

**MODEL ACT/REGULATION**  
**ON**  
**GENDER ASSESSMENTS IN ENERGY PROJECTS**

*This is a generic draft of a domestic legal text to comply with the ECOWAS Directive on Gender Assessments in Energy Projects. The text will need to be adapted to fit the Member State's domestic legal regimes, including the regimes on legislative and administrative acts, development consent, judicial review and, if desired, environmental and social impact assessment.*

*The Directive permits significant flexibility in how the Member States implement their obligations under the Directive. This draft does not reflect all of the possible options. For example, this draft assumes the Competent Authority is the same agency that will give the Development Consent (i.e. the building permit/license). If the Competent Authority is a different agency, certain amendments to this draft text will be required.*

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## CHAPTER I: DEFINITIONS AND OBJECTIVES

### Section 1 Definitions

1. For the purposes of this [Act/Regulation], the following definitions shall apply:
  - (a) “Affected Project” means:
    - (i) a Project which is a Schedule 1 Project;
    - (ii) a Project for which a notice pursuant to the provisions of Section 5 Paragraph 2 of this [Act/Regulation] was issued by the Competent Authority;
  - (b) “Competent Authority” means [•];
  - (c) “Developer” means the person responsible for initiating, developing or commissioning a Project or the public authority which initiates a Project;
  - (d) “Development Consent” means the decision of the [Competent Authority / Relevant Agency] which entitles the Developer to start and implement the Affected Project [or continue with implementing the Affected Project];<sup>1</sup>
  - (e) “Directive” means [•]<sup>2</sup>;
  - (f) “ECREEE” means the ECOWAS Centre for Renewable Energy and Energy Efficiency.
  - (g) “Energy” includes every form of energy derived from any of the following sources: solar, wind, biomass, fossil, geothermal, ocean, nuclear or hydro;
  - (h) “Energy Sector” means the totality of industries involved in the extraction, production, transformation, transportation, storage, generation, transmission and distribution of Energy, energy products and energy services;
  - (i) “feasible” means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, Gender and technological factors;
  - (j) “Gender” encompasses the social meanings ascribed on the basis of an individual’s biological sex within a given society;
  - (k) “Gender Assessment” means
    - (i) the description and evaluation, by means of the analysis of any available and relevant data that can be obtained with reasonable diligence, of the expected Gendered Impacts of a Project, considering the Relevant Criteria;

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<sup>1</sup> Specific permits, concessions or licenses can be referenced/incorporating into this Act/Regulation.

<sup>2</sup> Insert the final citation name of the ECOWAS Directive on Gender Assessment.

- (ii) the carrying out of public consultations in connection with such analysis;
  - (iii) the examination by the Competent Authority of such analysis, any other relevant supplementary information and the results of the public consultations;
  - (iv) the reasoned conclusion by the Competent Authority in accordance with Section 14 of this [Act/Regulation];
- (l) “Gender Assessment Report” means a report prepared in accordance with Section 10 of this [Act/Regulation];
  - (m) “Gender Management Plan” means a plan prepared in accordance with Section [•] of this [Act/Regulation];
  - (n) “Gender Performance Monitoring Report” means a plan prepared in accordance with Section [•] of this [Act/Regulation];
  - (o) “Gendered Impacts” means those impacts, results or outcomes which, though deriving from the same action or set of actions, have consequences, whether negative or positive, which are dissimilar across affected groups of men or women in degree and/or characteristics;
  - (p) “men” and “women” when referenced shall include men and women of all ages, including boys and girls, respectively.
  - (q) “Project” means the execution of construction works or of other installations or schemes, or other interventions in the natural surroundings and landscape, including those involving the extraction, production, transformation, transportation, storage, generation, transmission and distribution of Energy, energy products and energy services, and related projects that have a significant Energy component[ and those involving the development of infrastructure such as commercial, industrial, telecom, transportation, water and waste-related development works, installations or schemes]<sup>3</sup>;
  - (r) “Public Notice” means a notice published in accordance with Section 15;
  - (s) [“Relevant Agency” means the relevant national ministry or agency responsible for the issuance of a Development Consent;]<sup>4</sup>
  - (t) “Relevant Criteria” means the Gender-related criteria listed in Schedule 2 of this [Act/Regulation];
  - (u) “Required Information” means the information listed in Schedule 3 of this [Act/Regulation];

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<sup>3</sup> Insert this or alternative preferred language if the Member State would like to extend the scope of this Law/Regulation beyond the Energy Sector.

<sup>4</sup> Include references to Relevant Agency if Competent Authority is not responsible for granting Development Consent.

- (v) “Required Management Plan Contents” means the contents listed in Schedule 4 of this [Act/Regulation];
- (w) “Required Monitoring Report Contents” means the contents listed in Schedule 5 of this [Act/Regulation]; and]
- (x) “vulnerable groups” are groups of people who may be especially vulnerable to adverse Gendered Impacts and inequality in the distribution of Project benefits, including due to their social or economic status, racial or ethnic origin, religion or belief, disability, age.

## **Section 2 Objectives**

1. The objectives of this [Act/Regulation] are to:
  - (a) ensure that the specific interests of women and men, as stakeholders, are taken into account in the development of Projects;
  - (b) ensure that any potential adverse and discriminatory impacts on women or men deriving from Projects are recognized and avoided or mitigated to the extent feasible;
  - (c) improve transparency in planning and implementation processes to promote and increase the participation and capacity of women and men, including but not limited to customers, employees, managers, investors, officials and other stakeholders; and
  - (d) ensure fulfilment of the [MEMBER STATE]’s obligations under the Directive, whilst imposing the least financial and administrative barriers possible on Developers, the Competent Authority and other stakeholders.

## CHAPTER II: COMPETENT AUTHORITY

### Section 3 Competent Authority

1. [•] is the Competent Authority for the purposes of the Directive.

### Section 4 Functions of the Competent Authority

1. Subject to any other provisions of this [Act/Regulation], the Competent Authority shall perform the following functions:
  - (a) ensure compliance with the gender assessment process required by this [Act/Regulation];
  - (b) review and consider Gender Management Plans;
  - (c) request information from Developers;
  - (d) ensure compliance with the gendered impact assessment processes required under this [Act/Regulation] in the planning and execution of Affected Projects;
  - (e) [develop a comprehensive database of Gender Assessment Reports, Gender Management Plans provided to the Competent Authority, and consents given by the Competent Authority, pursuant to the requirements under this [Act/Regulation]];
  - (f) [impose and collect fees in accordance with this [Act or regulations made under this Act][Regulation];
  - (g) [advise the [Minister of [•]]<sup>5</sup> on the formulation of policies regarding gender assessment for Projects in the Energy Sector];
  - (h) [cooperate in all respects with the Relevant Agency with regard to the screening of applications and the granting of a Development Consent]
  - (i) collaborate and co-ordinate with ECOWAS institutions and such other foreign and international bodies as the Competent Authority considers necessary for the purposes of this [Act/Regulation]; and
  - (j) perform any other function conferred on it under this [Act/Regulation] or any other enactment.

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<sup>5</sup> Insert as appropriate.

## **CHAPTER III: GENDER ASSESSMENT**

### **Section 5 Requirement for Gender Assessment**

1. No person shall commence or cause to be commenced an Affected Project unless prior to the commencement:
  - (a) the Developer has conducted a Gender Assessment and prepared a Gender Management Plan; and
  - (b) the Competent Authority has approved the Gender Assessment and Gender Management Plan

in each case in accordance with the provisions of this [Act/Regulation], unless the Affected Project has been exempted from such requirements pursuant to Section 6.

2. Where the Competent Authority considers that any proposed Project which is not a Schedule 1 Project is likely to have significant Gendered Impacts, in particular with respect to vulnerable groups, the Competent Authority shall issue a written notice to the Developer of such Project [with a copy of such written notice to the Relevant Agency] indicating it has been designated an Affected Project.

### **Section 6 Initial Determination**

1. Upon receipt of the application for Development Consent, the Competent Authority shall, if requested by the Developer [or the Relevant Agency], screen the application based on its potential for direct or indirect Gendered Impacts, taking into consideration Project characteristics suggesting a high potential for significant Gendered Impacts, the location, size and likely output of the Project, the concerns of the general public, if any, and in particular concerns of immediate residents and affected stakeholders.
2. After screening the application, the Competent Authority shall issue a written screening report to the Developer of the Project [with a copy of such report to the Relevant Agency] for which the application is concerned, which shall state whether:
  - (a) no significant Gendered Impacts are likely to occur in connection with the Project; or
  - (b) a Gender Assessment is required, including the submission of a Gender Assessment Report and Gender Management Plan to the Competent Authority in accordance with the procedures outlined in Chapters IV and V.
3. Each screening report shall include a brief summary of the factors considered by the Competent Authority and the reasoning behind the decision made pursuant to Paragraph 2 of this Section.
4. Upon a determination by the Competent Authority that a Gender Assessment is required, the procedures outlined in Chapters IV and V shall be followed. In such case, if the Developer so requests before submitting an application for Development Consent, the Competent Authority[, in cooperation with the Relevant Agency,] shall give an opinion on the information to be supplied by the Developer in accordance

Chapter IV: The fact that the Competent Authority has given an opinion under this paragraph shall not preclude it from subsequently requiring the Developer to submit further information in accordance with the provisions of this [Act/Regulation].

5. No Development Consent shall be issued unless the Competent Authority has taken the Gendered Impacts of the project into consideration.

### **Section 7 Issuance of Development Consent**

1. Where the Competent Authority has reached the decision [to issue] [/ to permit] a Development Consent [/ to be issued], it shall clearly state any conditions [attaching to] / [that should be attached to] the Development Consent obligating the Developer to take actions designed, to the extent feasible, to achieve positive Gendered Impacts or avoid, reduce and remedy, significant adverse Gendered Impacts which are outlined in the Gender Assessment Report or which the Competent Authority reasonably believes will result from the Project.

### **Section 8 Cancellation, suspension or modification of Development Consent**

1. Where:
  - (a) the conditions attaching to a Development Consent are not being complied with or have been contravened; or
  - (b) there is a substantial change in the operations of a Project resulting in significant Gendered Impacts,

the Competent Authority may:

- (i) cancel the Development Consent [/ make a request to the Relevant Agency that the Development Consent be cancelled and the Relevant Agency shall cancel the Development Consent] ;
    - (ii) suspend the Development Consent [/ make a request to the Relevant Agency that the Development Consent be suspended and the Relevant Agency shall suspend the Development Consent] for such time as it thinks appropriate; or
    - (iii) impose additional or modified conditions [/ request that additional or modified conditions be imposed by the Relevant Agency] for the Development Consent [/ and the Relevant Agency shall impose such conditions].
2. The Competent Authority [ / Relevant Agency] shall notify in writing the Developer of a Project the Development Consent for which has been cancelled, suspended or on which additional or modified conditions have been imposed of such cancellation, suspension or imposition of additional or modified conditions.



3. Any person aggrieved by a decision to cancel or suspend a license may, within [90] days of the notification of the cancellation or suspension appeal to the [•]<sup>6</sup>.

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<sup>6</sup> Insert name of relevant court or tribunal.

## **CHAPTER IV: SCOPE AND CONTENT OF DEVELOPERS' OBLIGATIONS**

### **Section 9 Gender Assessment**

1. The Gender Assessment shall comprehensively identify, describe and assess in an appropriate manner the expected direct and indirect significant Gendered Impacts of the Affected Project, considering the Relevant Criteria.

### **Section 10 Gender Assessment Reports**

1. The Developer shall submit to the Competent Authority a Gender Assessment Report prepared by competent experts and providing the Required Information.

### **Section 11 Required Contents of Gender Management Plans**

1. The Developer shall submit to the Competent Authority Gender Management Plans prepared by competent experts.
2. The Gender Management Plans shall describe the Developer's plans to avoid, reduce and remedy, to the extent feasible, any significant adverse Gendered Impacts of the Project, as described in the Gender Assessment Report, and the plans to maximize opportunities and benefits for men and women and include, at a minimum, the Required Management Plan Contents.
3. The Gender Management Plan should be agreed through consultation with governmental representatives and men and women of the affected and benefitted communities and interested groups.

### **Section 12 Required Contents of Gender Performance Monitoring Reports**

1. The Developer shall submit to the Competent Authority Gender Performance Monitoring Reports prepared by competent experts and containing the Required Monitoring Report Contents.
2. The Competent Authority shall establish guidelines or, alternately, provide for a case-by-case determination by the Competent Authority of the required frequency of the Gender Performance Monitoring Reports, in either case based on relevant factors such as the length of a Project's expected resettlement (if any), construction and operational phases, cost and the potential for a change in circumstances.

### **Section 13 Notification of Material Adverse Changes**

1. If at any stage after the Gender Assessment Report or a Gender Performance Monitoring Report has been submitted to the Competent Authority there is a material adverse change in a Gendered Impact of the Project or in any of the information contained therein due to changes in the Project or to unforeseeable circumstances, the Developer shall submit to the Competent Authority [with a copy to the Relevant Agency] an amendment to the most recent report previously submitted.
2. Any amendment submitted pursuant to Paragraph 1 of this Section 13 shall identify, describe and assess in an appropriate manner the following:

- (a) the nature and cause of the material adverse change(s);
- (b) how the material adverse change(s) affect the details provided as part of the Required Information of the Gender Assessment Report or the Required Monitoring Report Contents, as relevant; and
- (c) any amendments to the Gender Management Plan and the steps the Developer proposes to undertake to mitigate the changes,

and shall be accompanied by a certification that all information contained in the amendment is complete and truthful to the best of the Developer's knowledge.

## CHAPTER V: PROCEDURES

### Section 14 Gender Assessment Procedure

1. Following submission of a Gender Assessment Report and Gender Management Plan, the Competent Authority shall examine the Developer's analysis of the available data. This examination shall include the carrying out of public consultations according to Section 14 and examination of the results of such consultations, including the examination of any other relevant supplementary information.
2. Upon completion of the examination mentioned in Paragraph 1 above, the Competent Authority shall make a reasoned conclusion on the significant Gendered Impacts of the Project on the basis of:
  - (a) the features of the Project;
  - (b) the measures envisaged in the Gender Management Plan to achieve positive Gendered Impacts and to avoid, reduce and remedy, to the extent feasible, significant adverse Gendered Impacts;
  - (c) the required monitoring measures, including the requirement to file Gender Performance Monitoring Reports; and
  - (d) the public consultations conducted according to Section 14.
3. On the basis of the reasoned conclusion, the Competent Authority shall reach a decision to:
  - (a) [Issue] [/ recommend the issue of] a Development Consent, assuming all other applicable requirements are met, provided that the Competent Authority may not reach this decision where the Developer suggests that no feasible mitigation features exist, unless the Competent Authority also reaches this conclusion after reasoned examination of the data and circumstances and consultation with the public in accordance with Section 15 of this [Act/Regulation];
  - (b) request further information from the Developer in accordance with paragraph 4 below; or
  - (c) refuse the Development Consent, and state the reasons for such refusal in a written statement to the Developer, giving clearly and precisely the full reasons for the conclusion.
4. Where the Competent Authority is of the opinion that the Gender Assessment Report or Gender Management Plan should contain further information, then the Competent Authority shall:
  - (i) issue a written statement to the Developer [with a copy to the Relevant Agency] giving clearly and precisely the full reasons for the conclusion; and

- (ii) suspend consideration of the application until the requirements of Chapter IV are met.

On receipt of such further information, the Competent Authority shall carry out an examination of the relevant information in accordance with Paragraph 1 of this Section 14, and reach a decision in accordance with Paragraph 2 of this Section 14.

## **Section 15 Public Consultation**

1. Developers shall provide the public with meaningful opportunity to be consulted as to the scope and priorities of the Gender Assessment.
2. In addition, before taking a course of action in accordance with Section 6, the Competent Authority shall give the public the opportunity to examine and comment on the Gender Assessment Report and Gender Management Plan for the relevant Project, and shall take into consideration any comments received by the public.
3. On receipt of the Gender Assessment Report and Gender Performance Monitoring Plan, the Competent Authority must publish a Public Notice which sets out:
  - (a) the name and address of the Developer concerned;
  - (b) the fact that there has been an application for Development Consent in relation to the relevant Project;
  - (c) a summary of the main proposals for the relevant Project, specifying the location or route of the proposed development;
  - (d) the fact that the Project is subject to a Gender Assessment procedure;
  - (e) that the Gender Assessment Report is available for inspection free of charge at the places (including at least one address in the vicinity of the proposed development) and times set out in the notice;
  - (f) the latest date on which the Gender Assessment Report will be available for inspection, being a date not earlier than the deadline referred to in [Paragraph ];
  - (g) whether a charge will be made for copies of any of those documents and the amount of any charge;
  - (h) details of how to respond to the publicity;
  - (i) details of the grievance mechanism(s) available to affected members of the public through which complaints may be made as to the process and substance of the Gender Assessment;
  - (j) a deadline for receipt of responses being not less than [45] days following the date on which the notice is last published.
4. The Public Notice shall be:

- (a) [published for at least two consecutive weeks in one or more local newspapers circulating in the vicinity in which the development is situated;
- (b) published once in a national newspaper;
- (c) disseminated by other appropriate means such as electronic media, mobile messaging, radio and community boards, where available;
- (d) displayed at, or as close as reasonably practicable to, the site of the proposed Project at a place accessible to the public; and
- (e) where the proposed development consists of, or includes, a linear scheme exceeding [five kilometres] in length, displayed at intervals of not more than [five kilometres] along the whole proposed route of the works, except where this is impracticable due to the land being covered in water.]<sup>7</sup>

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<sup>7</sup> These provisions may be altered to conform with local practice.

## **Section 16 Integration with other Procedures; Timeframes for Review and Approvals**

1. [The Competent Authority [and Relevant Agency] may integrate the requirements and procedures of this [Act/Regulation] into existing requirements and procedures for Development Consent to Projects[, including procedures and reports for other types of assessment, such as environmental and social impact assessment].
2. The content of the reports and plans required in this [Act/Regulation] may be integrated by Developers into other reports and plans required for Development Consent, subject to such reports and plans meeting the requirements of this [Act/Regulation] regarding form, content and transparency.]<sup>8</sup>
3. The Competent Authority shall put in place reasonable timeframes for reviews and approvals under this [Act/Regulation], which timeframes may vary depending on the type or size of the Project.

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<sup>8</sup> Member States to consider and adapt to best fit existing project approval procedures.

## CHAPTER VI: SUPPLEMENTARY PROVISIONS

### Section 17 Public Registry

1. For the purposes of facilitating public access to records relating to Gender Assessments, a public registry shall be established and operated in accordance with the provisions of this [Act/Regulation] in respect of every Affected Project for which an application for Development Consent is made.
2. The public registry in respect of an Affected Project shall be maintained by the Competent Authority [/ Relevant Agency] from the receipt of the application for Development Consent.
3. The public registry shall contain all records and information produced, collected or submitted with respect to assessment of the Gendered Impacts in relation each Affected Project, including:
  - (a) any Gender Assessment Report, Gender Management Plan and Gender Performance Monitoring Report relating to the Project concerned;
  - (b) all decisions issued by the Competent Authority under Section 6 and Section 14 relating to the Project concerned; and
  - (c) any comments filed by the public in relation to the assessment of Gendered Impacts of the Project concerned.

### Section 18 Transparency of Processes

1. Subject to Paragraphs 2 and 3, the Competent Authority shall establish a website on which it shall publish:
  - (a) any forms the Competent Authority establishes in relation to the processes required pursuant to this [Act/Regulation];
  - (b) details of the timelines and procedures for the processes required pursuant to this [Act/Regulation], including for the filing of Gender Assessment Reports, Gender Management Plans and Gender Performance Monitoring Reports;
  - (c) details of the fees established in under Section 23 and Section 25 of this [Act/Regulation]; and
  - (d) information and details of the [complaint and ]<sup>9</sup>[judicial review]<sup>10</sup> process available under Section 25 of this [Act/Regulation].
2. Nothing in this Act shall be taken to require the Competent Authority to contravene laws or regulations with regard to:
  - (a) the treatment of information which is confidential, including intellectual property; or

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<sup>9</sup> Delete if an out of court process will not be put in place.

<sup>10</sup> Change the wording if appropriate to refer to the equivalent process under the relevant jurisdiction.



- (b) the safeguarding of the public interest.
- 3. Notwithstanding Paragraph 2 above, no data shall be considered confidential to the extent that it relates to unmitigated adverse Gendered Impacts.

## **CHAPTER VII: DUTIES OF THE COMPETENT AUTHORITY**

### **Section 19 Competent Authority**

1. Where the Competent Authority is also the Developer for an Affected Project, the following conditions must be satisfied:
  - (a) separate teams shall be established within the Competent Authority to carry out (i) the functions of the Competent Authority in relation to the application for Development Consent for the relevant Project, and (ii) the operations on the Developer's side in relation to the relevant Project. There shall be no cross-over of persons between the teams;
  - (b) proper procedures shall be put in place in order to prevent conflicts of interest arising in the review of the application for Development Consent; and
  - (c) before finalizing the decision regarding whether to grant Development Consent in relation to the relevant Project, the team carrying out the functions of the Competent Authority shall submit a preliminary decision to an independent, third-party reviewer for its review and approval. No Development Consent may be issued unless the Competent authority has duly considered any comments of the third-party reviewer and has issued publicly a written statement of the reviewer summarizing its review.

### **Section 20 Cross-border Co-operation**

1. Paragraph 3 below applies where any of the conditions set out in Paragraph 2 below are satisfied.
2. The conditions are that:
  - (a) information provided as part of the Gender Assessment in relation to a proposed Project indicates that that the Project is likely to have significant Gendered Impacts in another Member State, or
  - (b) another Member State likely to be significantly affected by Gendered Impacts arising from a proposed Project contacts the Competent Authority in this regard to request information relating to the proposed Project.
3. Where this Paragraph applies, the Competent Authority shall:
  - (a) transmit to the entity designated as competent authority for the purposes of the Directive in such Member State as soon as possible:
    - (i) a copy of the application concerned, including a copy of the Gender Assessment Report and Gender Management Plan;
    - (ii) a description of the Project concerned, together with any available information on its possible significant Gendered Impacts in such other Member State;

- (iii) relevant information regarding the procedure under this [Act/Regulation]; and
  - (iv) information on the nature of the decision which may be taken; and
- (b) enter into consultations with the Member State concerned regarding, among other things, the potential significant Gendered Impacts of the development in that Member State and the measures envisaged to reduce or eliminate such Gendered Impacts;
  - (c) determine in agreement with the other Member State a reasonable period of time for the duration of the consultation period; and
  - (d) ensure that the Member State concerned is given an opportunity, before Development Consent is granted for the Project concerned, to forward to the Competent Authority, the opinions of its public and of the entity designated as its competent authority, within the meaning of the Directive.
4. Where a Member State has been consulted in accordance with Paragraph 3(b), on the determination of the application concerned, the Competent Authority must inform the Member State of the decision and must forward to it a statement of:
- (a) the content of the decision and any requirements attached to it;
  - (b) the main reasons and considerations on which the decision is based, including relevant information about the participation of the public; and
  - (c) a description, where necessary, of the main measures to avoid, reduce or eliminate the Gendered Impacts of the Project.

## **Section 21 Reporting to ECREEE**

1. No later than March 31st of the following year, or by such other time as determined by ECREEE, the Competent Authority shall submit an annual report to ECREEE summarising in sufficient detail the following:
- (a) the number of Affected Projects made subject to a Gender Assessment in accordance with this [Act/Regulation], and a breakdown of how many are Schedule 1 Projects or Projects for which a notice pursuant to the provisions of Section 4, Paragraph 2 of this [Act/Regulation] was issued by the Competent Authority;
  - (b) the number of Affected Projects made subject to a determination in accordance with Chapter III:Section 6;
  - (c) the average duration of the Gender Assessment process;
  - (d) general estimates on the average direct costs of Gender Assessments;
  - (e) a general summary of the measures, if any, upon which Development Consents were conditioned; and

- (f) a summary of the best practices and difficulties encountered in the process of implementing the Directive.

## **Section 22 [Cooperation with the Competent Authority and the Relevant Agency]**

1. The Competent Authority and the Relevant Agency shall cooperate in all respects with regard to the implementation of the procedures stated in Chapter V and generally with regard to the provisions of this [Act / Regulation].

## CHAPTER VIII: FEES AND ENFORCEMENT

### Section 23 Fees

1. The Competent Authority shall establish and publish a scheme of fees chargeable to Developers for applications for Development Consent.
2. The scheme of fees established by the Competent Authority may make provision for additional fees to be charged during the Gender Assessment process if additional information is requested or the actual costs involved in making a decision in connection with the Gender Assessment process are greater than the fees already charged.
3. The scheme of fees established pursuant to this Section shall be reflective of the average expected time and resources needed to review and consider the information provided in accordance with the Gender Assessment process, taking the complexity of the review into consideration.

### Section 24 Penalties; Enforcement

1. Any person who contravenes this [Act/Regulation] is liable to a fine not exceeding [•] for each violation.
2. The Competent Authority may, upon request by [the Relevant Agency,] any person affected by a Project, or on its own initiative, investigate whether the obligations imposed on a Developer under this [Act/Regulation] are being complied with.
3. As part of any investigation under Paragraph 2 above, the Competent Authority may issue a statement to a Developer or any person concerned in the planning or implementation of the relevant Project to request any information it considers relevant to the investigation.
4. If the Competent Authority considers it necessary and appropriate for the fulfilment of its obligations under this [Act/Regulation] and the Directive, it may issue a notice to the Developer or any other persons concerned in the planning or implementation of the relevant Project requiring them to take any one or more of the following actions:
  - (a) complete a Gender Assessment in relation to the Project concerned;
  - (b) prepare and submit a Gender Assessment Report in relation to the Project concerned, or appropriately amend a Gender Assessment Report previously submitted;
  - (c) prepare and submit a Gender Management Plan in relation to the Project concerned, or appropriately amend a Gender Management Plan previously submitted;
  - (d) prepare and submit a Gender Performance Monitoring Report in relation to the Project concerned; or
  - (e) cease harmful actions or take actions designed to avoid, reduce or remedy adverse Gendered Impacts arising from the Project concerned, but the

Competent Authority shall not require any actions which did not form part of the original Development Consent for the relevant Project which would (i) impose a disproportionate burden on the persons to whom the notice is addressed or (ii) not be feasible.

5. Competent Authority shall have standing, in case of failure by a Developer to fulfil its obligations under this [Act/Directive], to sue such Developer before [the national courts in order to obtain a court order]<sup>11</sup> ordering the Developer to comply with the obligations under this [Act/Directive].

## **Section 25 Legal Challenge of Competent Authority's Actions**

1. Any person fulfilling the requirements of Paragraph 2 may [apply to the [•]<sup>12</sup> for [judicial review]<sup>13</sup> of the relevant decision, action or omission][submit a complaint in writing to [•]<sup>14</sup>] in relation to the relevant decision, action or omission] within [60] days of becoming aware of the decision or action to which the complaint relates.
2. The requirements of a person petitioning for the review in Paragraph 1 are that the person concerned:
  - (a) has a sufficient interest in a decision, action or omission of the Competent Authority; or
  - (b) maintains the impairment of a right.
3. For the avoidance of doubt, any non-governmental organization promoting gender equality [and meeting the requirements of [•]<sup>15</sup>], shall be deemed to satisfy the requirements of Paragraph 2.
4. [The [•]<sup>16</sup> shall within [14] days of receipt of a complaint appoint an independent and impartial panel composed of at least three persons with appropriate expertise. The panel shall give a fair and timely hearing to all parties and determine the issue on the basis of all relevant facts and in accordance with applicable laws, regulations, decrees, administrative provisions or accepted legal practices. The panel may give such directive as it considers just, including a directive to the Competent Authority to reconsider relevant facts and re-issue the relevant decision.
5. The proceedings of the panel shall be fully documented together with reasons for the panel's decision.
6. The panel shall cause copies of the decision and documentation of the proceedings to be sent to the Competent Authority.

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<sup>11</sup> Adapt to fit the Member State's legal regime.

<sup>12</sup> Insert name of appropriate court, if an application to court is envisaged.

<sup>13</sup> Replace 'judicial review' with the legal name for the equivalent procedure under the relevant jurisdiction if necessary.

<sup>14</sup> Insert reference to Competent Authority or an appropriate ministry or government department, if a complaint is envisaged to be made out of court in the first instance.

<sup>15</sup> Make reference to appropriate local laws or regulations, if applicable and desirable.

<sup>16</sup> Insert reference to Competent Authority or an appropriate ministry or government department, as above.

7. The [•]<sup>17</sup> may charge a fee for the process of the panel’s appointment and decision, which fee shall be determined in accordance with a publicly available established scheme of charges providing for fees which are:
- (a) proportionate to the amount of information to be reviewed in the panel process and the level of expertise of the members of the panel; and
  - (b) not prohibitively expensive.
8. Any person who is aggrieved by a decision of the panel may apply to the [•]<sup>18</sup> for [judicial review]<sup>19</sup> within [20] days of the panel’s decision in accordance with the [laws, regulations, decrees, administrative provisions and accepted legal practices] applicable to the [judicial review]<sup>20</sup> process. The appeal shall not act as a temporary restraint on the Competent Authority and the Competent Authority may proceed to give effect to the panel’s decision which shall be valid unless and until overruled by the [•]<sup>21</sup>.<sup>22</sup>

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<sup>17</sup> Insert reference to Competent Authority or an appropriate ministry or government department to which the complaint shall be made.

<sup>18</sup> Insert name of appropriate court.

<sup>19</sup> Replace ‘judicial review’ with the legal name for the equivalent procedure under the relevant jurisdiction if necessary.

<sup>20</sup> Replace ‘judicial review’ with the legal name for the equivalent procedure under the relevant jurisdiction if necessary.

<sup>21</sup> Insert name of appropriate court.

<sup>22</sup> Include paragraphs 4-7 if the complaint process will be out of court in the first instance.



## CHAPTER IX: FINAL PROVISIONS

### Section 26 Power of Competent Authority to Make Further Regulations

1. The Competent Authority may make further regulations supplementing this [Act/Regulation].

### Section 27 Publication

1. The short title of this [Act/Regulation] is [•]<sup>23</sup>.
2. This [Act/Regulation] shall be published in the [•]<sup>24</sup> [and on [•]<sup>25</sup>], and a copy of it shall be sent to the ECOWAS Commission, within [30] days of its enactment.

### Section 28 Entry into Force

1. This [Act/Regulation] shall enter into force on [DATE].

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<sup>23</sup> Insert a name by which this Act/Regulation will be cited as.

<sup>24</sup> Insert the name of the official journal for publishing laws in your country.

<sup>25</sup> Insert the description or address of a relevant website on which the Act/Regulation can be published.

## **SCHEDULE 1            CHARACTERISTICS OF SCHEDULE 1 PROJECTS**

1. A relevant Project is a 'Schedule 1 Project' if conditions A, B and C are satisfied.
2. Condition A is satisfied if:
  - (a) At least [100] people are or will be affected by the Project by the loss or repossession of land they own, live on or use;
  - (b) The Project does or will alter the livelihood of at least [200] people;
  - (c) At least [100] people will be employed by or in connection with the Project;
  - (d) At least [1000] people stand to gain access to energy products or services as a result of the Project; or
  - (e) The Project affects, including by any of the manners identified in paragraphs (a) to (d) above at least [1000] people;
3. Condition B is satisfied if:
  - (a) On a fair estimate, the development costs of the Project will be at least the equivalent of [USD 10,000,000];
  - (b) The size of the Project will be at least [100 ha]; and
  - (c) The output of the project will be at least [50]MW or [●] BTU.

## **SCHEDULE 2      RELEVANT CRITERIA**

1. The Relevant Criteria are:
  - (a) differences between men and women in terms of displacement, resettlement, loss of livelihood, and physical security and health;
  - (b) basic and strategic Gender needs of the beneficiaries of the Project, taking into consideration factors including health, education, property ownership, effect on livelihood and protection from human trafficking, violence and sexual exploitation;
  - (c) social representation and level of empowerment of men and women within the community and the participation and empowerment of men and women in the Project activities, consultations and decision-making processes;
  - (d) division of community and Project labor among men and women; and
  - (e) differences between men and women in access to and control over community and Project resources and benefits.

### **SCHEDULE 3                      REQUIRED INFORMATION FOR GENDER ASSESSMENT REPORTS**

1. The Required Information is:
  - (a) a description of the Project, including all relevant information on the site, design and size of the Project;
  - (b) delimitation of the Project affected area as determined by its physical, social, economic, and environmental footprint;
  - (c) Gender-sensitive stakeholder analysis, including identification of vulnerable groups and persons;
  - (d) a cataloging of Project activities and outcomes and their potential Gendered Impacts and a description of these impacts;
  - (e) the data required and methods used to identify and assess the potential for Project benefits and significant adverse Gendered Impacts;
  - (f) a description of the measures envisaged in order to avoid, reduce and remedy, to the extent feasible, significant adverse Gendered Impacts, as well as harness the positive effects of gender-conscious decision-making and Project design, including but not limited to increasing women's access to employment opportunities, strengthening sexual harassment policies, providing a safe work environment, creating career pathways to management, utilizing gender responsive budgeting, maximizing women's and children's access to energy and benefits derived from energy provision and expanding training opportunities;
  - (g) a description of the expected effects on the analyses of paragraphs (d) and (f) above deriving from the vulnerability of the Project to applicable risks of major accidents and/or disasters;
  - (h) an outline of the main alternatives studied by the Developer for the Project, an indication of the criteria applied in the analysis and selection and the main reasons for their choice, taking into account the Gendered Impacts;
  - (i) a description any consultative process(es) with affected stakeholders and a description of the grievance mechanism(s) available for communities and Project workers in connection with the Project development and/or Gender Assessment, including means of public notification of such process, minutes from consultations conducted with a representative sample of men and women stakeholders, a register of participants (persons and organizations) and measures taken to ensure equal participation and consideration of priorities and concerns of men and women;
  - (j) a certification that all information contained in the report is complete and accurate to the best of the Developer's knowledge; and
  - (k) a non-technical summary of the information referred to in points (a) to (i).



**SCHEDULE 4      REQUIRED CONTENTS OF GENDER MANAGEMENT  
PLANS**

1. The Required Management Plan Contents are:
  - (a) selection of indicators, and methodologies for their calculation, and setting of time-bound targets against which Project benefits and impacts will be assessed;
  - (b) description of mitigation and proactive measures to be taken, including rationale for the measures and expected results;
  - (c) the proposed timeline and management practices for conducting public consultations, facilitating grievance mechanisms, conducting mitigation actions, achieving results, and reporting on indicators; and
  - (d) description of any Gendered Impacts that in the Developer's opinion cannot feasibly be mitigated or remedied and the rationale for this determination.

**SCHEDULE 5      REQUIRED CONTENTS OF GENDER PERFORMANCE  
MONITORING REPORTS**

1. The Required Monitoring Report Contents are:
  - (a) all material changes in the status of all realized Gendered Impacts associated with the Project, regardless of whether they were previously disclosed or identified, which have occurred since the approval of the Gender Assessment Report, or the date of submission of the previous Gender Performance Monitoring Report;
  - (b) all changes to the risk analysis of potential Gendered Impacts associated with the Project;
  - (c) an update of all consultations conducted and complaints received and how they were addressed;
  - (d) an update of all mitigation and proactive activities, their associated results, indicators, and timelines, as presented in the Gender Management Plan;
  - (e) the degree of variance between planning and forecasts contained in the Gender Management Plan and actual results and achievements;
  - (f) the status of any Gendered Impact deemed infeasible to mitigate; and
  - (g) a certification that all information contained in the Gender Performance Monitoring Report is complete and accurate to the best of the Developer's knowledge.