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Legal & Regulatory Digest

Ghana's Renewable Energy Act, 2011 (Act 832) and its Amendment

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Ghana's Renewable Energy Act, 2011 (Act 832) and the Renewable Energy (Amendment) Act, 2020 (Act 1045)

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Introduction

Ghana is richly endowed with a variety of renewable energy (RE) sources, including substantial biomass, considerable hydro-power potential, promising wind resources along the coastline, and high levels of solar irradiation. However, these abundant renewable energy sources have remained largely underutilized.

To address this gap and stimulate the development of the country's renewable energy sector, the Government of Ghana (GoG) enacted the Renewable Energy Act, 2011 (Act 832). This legislation aims to create a favorable environment for private sector investments by providing a comprehensive framework that supports the sustainable development and utilization of renewable energy resources.

The Renewable Energy Act, assented to by Ghana's President on December 31, 2011, was amended in 2020 by the Renewable Energy (Amendment) Act, 2020 (Act 1045). The amendment was introduced to address emerging challenges and to further enhance the regulatory framework for renewable energy development in Ghana.

Main Features of the Act

Objective

The Act aims to provide for the development, management, utilization, sustainability, and adequate supply of renewable energy for the generation of heat and power in an efficient and environmentally

sustainable manner. It seeks to further create an enabling environment to attract investments and facilitate the growth of the renewable energy sector in Ghana.

Institutional Responsibilities

The Act designates specific responsibilities to various institutions. Among these, the Energy Commission is tasked with advising the Minister of Energy on renewable energy matters and ensuring the effective implementation of the Act. To discharge these responsibilities, the Commission must collaborate with the government, private sector, and civil society groups. Additionally, the Commission is responsible for implementing plans to train and support local experts in the renewable energy sector.

The Public Utilities Regulatory Commission (PURC) is responsible for approving rates for electricity generated from renewable energy and setting charges for grid connection. Other relevant institutions include the Ghana Standards Authority (GSA), Forestry Commission, Lands Commission, Environmental Protection Agency (EPA), Ministry of Food and Agriculture (MoFA), Metropolitan, Municipal and District Assemblies (MMDAs), National Petroleum Authority (NPA), Water Resources Commission, Ghana Cocoa Board, Ministry of Environment, Science, Technology, and Innovation (MESTI), and Ghana Revenue Authority (GRA).

These institutions must collaborate with the Energy Commission in developing and managing the renewable energy sector. However, the ultimate policy direction for

achieving the Act's objectives rests with the Minister of Energy. The Minister must not only provide policy direction but also oversee the implementation of the Act, thereby playing a vital role in its success.

Licensing Regime

The Act mandates that commercial activities related to renewable energy, such as production, transportation, storage, distribution, sale, marketing, importation, and exportation, require a license. Licenses are to be granted based on specific conditions and are valid for a specified period, with provisions for renewal. Thus, engaging in commercial activities in the renewable energy sector without a license is illegal. Offenders are liable to a fine not exceeding 2,000 penalty units (GHS 24,000)¹ or imprisonment for up to five years.

Licenses are to be granted to citizens, registered corporate bodies, or partnerships registered under the Incorporated Private Partnerships Act, 1962. Special permits for bio-fuel and woodfuel activities are required from the Ministry of Food & Agriculture (MFA) and the Environmental Protection Agency (EPA).

Feed-in-Tariff (FIT)

The Act established a feed-in-tariff (FIT)² scheme to guarantee the sale of electricity generated from renewable energy. The PURC was required to set the FIT rates, which was guaranteed for a period of ten years and to be reviewed every two years. Additionally, the FIT scheme required utilities to connect renewable energy installations to the national grid, ensuring that producers could sell their electricity at the established rates. The scheme also mandated electricity distribution utilities and bulk customers to purchase a specified percentage of their electricity from renewable energy generation plants.

Net-Metering and Self-Generation

The Renewable Energy (Amendment) Act, 2020 (Act 1045) replaces the FIT scheme with a competitive procurement scheme and a net-metering scheme.

The competitive procurement scheme, established by Section 25 of Act 832 as amended, involves a tendering process and an auction program to attract market rates for electricity generated from renewable energy.

The net-metering scheme is to encourage consumers to generate their own electricity from renewable sources primarily for cost reduction and climate change mitigation, rather than for income generation through FITs.

The Renewable Energy Fund

The Act establishes a tax-exempt Renewable Energy Fund to provide financial resources for promoting, developing, sustainably managing, and utilizing renewable energy. The Act as amended specifies that funds from the Renewable Energy Fund shall be applied primarily to the provision of financial incentives, capital subsidies, production-based subsidies, and equity participation for:

- a. Grid-interactive renewable electricity.
- b. Mini-grid and off-grid renewable power systems for remote areas and islands.
- c. Renewable energy projects for non-electricity purposes.
- d. Any other renewable energy activity that the Energy Commission may determine.

Funding sources for the fund shall include parliamentary appropriations, premiums from bulk customers, donations, grants, and internally generated funds. Additionally, the fund is to promote scientific, technological, and innovative research into renewable energy, the establishment of standards, and the development of infrastructure and capacity building.

Dispute Resolution

The Act provides for dispute resolution by allowing aggrieved persons to lodge complaints with the Minister of Energy if they are dissatisfied with decisions regarding the granting, renewal, modification,

¹1 penalty unit equals GHS 12 as of April 2022. This is equivalent to about USD 3,240.00 (Exchange Rate on 24th April 2022: GHS 1 = USD 7.42, Bank of Ghana Interbank Exchange Rate - <https://www.bog.gov.gh/treasury-and-the-markets/daily-interbank-fx-rates/>)

²The Feed-in Tariff (FiT) has been replaced by a competitive procurement scheme and a net-metering scheme for electricity generated from renewable energy, as discussed in the next subheading.

suspension, or cancellation of licenses. The Minister is required to investigate and decide on the complaint within thirty days. If an amicable settlement cannot be reached, the Minister may set up an arbitration panel under the Alternative Dispute Resolution Act, 2010 (Act 798) to resolve the matter. Should the dispute remain unresolved, the aggrieved party can pursue the matter in the High Court within fourteen days after the Minister's decision.

Miscellaneous Provisions

The Act includes measures for the control and management of biofuel and woodfuel production and consumption. It mandates collaboration among institutions such as the Forestry Commission and the Environmental Protection Agency (EPA) to develop and implement programs for sustaining woodfuel production.

Conclusion

The Renewable Energy Act, 2011 (Act 832), as amended by Act 1045, establishes a robust legal framework aimed at promoting the development, utilization, and sustainable management of renewable energy resources in Ghana. By assigning specific responsibilities to key institutions such as the Energy Commission and the Public Utilities Regulatory Commission (PURC), the Act ensures a coordinated and comprehensive approach to advancing renewable energy initiatives.

The introduction of competitive procurement and net-metering schemes, along with the establishment of the Renewable Energy Fund, are pivotal in providing financial incentives to attract investments and support renewable energy projects. These mechanisms are designed to ensure market stability and encourage the adoption of renewable energy technologies.

Furthermore, the Act's licensing provisions, dispute resolution mechanisms, and sustainable management of biofuel and woodfuel production underscore Ghana's commitment to regulatory compliance and environmental sustainability. By mandating collaboration among various institutions, the Act fosters a synergistic approach to achieving its objectives.

Overall, the Renewable Energy Act aims to transform Ghana's energy landscape by fostering a transition towards a more sustainable and resilient energy future. With its comprehensive provisions, the Act and other relevant renewable energy policies if well implemented can position Ghana as a leader in renewable energy development, contributing significantly to global efforts in combating climate change and ensuring energy security.

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