

(2) A reseller must ensure that its charges or compensation received for the delivery of electricity complies with these Rules within six months after the commencement of these Rules, subject thereto that the Board may extend such period with such further periods of not more than six months each as the Board may deem appropriate.

(3) Unless exempted under rule 5(5), a redistributor must within 12 months after the commencement of these Rules, register with the supplying licensee in the manner set out in these Rules, subject thereto that the Board may extend this period of 12 months with such further

periods of not more than six months each as the Board may deem necessary and rules 5(2) and 5(3) apply in the same manner to such registration.<sup>12</sup>

(4) A supplying licensee who may reasonably expect to have customers who are redistributors must, within two months after the commencement of these Rules, in writing, notify all its customers of the requirements for redistributors to register with the supplying licensee as set out in these Rules.

(5) A notice contemplated in subrule (4) must include, but is not limited to, information on how a redistributor required to register is defined, and where, how and by when such registration must be completed with the supplying licensee.

(6) A supplying licensee must, within two months after the commencement of these Rules, in writing, notify all its customers who may qualify as redistributors and to whom the supplying licensee supplies electricity at medium voltage or high voltage of the requirements under the Act for such customers to obtain a licence or apply for an exemption from the requirement to obtain such licence.

(7) The Board must give notice of an extension granted under subrule (2) or (3) in the Gazette and in at least two newspapers circulated widely in Namibia as well as on its official website.

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<sup>12</sup> A proposed draft registration form has been developed. Please note that the draft form will not form part of these Rules but will be an additional document determined by the ECB under rule 4.2. By not prescribing a specific form in these Rules, it will allow for more flexibility to change the form as and when necessary.