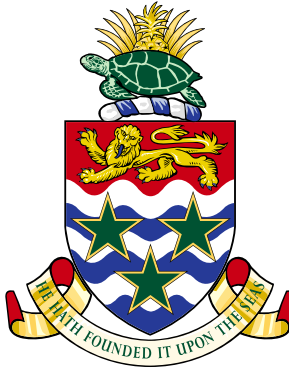


**CAYMAN ISLANDS**



# **ELECTRICITY SECTOR REGULATION LAW**

**(2019 Revision)**

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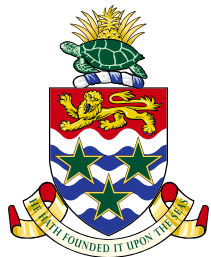
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CAYMAN ISLANDS



ELECTRICITY SECTOR REGULATION LAW  
(2019 Revision)

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## CAYMAN ISLANDS



# ELECTRICITY SECTOR REGULATION LAW

(2019 Revision)

## PART I - Introductory

### Short title

1. This Law may be cited as the *Electricity Sector Regulation Law (2019 Revision)*.

### Definitions

2. In this Law —

“**additional electricity generation**” means any electricity capacity or energy that the Office solicits to be generated either in substitution for a generating station or generating unit therein in addition thereto;

“**administrative determinations**” includes any orders, regulations, directions, decisions, or other written determinations by which the Office establishes the legal rights and obligations of one or more licensees, but does not include any advisory guidelines;

“**authorised officer**” means a person authorised by the Office;

“**back up electricity supply**” means the provision of electricity supplies by a Generator or a T&D licensee to another person which is temporarily unable to satisfy its system demand with the generation resources normally available to it;

“**Cabinet**” has the meaning ascribed thereto in the Constitution;

**“Capital Investment Plan”** means those additions to its generation and T&D assets that a licensee intends to make, that, when added will form part of its rate base as approved by the Office;

**“chairman”** means chairman of the Board;

**“consumer”** means a person who is a customer of, and is supplied with electricity by, a T&D licensee;

**“Court”** means the Grand Court of the Cayman Islands;

**“critical national infrastructure”** means systems and assets, whether physical or virtual, so vital to the Islands that the incapacity or destruction of the systems and assets would have a debilitating impact on security, national economic security, national public health or safety, or any combination of those matters;

**“destructive event”** means a hurricane, flood, fire, earthquake, act of terrorism or other calamity, whether similar to the aforementioned or not;

**“document”** means any record, book or other information in any form including any information written, printed, stored, maintained or preserved by means of any mechanical or electronic device and includes an electronic record as defined in the *Electronic Transactions Law (2003 Revision)*;

**“electric line”** means a line which is used either solely or primarily for the transport of electricity for any purpose and includes —

- (a) a support for such line, that is to say, the structure, pole, or other thing in, on, by or from which such line may be supported, carried or suspended;
- (b) apparatus connected to such line and related to the transmission and distribution of electricity ; and
- (c) any wire, cable, tube, pipe or other apparatus, including its casing or coating, which surrounds or supports or is surrounded or supported by, or is installed in close proximity to, or is supported, carried or suspended in association with, such line and related to the transmission and distribution of electricity;

**“electricity”** means electric current or energy or any like agency;

**“Electricity Law”** means the *Electricity Law (2008 Revision)*;

**“electricity service industry”** means commercial provision of electricity supplies to the general public;

**“electronic”** means relating to technology having electrical, magnetic, optical, electromagnetic, or similar capabilities, whether digital, analogue or otherwise;

**“fee”** means the fee from time to time prescribed by and payable to the Office for any application or purpose other than for a licence;





“**Financial Secretary**” means the principal adviser to the Minister responsible for finance;

“**functions**” includes powers and duties;

“**General Regulatory Principles**” means the overall guidelines relating to the regulation of the electricity industry in the Islands set out in the Schedule;

“**generate**”, in relation to electricity, means to produce electricity;

“**generation assets**” means all assets used and useful in the generation of electricity, including property, infrastructure (for example, prime movers, generating units, switches and switch yards, breakers, transformers, fuel delivery and storage systems), controls and other support equipment and facilities up to the specified point of interconnection with the T&D system of a T&D licensee;

“**generation licence**” means a licence which permits a Generator, among other things —

- (a) to generate electricity for sale to a T&D licensee for further transmission and distribution to consumers; and
- (b) to construct, reconstruct, replace or modify a generating station or any generating unit therein for the purpose of generating electricity for sale to a T&D licensee;

“**generating station**” means a station for the generation of electricity;

“**generation solicitation process**” means the process by which the Office solicits for additional electricity generation in accordance with the procedures set out in regulations made under this Law;

“**Generator**” means a person possessing a valid licence to generate and deliver electricity to a T&D licensee;

“**interconnection**” means the electrical connection of a generating station of a Generator, or of a generating unit used for self supply to the T&D system of a T&D licensee;

“**Judge**” means a judge of the Grand Court;

“**licence**” means a licence granted to a person by the Cabinet or by the Office under this Law and includes any renewal thereof or modification thereto;

“**licence fee**” means the initial, annual or renewal fees for a licence prescribed from time to time by, and payable to, the Office by a licensee;

“**licensee**” means a person to whom a licence is granted;

“**Minister**” means the member of Cabinet for the time being charged with responsibility for electricity generation, transmission and distribution in accordance with section 54 of the *Cayman Islands Constitution Order, 2009* [UKSI 2009/1379];

“**Office**” means the Utility Regulation and Competition Office established under section 4 of the *Utility Regulation and Competition Law (2019 Revision)*;

“**person**” includes any individual, body corporate (either aggregate or sole), partnership, entity or association, undertaking, club, society or other body of one or more persons;

“**PPA**” or “**power purchase agreement**” means an agreement made or terms and conditions agreed between a Generator and a T&D licensee approved by the Office whereby the T&D licensee contracts to purchase or acquire electricity generated by a Generator as specified in the agreement or terms and conditions;

“**premises**” means one or more buildings or structures, occupied or used by a person;

“**public officer**” has the meaning assigned to it by section 124(1) of the *Cayman Islands Constitution Order, 2009 [UKSI 2009/1379]*;

“**publish**”, in relation to any regulation, rule, direction, decision, accounts or notice required to be given or promulgated under this Law, means causing the regulation, rule, direction, decision, accounts or notice to be published in the Gazette and either published in electronic format on the Internet or in a newspaper circulating in the Islands;

“**RCAM**” or “**rate cap and adjustment mechanism**” means the mechanism for determining and modifying prices for electricity delivered by a T&D licensee to consumers as approved by the Office and specified in that licensee’s T&D licence;

“**Registrar**” means the Registrar of Companies;

“**renewable or alternative forms of energy**” means non-fossil energy used in the generation of electricity which does not deplete the amount of that energy available in the future or for which the supply can be readily regenerated, including energy derived from wind, hydro, biomass, waste (including waste heat), bio-fuel, geothermal, fuel cells, tidal, temperature inversion or convection, solar or wave or any combination of such forms of energy;

“**standby connection**” means an electrical connection between the T&D system of a T&D licensee and premises for the purposes of a backup electricity supply;

“**T&D**” means transmission and distribution;

“**T&D assets**” means all the electrical transmission and distribution assets owned by the T&D licensee and used and useful in the provision of licensed transmission and distribution services, including property, rights of way, infrastructure (for example, poles, wire, switches, transformers, capacitors and substations), vehicles, equipment and controls from the specified



interconnection point with a generating station and extending through to and including the revenue or title transfer meter at end-use consumer sites or other interconnection points;

“**T&D code**” means a set of rules adopted, prepared or adapted by a T&D licensee and approved by the Office under this Law to be observed in respect of all technical aspects including safety, relating to interconnection and connection to and operation of the transmission and distribution system operated by the T&D licensee, including the dispatch of generating units to serve the load and reserve requirements of that T&D licensee;

“**T&D licence**” means a licence which permits the licensee, *inter alia*, to purchase, transmit and distribute electricity for delivery to consumers for reward, and includes a licence to construct, reconstruct, replace or modify transmission and distribution facilities for those purposes;

“**T&D system**” means the T&D network of a T&D licensee for the transport of electricity from the generating station of a Generator to consumer meters and consists of structures, lines, underground conduit, conductors, transformers, relays, switchgear and associated equipment;

“**term, condition or requirement**” means a term or condition of a licence or a requirement imposed upon a licensee by the Office or under this Law; and

“**transmission and distribution**” means the transport of electricity by means of a T&D system for delivery to consumers for reward.

## PART II - Powers and Functions of Office

### **Repealed**

3. *Repealed by s.4(b) of the Electricity Regulatory Authority (Amendment) Law, 2016 [Law 51 of 2016].*

### **Repealed**

4. *Repealed by s.4(b) of the Electricity Regulatory Authority (Amendment) Law, 2016 [Law 51 of 2016].*

### **Repealed**

5. *Repealed by s.4(b) of the Electricity Regulatory Authority (Amendment) Law, 2016 [Law 51 of 2016].*

### **Repealed**

6. *Repealed by s.4(b) of the Electricity Regulatory Authority (Amendment) Law, 2016 [Law 51 of 2016].*

**Repealed**

7. *Repealed by s.4(b) of the Electricity Regulatory Authority (Amendment) Law, 2016 [Law 51 of 2016].*

**Repealed**

8. *Repealed by s.4(b) of the Electricity Regulatory Authority (Amendment) Law, 2016 [Law 51 of 2016].*

**Powers and functions of Office**

9. (1) Subject to this Law, the Office has power to do all things necessary or convenient to be done for or in connection with the performance of its functions.
- (2) Without prejudice to subsection (1), the principal functions of the Office shall include —
- (a) to monitor and regulate the tariffs, rate structures and terms and conditions for electricity transmission and distribution charged to consumers by T&D licensees in accordance with the respective RCAM;
  - (b) to review and approve other rates offered by T&D licensees outside of the respective RCAM and available at the option of the consumer;
  - (c) to monitor and regulate the rate, price, terms and conditions of electricity generated by Generators and supplied to T&D licensees for reward;
  - (d) to establish and enforce regulations, processes and licence standards regarding the granting of licences;
  - (e) to grant, modify or renew licences for generation —
    - (i) for additional electricity generation in the context of the generation solicitation process;
    - (ii) where the Office is satisfied that it is economic to extend the life of the generating unit or units of a Generator held under an existing generation licence;
    - (iii) from alternative or renewable sources of energy; or
    - (iv) under section 26(4);
  - (f) to solicit additional generation capacity and conduct the generation solicitation process;
  - (g) to grant, modify or renew a T&D licence to provide a T&D system in each of the Islands;
  - (h) subject to section 27, to conduct the tender process for applicants for any new T&D licence to provide a T&D system, and to select the successful tender;



- (i) to monitor and regulate the divestiture of T&D assets when required by this Law;
  - (j) to monitor and regulate the divestiture of generation assets when required by this Law;
  - (k) to review and approve rates for backup electricity supply and for interconnection charged by a T&D licensee to another person in accordance with this Law;
  - (l) to review and approve any PPA;
  - (m) to review and approve adjustments to rates charged for street lighting, based on cost justifications prepared by a T&D licensee and submitted from time to time;
  - (n) to review and approve the charges associated with generation that are passed through to the consumer by a T&D licensee;
  - (o) to monitor and regulate all licensees in a manner that —
    - (i) promotes sustainable competitive practices;
    - (ii) provides an opportunity for a fair and reasonable return to licensees; and
    - (iii) protects the economic interests and well being of consumers by keeping tariffs and rate structures as low as can reasonably be achieved;
  - (p) to review and approve annually the Capital Investment Plans for all licensees; and
  - (q) to authorise a T&D licensee to purchase renewable or alternative forms of energy from consumers who generate electricity for self-supply subject to the requirements of the *Electricity Law (2008 Revision)* and regulations made thereunder.
- (3) The Office shall also —
- (a) upon receipt of any direction given by the Cabinet under section 11, develop and implement such processes and arrangements, as may be necessary or desirable to give effect to such directions;
  - (b) engage in a public consultation process on the procedures to be adopted by the Office to implement the processes and arrangements developed under paragraph (a);
  - (c) advise the Cabinet on the effect of electricity generation or transmission and distribution upon the environment, having regard to sustainability and international agreements on the environment to which the Islands are or may become a party;
  - (d) formulate, publish and implement such rules as the Office may consider necessary after the public consultation process referred to in

- paragraph (b), taking account of matters raised in the public consultation process; and
- (e) advise the Cabinet on the development and regulation of the electricity industry in the Islands and on the exercise of the functions of the Cabinet under this Law.
- (4) The Office shall carry out the functions and exercise the powers conferred upon it under this Law in a manner which —
- (a) is reasonable;
  - (b) does not discriminate unfairly between applicants for licences or licensees;
  - (c) protects the interests of consumers;
  - (d) protects the security and public interests of the Islands; and
  - (e) is consistent with the General Regulatory Principles.
- (5) In carrying out the functions and duties imposed and exercising the powers conferred by this Law, the Office shall have regard to —
- (a) the need to develop and promote sustainable competition for additional electricity generation in accordance with this Law;
  - (b) the need to regulate and supervise licensees in such a manner as to ensure that all reasonable demands by consumers for electricity are satisfied;
  - (c) the need to ensure that applicants and licensees are capable of financing the activities they are, or seek to be, licensed to undertake;
  - (d) whether licensees have promoted or will promote safety, sound environmental practices, technical proficiency and efficiency in the generation, transmission and distribution of electricity;
  - (e) whether licensees have ensured or will ensure the continuity, security and quality of supplies of electricity within the Islands;
  - (f) whether licensees have promoted or will promote the development and use of renewable or alternative forms of energy by licensees and consumers;
  - (g) whether licensees have promoted or will promote the efficient consumption and use of electricity by consumers;
  - (h) the needs of rural customers, the disadvantaged and the elderly; and
  - (i) the need to permit and promote the use of renewable or alternative forms of energy by consumers so as to reduce the load on any T&D system.
- (6) Without prejudice to subsection (5), the Office shall have the power to establish environmental standards and to ensure that licensees —
- (a) comply with planning standards; and



- (b) take effective measures to comply with safety and environmental standards.

**Repealed**

10. *Repealed by s.4(b) of the Electricity Regulatory Authority (Amendment) Law, 2016 [Law 51 of 2016].*

**Repealed**

11. *Repealed by s.4(b) of the Electricity Regulatory Authority (Amendment) Law, 2016 [Law 51 of 2016].*

**Repealed**

12. *Repealed by s.4(b) of the Electricity Regulatory Authority (Amendment) Law, 2016 [Law 51 of 2016].*

**Repealed**

13. *Repealed by s.4(b) of the Electricity Regulatory Authority (Amendment) Law, 2016 [Law 51 of 2016].*

**Repealed**

14. *Repealed by s.4(b) of the Electricity Regulatory Authority (Amendment) Law, 2016 [Law 51 of 2016].*

**Repealed**

15. *Repealed by s.4(b) of the Electricity Regulatory Authority (Amendment) Law, 2016 [Law 51 of 2016].*

**Repealed**

16. *Repealed by s.4(b) of the Electricity Regulatory Authority (Amendment) Law, 2016 [Law 51 of 2016].*

**Repealed**

17. *Repealed by s.4(b) of the Electricity Regulatory Authority (Amendment) Law, 2016 [Law 51 of 2016].*

**Repealed**

18. *Repealed by s.4(b) of the Electricity Regulatory Authority (Amendment) Law, 2016 [Law 51 of 2016].*

**Repealed**

19. *Repealed by s.4(b) of the Electricity Regulatory Authority (Amendment) Law, 2016 [Law 51 of 2016].*

**Repealed**

**20.** *Repealed by s.4(b) of the Electricity Regulatory Authority (Amendment) Law, 2016 [Law 51 of 2016].*

**Repealed**

**21.** *Repealed by s.4(b) of the Electricity Regulatory Authority (Amendment) Law, 2016 [Law 51 of 2016].*

**Repealed**

**22.** *Repealed by s.4(b) of the Electricity Regulatory Authority (Amendment) Law, 2016 [Law 51 of 2016].*

## **PART III - Licensing**

### **Procedure for the grant of a licence**

- 23.** (1) Subject to section 9(2)(q), no person shall generate, transmit, distribute or deliver electricity for reward unless licensed under this Law.
- (2) Subject to this Law, the Office may grant a generation licence or a T&D licence to any person, upon such terms and conditions as it shall deem appropriate.
- (3) An applicant for a licence under this section shall submit an application to the Office in the form, and accompanied by such application fee, as the Office shall prescribe from time to time which fee shall be credited against the licence fee payable by the successful applicant.
- (4) Before granting a licence under this section, the Office shall —
- (a) ensure that the applicant possesses the financial capacity, industry experience and technical qualifications necessary to perform fully the obligations attached to the licence for which the applicant is applying;
  - (b) ensure that the applicant intends to commence performance of those obligations within a reasonable period of time; and
  - (c) take into account —
    - (i) whether, during the term of any current or prior licence or authorisation granted in respect of the Islands or any other jurisdiction, the applicant has complied with all terms, conditions, specifications and requirements of any licence or authorisation, order, directive, rule or regulation pertaining to such licence or authorisation;
    - (ii) the safety and security of the electricity transmission and distribution system and generating station;





- (iii) the protection of the environment generally including plans for the limitation of emissions to the atmosphere, water or land;
  - (iv) whether any site or sites proposed for a generating station or T&D system and any associated land use is appropriate in all the circumstances;
  - (v) the efficiency of the proposed generation or transmission and distribution system;
  - (vi) the nature of the primary source of energy to be used by a generating station (which shall in no circumstance include the use of nuclear fission for the generation of electricity);
  - (vii) whether the persons directly associated with the application are fit and proper persons to be granted a licence;
  - (viii) whether the best interests of consumers will be promoted or enhanced;
  - (ix) whether the aim of achieving sustainable competition for additional electricity generation in each of the Islands may be promoted or enhanced;
  - (x) whether research, development and introduction of methods of generating electricity using renewable or alternative forms of energy and methods of increasing efficiency in the use and production of electricity will be promoted or enhanced; and
  - (xi) whether the security and public interests of the Islands will be preserved and protected.
- (5) For the purposes of this section, in determining whether a person is a fit and proper person, regard shall be had to all circumstances, including evidence of that person's —
- (a) honesty, integrity and reputation;
  - (b) experience, reliability, competence and capability; and
  - (c) financial capacity and soundness.
- (6) Upon the grant of a licence, the Office shall monitor the licensee to ensure that it complies and continues to comply with the terms, conditions and requirements of its licence.
- (7) Every T&D licensee shall offer to deliver electricity to any member of the public who may request such delivery without discrimination against or preference to such person.
- (8) Upon the grant of any licence the licence fee in respect thereof shall be payable quarterly in arrears to the Office by the licensee.
- (9) Subject to section 75(1), a person who performs any of the activities requiring a licence otherwise than for their own use or consumption, without being in

possession of a valid licence issued by the Office to do so, is commits an offence and is liable —

- (a) on summary conviction to a fine of ten thousand dollars; or
- (b) on conviction on indictment to a fine of twenty thousand dollars, for each day the offence continues after the date it first occurred.

- (10) No licensee is required to be licensed under the *Trade and Business Licensing Law (2019 Revision)*, and all licensees shall be exempt from the *Local Companies (Control) Law (2019 Revision)*.

### **Repealed**

- 24.** *Repealed by s.6 of the Electricity Regulatory Authority (Amendment) Law, 2016 [Law 51 of 2016].*

### **Assignment or transfer of licence**

- 25.** (1) A licensee shall not assign a licence granted under this Law, or any rights thereunder without the prior written consent of the Office.
- (2) The Office may consent to an application for the assignment of a licence under subsection (1) where the Office is satisfied that the proposed assignee satisfies the criteria set out in section 23(3), (4) and (5).
- (3) A licensee who may wish to assign or transfer a licence as provided in subsection (1) shall request in writing the consent of the Office and the Office shall reply in writing within twenty-eight days of the receipt of such request.
- (4) The Office shall, before consenting to the assignment of a licence, publish the particulars of the proposed assignment.
- (5) Where the Office refuses to give its consent it shall give reasons in writing for such refusal to the licensee that requested the consent.

### **Duration of licence**

- 26.** (1) A T&D licence shall be for a period not exceeding twenty years from its date of commencement.
- (2) A generation licence shall be for a period not exceeding twenty-five years from its date of commencement.
- (3) Where a Generator is awarded the right to supply additional electricity generation under the generation solicitation process, its existing licence shall be cancelled and a new licence issued to the licensee for a term not exceeding twenty-five years, to correspond with the period required for construction, reconstruction, replacement or modification of a generating station or any generating unit therein, together with the estimated economic life of the relevant generating unit or units or the term of the relevant PPA as appropriate; and the new licence shall cover —



- (a) the new generating unit or units and any existing generating unit or units covered under its previous licence which have not been retired; or
  - (b) the new PPA and any existing PPAs covered under its previous licence which have not expired,
- as appropriate.
- (4) Upon application by a Generator, the Office may, if it is satisfied that it is economic to extend the life of an existing generating unit or units, without application of the generation solicitation process, grant a new generation licence, the terms of which shall correspond with the new estimated life of the generating unit or units.
- (5) If, outside the contexts of section 9(2)(e)(i) and (ii) —
- (a) due to a destructive event, some or all of a Generator's generation assets are damaged or destroyed so as to prevent the Generator from being able to satisfy its obligations to supply sufficient electricity to the T&D licensee; and
  - (b) the Office is of the view that it would be in the best interests of consumers,
- the Office may grant a licence to another person either —
- (i) during the period in which the Generator is repairing or replacing its generation assets that are so damaged or destroyed; or
  - (ii) if the Generator's PPAs are validly terminated as a result of its inability to recover from the destructive event, during the period that it will take to conduct the generation solicitation process in order to replace the Generator's generating capacity and enable the new licensee to put in place the generation assets that are required to meet such capacity,
- and any such licence shall be temporary in nature, shall be granted for no longer than such period of time as is reasonably necessary in the circumstances, and shall be subject to such conditions as the Office may, in its discretion, deem appropriate.
- (6) A licence may be renewed upon application by the licensee, or otherwise modified, suspended or revoked in accordance with this Law.
- (7) Generation licences shall not be exclusive.

### Renewal of licence

- 27.** (1) Where a T&D licensee applies for renewal of a T&D licence, the Office may refuse to renew that T&D licence for reasonable cause including whether the licensee is or has engaged in conduct that contravenes this Law or is or has been otherwise in fundamental or persistent breach of that T&D licence.

- (2) Where the Office has reasonable cause for refusing to renew a T&D licence under subsection (1), it shall inform the T&D licensee by written notice to be served upon the T&D licensee as soon as practicable, of the Office's intention not to renew the T&D licence and specify the reasonable cause upon which the Office relies for refusing to renew the T&D licence.
- (3) A T&D licence shall be automatically renewed for further periods of up to twenty years unless abandoned or surrendered by the T&D licensee or unless written notice of non-renewal for reasonable cause by the Office is given under subsection (2) at least five years prior to the expiry of the T&D licence, and if, within two years of service of the said notice given by the Office, reasonable cause has not been shown to the Office's satisfaction that the T&D licence should be renewed, the Office shall compel compulsory divestiture of the T&D assets of the T&D licensee upon expiry of the T&D licence at a value equal to the average of the values determined by a panel of three qualified valuers with experience in valuing T&D assets.
- (4) The panel referred to in subsection (3) shall be —
  - (a) one member to be chosen by the Office;
  - (b) one member to be chosen by the T&D licensee; and
  - (c) one member, who shall be chairman of the panel, to be chosen by the other two members.
- (5) The panel referred to in subsections (3) and (4) shall value the T&D assets of the T&D licensee at the fair market value.
- (6) A licensee referred to under subsection (2) shall have three months from the date of service of the said notice to make written submissions to the Office in respect of the refusal and showing cause why it ought to have its licence renewed.
- (7) The Office shall consider any written submissions made under subsection (6), and shall inform the licensee of its decision on the matter and provide written reasons for its decision within two months of the receipt of the said submissions.

### **Modification of licence**

- 28.** (1) Without prejudice to subsection (2) or (3), a licence may be modified where the Office and the licensee each consent in writing to modify the licence subject to any special conditions concerning modification in the relevant licence.
- (2) Notwithstanding subsection (1), the Office shall immediately, on the direction of the Cabinet, modify a licence for reasons of the security or the public interest of the Islands with or without the agreement of the licensee.



- (3) Where the Office, on the recommendation of the Cabinet, considers that a licence should be modified in the public interest, the Office shall give to the licensee a written notice that —
  - (a) sets out the proposed modification;
  - (b) states the reasons for the proposed amendment; and
  - (c) invites the licensee to file submissions within twenty-eight days to show cause why the licence should not be so modified.
- (4) The Office may modify the licence if, after having regard to a submission made under subsection (3)(c), the Office considers the licence should be modified —
  - (a) in the manner set out in the notice; or
  - (b) in some other manner consistent with the said submissions.
- (5) Where the Office decides to modify the licence, the Office shall give to the licensee a written notice stating —
  - (a) how the licence has been modified; and
  - (b) that the licensee may apply to the Office for a reconsideration of its decision in accordance with section 71(1)(e).

### **Licence and regulatory fees**

- 29.** (1) A licensee shall pay to the Office all such licence and regulatory fees in the amount, time and manner prescribed by regulations made under this Law, and the obligation to pay the said licence and regulatory fees is a financial commitment of a licensee and shall be recoverable as a debt due to the Office.
- (2) Each licensee shall submit to the Office —
- (a) on an annual basis within three months of its financial year end, audited financial statements prepared in accordance with appropriate generally accepted accounting principles or otherwise as prescribed by regulations made hereunder; and
  - (b) within thirty days of each quarter end, unaudited detailed management financial accounts showing sufficient and relevant detail so as to allow for the Office to calculate and agree the amount of the prescribed licence and regulatory fees.

### **Suspension or revocation of licence**

- 30.** (1) The Office may suspend or revoke a licence where the licensee —
- (a) is in fundamental breach of the licence;
  - (b) persistently breaches any condition attached to the licence or repeatedly contravenes this Law;
  - (c) is dissolved;

- (d) is wound up or declared bankrupt;
  - (e) is convicted of an offence under this Law and punished by a fine in excess of three hundred thousand dollars;
  - (f) fails to pay any licence fee, regulatory fee or financial commitment under this Law for a continuous period in excess of three months;
  - (g) is to be struck or is struck from the register of companies;
  - (h) compounds with its creditors to the detriment of the public interest;
  - (i) obtained the licence by a fraudulent, false or misleading representation or in some other illegal manner; or
  - (j) having had his licence suspended, has failed to rectify any ground for suspension under this section within a period of one year following upon the date of any such suspension.
- (2) Notwithstanding subsection (1), the Office, on the order of the Cabinet, shall, without notice, suspend or revoke any licence if the suspension or revocation is necessary for reasons of the security or the public interest of the Islands.
- (3) The Office shall, before suspending or revoking a licence under subsection (1), give fourteen days written notice to the licensee, in which notice the Office shall draw to the attention of the licensee the grounds on which the Office intends to suspend or revoke the licence.
- (4) Before suspending or revoking a licence under subsection (1)(a) or (b), the Office may give an opportunity to the licensee to remedy the breach, if capable of remedy, within a reasonable time and in any event before the expiration of the fourteen day period of notice given under subsection (3) if the public interest or security of the Islands is not harmed in so doing.
- (5) Upon revocation of a licence under this section, the Office shall compel compulsory divestiture of the licensee's T&D or generation assets, as the case may be, and section 27(3), (4) and (5) shall, with the necessary changes being made, apply to the valuation of such T&D or generation assets, as the case may be.

### **Power to take possession of electricity infrastructure in certain cases**

- 31.** If at any time, from revocation of its licence, insolvency or other cause, a licensee is unable to continue to generate, transmit or distribute electricity for which the licensee was licensed under this Law, it shall be lawful for the Office —
- (a) to enter upon and take possession of the generation assets or T&D assets (as the case may be) of the licensee; and
  - (b) permit another licensee or person whom the Office is satisfied has the requisite skills, competence and capacity to enter upon and take possession of the generation assets or T&D assets (as the case may be) of the licensee, and to maintain them in working order for twelve months, or



such time as may be necessary for their sale or disposal in accordance with section 27 or 30 as appropriate.

### **Register of applications and licences**

- 32.** (1) The Office shall cause to be kept a register of all applications for licences received by it and all licences granted and such register may be kept in electronic form.
- (2) The Office —
- (a) shall make available for public inspection during its business hours, applications made and licences granted; and
  - (b) may permit any person to make copies of any entry in the said register and may charge such fees as it considers reasonable for such copies.

## **PART IV - Directives by Office**

### ***Repealed***

- 33.** *Repealed by s.7 of the Electricity Regulatory Authority (Amendment) Law, 2016 [Law 51 of 2016].*

### ***Repealed***

- 34.** *Repealed by s.7 of the Electricity Regulatory Authority (Amendment) Law, 2016 [Law 51 of 2016].*

### ***Repealed***

- 35.** *Repealed by s.7 of the Electricity Regulatory Authority (Amendment) Law, 2016 [Law 51 of 2016].*

### ***Repealed***

- 36.** *Repealed by s.7 of the Electricity Regulatory Authority (Amendment) Law, 2016 [Law 51 of 2016].*

## **PART V - Anti-competitive Practices**

### ***Repealed***

- 37.** *Repealed by s.7 of the Electricity Regulatory Authority (Amendment) Law, 2016 [Law 51 of 2016].*

### ***Repealed***

- 38.** *Repealed by s.7 of the Electricity Regulatory Authority (Amendment) Law, 2016 [Law 51 of 2016].*

**Repealed**

39. *Repealed by s.7 of the Electricity Regulatory Authority (Amendment) Law, 2016 [Law 51 of 2016].*

**Repealed**

40. *Repealed by s.7 of the Electricity Regulatory Authority (Amendment) Law, 2016 [Law 51 of 2016].*

**Repealed**

41. *Repealed by s.7 of the Electricity Regulatory Authority (Amendment) Law, 2016 [Law 51 of 2016].*

**Repealed**

42. *Repealed by s.7 of the Electricity Regulatory Authority (Amendment) Law, 2016 [Law 51 of 2016].*

**Repealed**

43. *Repealed by s.7 of the Electricity Regulatory Authority (Amendment) Law, 2016 [Law 51 of 2016].*

**Repealed**

44. *Repealed by s.7 of the Electricity Regulatory Authority (Amendment) Law, 2016 [Law 51 of 2016].*

**Repealed**

45. *Repealed by s.7 of the Electricity Regulatory Authority (Amendment) Law, 2016 [Law 51 of 2016].*

**Repealed**

46. *Repealed by s.7 of the Electricity Regulatory Authority (Amendment) Law, 2016 [Law 51 of 2016].*

**Repealed**

47. *Repealed by s.7 of the Electricity Regulatory Authority (Amendment) Law, 2016 [Law 51 of 2016].*

**Repealed**

48. *Repealed by s.7 of the Electricity Regulatory Authority (Amendment) Law, 2016 [Law 51 of 2016].*

**Repealed**

49. *Repealed by s.7 of the Electricity Regulatory Authority (Amendment) Law, 2016 [Law 51 of 2016].*





**Repealed**

50. *Repealed by s.7 of the Electricity Regulatory Authority (Amendment) Law, 2016 [Law 51 of 2016].*

**Repealed**

51. *Repealed by s.7 of the Electricity Regulatory Authority (Amendment) Law, 2016 [Law 51 of 2016].*

**Repealed**

52. *Repealed by s.7 of the Electricity Regulatory Authority (Amendment) Law, 2016 [Law 51 of 2016].*

**Repealed**

53. *Repealed by s.7 of the Electricity Regulatory Authority (Amendment) Law, 2016 [Law 51 of 2016].*

**Repealed**

54. *Repealed by s.7 of the Electricity Regulatory Authority (Amendment) Law, 2016 [Law 51 of 2016].*

**Repealed**

55. *Repealed by s.7 of the Electricity Regulatory Authority (Amendment) Law, 2016 [Law 51 of 2016].*

## **PART VI - Cease-and-desist Orders**

**Repealed**

56. *Repealed by s.7 of the Electricity Regulatory Authority (Amendment) Law, 2016 [Law 51 of 2016].*

**Repealed**

57. *Repealed by s.7 of the Electricity Regulatory Authority (Amendment) Law, 2016 [Law 51 of 2016].*

**Repealed**

58. *Repealed by s.7 of the Electricity Regulatory Authority (Amendment) Law, 2016 [Law 51 of 2016].*

## PART VII - Administrative Fines

### ***Repealed***

**59.** *Repealed by s.7 of the Electricity Regulatory Authority (Amendment) Law, 2016 [Law 51 of 2016].*

## PART VIII - Interconnection and Electricity Infrastructure Sharing

### **Interconnection generally**

- 60.** (1) Subject to this Part, a T&D licensee that operates a transmission and distribution system shall not refuse, obstruct or in any way impede a Generator in the making of any interconnection with that T&D licensee's T&D system and shall, in accordance with this Part, ensure that the interconnection provided to a Generator is made at any technically feasible physical point as the Generator may reasonably require.
- (2) An applicant for a generation licence or a Generator who wishes to interconnect with a T&D licensee's T&D system shall, in writing, request interconnection by that T&D licensee not less than six months before the date on which interconnection may be required.
- (3) A T&D licensee to whom a request is made in accordance with subsection (2) shall respond in writing to the request within a period of twenty-eight days from the date on which the request is made and, subject to subsection (4), shall provide the interconnection service on the date required by the applicant unless formally extended by the Office in writing for cause being shown.
- (4) A request by an applicant for a generation licence or a Generator to interconnect with a T&D licensee's T&D system shall not be refused except on reasonable grounds, and such refusal and the grounds therefor shall be in writing.
- (5) The reasonable grounds to which reference is made in subsection (4) are, among other things —
- (a) there is insufficient capacity on the T&D system, taking into account reasonably anticipated requirements;
  - (b) there are reasons of safety or security; or
  - (c) there are technical or engineering reasons which would make such interconnection unfeasible.
- (6) Where interconnection is provided to an applicant or Generator by a T&D licensee under this section it shall be provided on reasonable commercial terms and conditions, and all reasonable direct and indirect costs and expenses



associated with the construction, maintenance and operation of the interconnection facilities will be paid by the applicant or Generator.

### **Terms for back up connection to a transmission and distribution system**

- 61.** (1) Where an application for back-up electricity supply and standby connection is made to a T&D licensee by another person for his own exclusive consumption, the T&D licensee shall within a reasonable period offer the applicant the opportunity to enter into an agreement for back-up electricity supply and connection to the T&D licensee's T&D system on reasonable commercial terms and conditions as approved by the Office from time to time.
- (2) Without prejudice to subsection (1), "reasonable commercial terms and conditions as approved by the Office from time to time" shall include —
- (a) the methods for determining the costs to be borne by the applicant for standby connection to the T&D licensee's T&D system, being reasonable costs that are incurred in carrying out works under an agreement for making a standby connection or modifying an existing standby connection and reasonable costs that are incurred in providing backup service to the applicant;
  - (b) the period of time within which an offer or refusal pursuant to an application is to be made by the T&D licensee; and
  - (c) any other matters which the Office considers necessary or expedient for the purpose of an application to make a standby connection to the T&D licensee's T&D system.
- (3) A T&D licensee shall not be required to enter into an agreement under subsection (1) where —
- (a) it has demonstrated to the satisfaction of the Office that it is not in the public interest to provide additional electricity generation to meet the requirements to be imposed by that agreement;
  - (b) to enter into an agreement under this section would be likely to involve the T&D licensee in a breach of —
    - (i) this Law;
    - (ii) the conditions of its T&D licence; or
    - (iii) the T&D code applicable to that T&D licensee's T&D system; or
  - (c) the T&D licensee can prove to the Office's satisfaction that there are, or would be, legitimate technical, financial or legal reasons why it should not be required to enter into such an agreement.
- (4) Where a T&D licensee fails or refuses to offer to enter into an agreement under this section, it shall, within fourteen days, serve written notice on the applicant stating the reasons for such failure or refusal and shall at the same time serve a copy of that notice and reasons upon the Office which may

determine the issue using dispute resolution procedures provided under this Law.

### **Charges for interconnection to a transmission and distribution system by a generator**

- 62.** (1) Where directed by the Office, a T&D licensee shall prepare a statement for the approval of the Office setting out the basis upon which charges are imposed for interconnection by an applicant under section 60 or 61 to the T&D system of that T&D licensee.
- (2) The Office may review and approve charges by a T&D licensee for interconnection by an applicant under section 60 or 61 to the T&D system of the T&D licensee including —
- (a) the level and methods of charging to be included in the statement to be prepared by a T&D licensee; and
  - (b) the form and extent of the information to be provided by a T&D licensee to applicants under section 60 or 61 regarding interconnection.
- (3) A charge for interconnection to the T&D system of a T&D licensee shall be calculated so as to enable a T&D licensee to recover all reasonable direct and indirect costs incurred in carrying out any necessary works to provide interconnection to an applicant under section 60 or 61.

### **Approval of statement of charges by Office**

- 63.** (1) A T&D licensee shall send each statement prepared in accordance with section 62 to the Office for approval and the statement, and in particular any charges referred to therein, shall not apply until such time as the statement has been approved by the Office, but once approved shall, as appropriate, have retroactive effect to the date the interconnection was established.
- (2) The Office shall consult with, and have regard to any submission made by, the T&D licensee, the applicant under section 60 or 61 or a Generator to the Office prior to making a decision whether or not to approve a statement submitted under subsection (1).

### **Access to fuel pipelines**

- 64.** (1) Where access by a licensee to any fuel pipeline owned and operated by another licensee is requested not less than six months in advance of the date on which access may be required, the licensee owning such pipeline shall grant access to the said pipeline to the requesting licensee subject to this section.
- (2) A permission to access a fuel pipeline granted under this section shall require the licensee to whom the permission was granted to comply with such technical and other commercial conditions, including those which may be necessary to ensure that its method of access to the pipeline is compatible with



the pipeline, its fittings and capacity, to such extent as the licensee that owns the pipeline may reasonably specify in the permission.

- (3) Where permission to access the pipeline is granted under this section such access shall be provided on reasonable commercial terms and conditions, and all reasonable direct and indirect costs and expenses associated with the construction, maintenance and operation of the access to the pipeline and a pro-rated share of the maintenance costs of the pipeline shall be paid by the licensee to whom the permission was granted.

### **Estimate of capacity, forecast flows and loading, and capital investment requirements**

- 65.** (1) Within sixty days of the end of each calendar year or within such deadlines as the Office may direct, but at least annually or as the Office may direct, each T&D licensee shall prepare a forecast statement (in this section referred to as a “statement”) based on the information available to it in a form approved by the Office.
- (2) A statement shall include five year forecasts in respect of capacity, additional electricity generation requirements, peak system demand, forecast flows and loading on each part of the transmission system of the T&D licensee together with —
- (a) identification of those parts of the T&D system of a T&D licensee considered by the T&D licensee to be suitable for new interconnections;
  - (b) information on generation and consumption of electricity generated from renewable or alternative sources of energy generally; and
  - (c) a Capital Investment Plan including information as to the level of generation and T&D investment required to carry out and complete the Plan, with specification of all major items on a project-by-project basis for review and approval by the Office.
- (3) A T&D licensee may, from time to time, revise the information set out in each statement prior to submission of the next annual statement and may, with the approval of the Office, alter the form of such statement.
- (4) Each T&D licensee shall give a copy of the statement and of each revision of the statement under subsection (3) to the Office.
- (5) The T&D licensee may, with the prior consent of the Office, identify in the statement given under subsection (4) any confidential details as to the cost, capacity, loading or other information where disclosure of that information would, in the opinion of the Office, prejudice the commercial interests of the T&D or Generator or any other person; and the Office shall require full information as to why the details are considered confidential information.

- (6) In this section, the period to which the statement relates shall be five calendar years on or after the date on which the statement is submitted by the respective T&D licensee.

## **PART IX - Service Standards**

### **Quality of service**

- 66.** (1) Licensees shall use their best endeavours to ensure that their services are —
- (a) reliable;
  - (b) provided with due care and skill; and
  - (c) rendered in accordance with this Law and their licence to the standards reasonably expected of a competent provider of those services.
- (2) A complaint may be made to the Office by any person who is dissatisfied with the service provided to him by, or who claims to be adversely affected by, the actions or omissions of a licensee.
- (3) The Office shall prescribe standards for the provision of service for and by all licensees.
- (4) The Office shall review and may approve rules and procedures to be established by T&D licensees relating to the provision, refusal, disconnection or interruption of service.
- (5) The Office shall make rules and establish procedures relating to the administration and resolution of complaints, without limitation, including requirements for and the determinations relating to the payment of the costs of proceedings and procedures for the resolution of complaints and the payment of compensation to a complainant, which shall be binding upon licensees.

### **Non-discrimination and continuity of supply**

- 67.** Licensees may, subject to the rules and procedures established under section 66(4) —
- (a) refuse to provide service to a consumer; or
  - (b) discontinue or interrupt the provision of such service to a consumer pursuant to an agreement with that consumer, or where the consumer has illegally abstracted electricity from the licensee, or the connection to the consumer creates a hazard to health or property,

only on grounds which are reasonable and non-discriminatory and where any such action is taken, the licensee shall, not less than seven days prior to the intended service interruption, provide notice in writing to the consumer specifying the reasons therefor and permit the consumer to remedy or cure any defect on the consumer's part insofar as such defect may be capable of remedy.



**Equipment standards**

- 68.** (1) The Office shall review and may approve as part of any T&D code, rules and procedures to be established or adopted by T&D licensees which provide appropriate standards for equipment that may be connected to or used in the generation or transmission and distribution of electricity.
- (2) Licensees shall, as a condition of licensing, connect only equipment meeting such standards to systems used in the generation or transmission and distribution of electricity.
- (3) It shall be a condition of access to systems used in the generation or transmission and distribution of electricity that licensees and consumers shall connect only equipment that meets such standards as are established or adopted under this section, and failure to comply with such standards is a reasonable ground to refuse to provide, to discontinue or to interrupt the provision of the relevant service under section 67.
- (4) Notwithstanding subsections (1), (2) and (3), the Office may, by published notice, exempt upon such reasonable terms and conditions as it thinks fit any equipment from the requirements of this section for such period of time as the Office considers appropriate and in granting such exemption the Office shall indicate in the notice —
- (a) the particular licensee, individual or company to which the exemption applies;
  - (b) the reasons why the exemption is being granted;
  - (c) the purpose for which the equipment may be used; and
  - (d) the period of time for which the equipment may be used.
- (5) No licensee shall incur any liability for any exemption granted to another licensee or other person under this section.

**Privacy of consumer information**

- 69.** (1) Subject to subsection (2), a licensee who intentionally discloses any consumer information commits an offence and is liable for each such disclosure —
- (a) on summary conviction to a fine of ten thousand dollars; or
  - (b) on conviction on indictment to a fine of twenty thousand dollars and to imprisonment for two years.
- (2) Subsection (1) does not apply to a disclosure —
- (a) which is made to a constable for the prevention or detection of crime or for the purposes of criminal proceedings;
  - (b) under any law which requires such disclosure;
  - (c) which is made with the written consent of the consumer;
  - (d) which is made under a Court order;

- (e) which is made in obedience to a warrant or order issued by the Cabinet; or
  - (f) which is made to the Office for purposes connected with the execution of its functions under this Law.
- (3) A licensee shall not be liable for any action or suit for any injury, loss or damage resulting from disclosure of consumer information made under subsection (2).
- (4) In this section —
- “**consumer information**” means any data that relate to a consumer’s (or any group of consumers’) identity, billing address, service address, consumption of electricity, patterns of electricity consumption, credit history, payment history, references, applications or other service related forms completed by or on behalf of a consumer and information contained therein.

### Confidential information

**70.** Where a licensee receives confidential information from another licensee for the purpose of interconnection or the provision of generation or transmission and distribution services generally and such information is declared by the latter licensee to be confidential in that the information relates to matters including the following —

- (a) consumer information or statistics;
- (b) market forecasts;
- (c) plans for the development of new services or capacity;
- (d) generation or system plans;
- (e) requests for proposals, PPAs or bids of a commercial nature; or
- (f) current or proposed business plans,

the recipient licensee shall treat such information in confidence and may only share it amongst such of its employees who need the information in order to provide services to the licensee providing the information.

## PART X - Reconsideration of Decisions and Appeals

### ***Repealed***

**71.** *Repealed by s.9 of the Electricity Regulatory Authority (Amendment) Law, 2016 [Law 51 of 2016].*

### ***Repealed***

**72.** *Repealed by s.9 of the Electricity Regulatory Authority (Amendment) Law, 2016 [Law 51 of 2016].*





**Repealed**

**73.** *Repealed by s.9 of the Electricity Regulatory Authority (Amendment) Law, 2016 [Law 51 of 2016].*

**PART XI - Offences****Inspections**

- 74.** (1) All installations, equipment, apparatus, electricity infrastructure, facilities, plant, lines, generating or other stations used in connection with a licence issued or applied for under this Law shall be subject to inspection by an authorised officer.
- (2) A person who —
- (a) intentionally impedes or interferes with the inspection referred to in this section;
  - (b) does not give information requested in the course of such inspection; or
  - (c) gives information in response to an inquiry made by the authorised officer knowing or suspecting it to be misleading or incorrect,
- commits an offence and is liable —
- (i) on summary conviction to a fine of ten thousand dollars and to imprisonment for one year; or
  - (ii) on conviction on indictment to a fine of twenty thousand dollars and to imprisonment for two years.

**Engaging in licensed activities for reward without a licence - further penalties**

- 75.** (1) A person who is convicted of an offence under section 23(9), in addition to any fine imposed thereby, is also liable on conviction to imprisonment for five years.
- (2) On application by the Office, the Court may —
- (a) make an order for forfeiture of the equipment used for the commission of the offence; and
  - (b) grant an order restraining the person or licensee from continuing to engage in similar activities.

**Malicious damage to apparatus**

- 76.** (1) No person shall remove, alter, damage, disrupt, disable or destroy any apparatus used in connection with the generation or transmission and distribution of electricity except in accordance with this Law.

- (2) A person who contravenes subsection (1) is commits an offence and is liable —
- (a) on summary conviction to a fine of one hundred thousand dollars; or
  - (b) on conviction on indictment to a fine of two hundred thousand dollars and to imprisonment for five years.

### **Obstruction of investigation by Office**

- 77.** A person who, in any manner, impedes, prevents or obstructs an investigation being carried out by the Office under this Law commits an offence and is liable —
- (a) on summary conviction to a fine of ten thousand dollars; or
  - (b) on conviction on indictment to a fine of twenty thousand dollars and to imprisonment for two years.

### ***Repealed***

- 78.** *Repealed by s.10 of the Electricity Regulatory Authority (Amendment) Law, 2016 [Law 51 of 2016].*

### ***Repealed***

- 79.** *Repealed by s.10 of the Electricity Regulatory Authority (Amendment) Law, 2016 [Law 51 of 2016].*

### **Failure to attend to give evidence**

- 80.** A person who, without reasonable excuse —
- (a) refuses or fails to appear before the Office after having been required to do so; or
  - (b) refuses to take an oath or make an affirmation having appeared before the Office as a witness,
- commits an offence and is liable on summary conviction to a fine of ten thousand dollars and to imprisonment for three months.

### **Dangerous acts or omissions**

- 81.** (1) No person shall with intent —
- (a) perform an act; or
  - (b) fail or omit to perform an act,
- in relation to the generation or transmission and distribution of electricity where such performance or failure of performance is dangerous to the security of the Islands or contrary to the public interest or public order.
- (2) A person who contravenes subsection (1) commits an offence and is liable —
- (a) on summary conviction to a fine of one hundred thousand dollars; or



- (b) on conviction on indictment to a fine of two hundred thousand dollars and to imprisonment for ten years.
- (3) In addition to any other penalty provided by this section, equipment used to commit an offence under this section may by order of the Court be forfeited to the Government on conviction of the owner or other person having control of such equipment or apparatus.

### **Territorial scope of inchoate offences**

- 82.** (1) On a charge of conspiracy to commit an offence under this Law, the following questions are immaterial to the accused's guilt:
- (a) where a person became a party to the conspiracy; and
  - (b) whether any act, omission or other event occurred in the Islands.
- (2) On a charge of attempting to commit an offence under this Law, the following questions are immaterial to the accused's guilt namely —
- (a) where the attempt was made; and
  - (b) whether it had an effect in the Islands.
- (3) On a charge of incitement to commit an offence under this Law, the question where the incitement took place is immaterial to the accused's guilt.

### ***Repealed***

- 83.** *Repealed by s.10 of the Electricity Regulatory Authority (Amendment) Law, 2016 [Law 51 of 2016].*

### ***Repealed***

- 84.** *Repealed by s.10 of the Electricity Regulatory Authority (Amendment) Law, 2016 [Law 51 of 2016].*

### ***Repealed***

- 85.** *Repealed by s.10 of the Electricity Regulatory Authority (Amendment) Law, 2016 [Law 51 of 2016].*

### ***Repealed***

- 86.** *Repealed by s.10 of the Electricity Regulatory Authority (Amendment) Law, 2016 [Law 51 of 2016].*

### **Order for payment of compensation**

- 87.** (1) Where a person is convicted of an offence under this Law, the Court may make an order for the payment of compensation to any person for damage caused by the offence.
- (2) A claim by a person for damages sustained by reason of the offence shall be deemed to have been satisfied to the extent of any amount which has been paid

to him under an order for compensation, but the order shall not prejudice any right to a civil remedy for the recovery of damages from the person convicted of the offence beyond the amount of compensation paid under the order.

### **Compliance with General Regulatory Principles**

- 88.** All licences, PPAs, regulations, directives, acts, functions, decisions, approvals, orders and directions issued, granted, approved, made or performed under or pursuant to this Law shall be consistent with the General Regulatory Principles.

## **PART XII - General**

### **Power to make regulations**

- 89.** (1) Without derogating from the powers to make regulations conferred elsewhere in this Law, the Cabinet may make regulations —
- (a) prescribing matters required or permitted by this Law to be prescribed;
  - (b) facilitating —
    - (i) the investigation of; or
    - (ii) the bringing of criminal proceedings in respect of, the operation of any part of the electricity generation or transmission and distribution systems of the Islands that may be, or is, an offence under this or any other law;
  - (c) prescribing dispute resolution procedures for use in cases where the licensees have a dispute between themselves or with the Office;
  - (d) on the recommendation of the Office, prescribing matters for the better carrying out of the duties and powers of the Office; or
  - (e) for carrying the purpose and provisions of this Law into effect.
- (2) Regulations made under this section may provide that the contravention of any provision constitutes an offence and may prescribe penalties for any such offence not exceeding the maximum fine and term of imprisonment prescribed in this Law for any offence under this Law.
- (3) The Office may, in accordance with this Law, make rules relating to —
- (a) regulatory and any other fees (except licence fees) duly payable;
  - (b) penalties payable under this Law;
  - (ba) critical national infrastructure;
  - (c) interconnection to a T&D system and backup connection services;
  - (d) T&D codes, including equipment, specifications and standards, operating and maintenance procedures, performance specifications, reliability requirements, safety standards and customer service standards;



- (e) forecasts of load growth and generation supply requirements;
  - (f) additional electricity generation requirements and criteria;
  - (g) additional capacity solicitation and bid processes;
  - (h) environmental standards;
  - (i) procedure on show-cause applications, hearings, reconsiderations or other aspects of the Office's regulatory or administrative operations;
  - (j) licensees' rights to installations on the land or property of other persons or authorities and ancillary rights;
  - (k) service standards; and
  - (l) financial reports to be submitted by licensees,
- and the Office shall consult with the Cabinet and the licensees before making such rules.

### ***Repealed***

**90.** *Repealed by s.13 of the Electricity Regulatory Authority (Amendment) Law, 2016 [Law 51 of 2016].*

### **Service of notices**

- 91.** Any notice, order or other document required or authorised to be served on any person under this Law shall be deemed to have been served on him —
- (a) if served on him personally;
  - (b) if served on an attorney-at-law who has conduct on behalf of such person of any matter to which the notice, order or document relates;
  - (c) if sent by prepaid registered post to him at his last known postal address, and a receipt purporting to have been signed by him has been received in return;
  - (d) in the case of a company, if the notice, order or document has been handed to an officer of the company or left at the company's registered office; or
  - (e) if service cannot be effected by way of one of the foregoing means, by publishing the notice, order or document in at least three issues for two consecutive weeks in a local newspaper.

### **Conflict with other laws**

- 92.** (1) Where there is any inconsistency between this Law and any other Law, this Law shall prevail to the extent of the inconsistency, subject to subsection (2).
- (2) Where there is any inconsistency between this Law and the *Public Authorities Law, 2017* [Law 21 of 2017], the *Public Authorities Law, 2017* [Law 21 of 2017] shall prevail to the extent of any inconsistency.

## PART XIII - Dissolution of Authority

### Dissolution of Authority

- 92A.**(1) On the 16th January, 2017, the date of commencement of section 13 of the *Electricity Regulatory Authority (Amendment) Law, 2016 [Law 51 of 2016]*, (the ‘operative date’) the Authority is dissolved and the assets, liabilities, property and contracts of the Authority, together with all functions and powers required to ensure the effectiveness and continuity of regulation, are transferred to the Office.
- (2) Every matter commenced under the *Electricity Regulatory Authority Law (2010 Revision)* and partly dealt with by the former Board when the *Electricity Regulatory Authority (Amendment) Law, 2016 [Law 51 of 2016]* comes into force, is to be continued and dealt with in all respects under this Law and the provisions of this Law are to apply accordingly.
- (3) Every matter commenced under the *Electricity Regulatory Authority Law (2010 Revision)* and not wholly or partly dealt with by the former Board when the *Electricity Regulatory Authority (Amendment) Law, 2016 [Law 51 of 2016]*, comes into force, is to be taken to be a matter commenced under this Law and the provisions of this Law are to apply accordingly.
- (4) Any subordinate legislation or instructions that relates to the functions or powers of the Authority shall continue to apply to the Office, with all necessary changes being made, until such time as the Office issues administrative determinations for similar purposes under the *Utility Regulation and Competition Law (2019 Revision)* that are inconsistent with that subordinate legislation or those instructions; and, where the Office issues such administrative determinations that are inconsistent with that subordinate legislation or those instructions, then, to the extent of the inconsistency, the subordinate legislation or instructions shall cease to apply.

### Transfer of Employees to the Office

- 92B.**(1) A person employed in the Authority on the day preceding the operative date, may be offered employment by the Office and, if the person accepts the offer, the person shall become an employee of the Office on terms and conditions of employment no less favourable than those that applied to the person’s office in the person’s employment in the Authority, except —
- (a) to the extent other terms and conditions are agreed between the employee and the Office; and
- (b) that disciplinary matters shall be dealt with in accordance with the *Labour Law (2011 Revision)* and the disciplinary rules and procedures of the Office.



- (2) Pension arrangements and medical benefits relating to any employee specified under subsection (1) shall be subject to sections 92C and 92D, respectively.

### **Pensions of transferred employees**

**92C.**(1) The Office shall ensure the payment of pensions to all of its employees and shall, for that purpose —

- (a) with respect to employees transferred from the Authority in accordance with this Law, continue maintaining or subscribing to a fund in accordance with the *National Pensions Law (2012 Revision)*; and
- (b) with respect to employees employed by the Office after the operative date and who have not been transferred in accordance with this Law, create and maintain or subscribe to a fund in accordance with the provisions of the *National Pensions Law (2012 Revision)*;

but the Office shall not subscribe to any fund in respect of those employees who are employed under contracts which are six months or less in duration.

### **Medical care for employees of the Office and applicability of Health Insurance Law (2018 Revision)**

**92D.**The *Health Insurance Law (2018 Revision)* shall apply to the Office except that —

- (a) the Office may elect to provide free or subsidised medical benefits in lieu of, or in addition to, insurance coverage under the *Health Insurance Law (2018 Revision)*; and
- (b) a person described in section 92B shall, unless otherwise notified by the Office, be entitled to receive from the Office the medical benefits provided to that person on the day preceding that person's transfer to the Office.

### **Transitional provisions**

- 93.** (1) A licence or other enabling instrument issued to a person to provide any aspect of generation or transmission and distribution of electricity in the Islands granted by the Cabinet and valid and in force immediately prior to the operative date shall continue valid and in force for the remainder of the term as if it were a licence granted under this Law on the operative date and such licence shall continue to be subject to each and every one of the terms, conditions and exemptions attaching to such licence as if the terms, conditions and exemptions had been imposed or granted under this Law on the operative date but shall otherwise be subject to the provisions of this Law.
- (2) Where a person who possesses such a licence or enabling instrument as described in subsection (1) has entered into an agreement with the Office being an agreement to surrender and terminate such licence or enabling instrument and to replace the same with a new licence or licences,

immediately upon the surrender and termination of such licence or enabling instrument, the Office shall grant to such person such new licences on such terms, conditions and exemptions as have been so agreed, but such licences shall otherwise be subject to this Law; and the Cabinet may, for such period of time as it shall determine, appoint such persons as it considers necessary to assist in carrying out such functions as are deemed reasonably necessary to effect the issuance of such licences.

### Interpretation for the purposes of Part XIII

94. In this Part —

“**Authority**” means the Electricity Regulatory Authority established under the *Electricity Regulatory Authority Law (2010 Revision)*;

“**former Board**” means the Board of directors of the Authority;

“**this Law**” *Electricity Regulatory Authority Law (2010 Revision)*;

“**Office**” means the Utility Regulation and Competition Office established under the *Utility Regulation and Competition Law, 2016 [Law 49 of 2016]*; and

“**operative date**” means the 16th January, 2017, the date of commencement of section 13 of the *Electricity Regulatory Authority (Amendment) Law, 2016 [Law 51 of 2016]*;





## SCHEDULE

### GENERAL REGULATORY PRINCIPLES

#### *Definitions*

1. In this Schedule —

“**Regulatory Framework**” means this Law and any regulations, directions or rules issued pursuant to this Law; and

“**Stakeholders**”, in relation to the electricity industry, means consumers, licensees and the general public.

#### *Use of Regulatory Framework*

2. In regulating the generation, transmission and distribution of electricity, the Regulatory Framework shall be utilised in a way that can be characterised as sustainable, stable, transparent, predictable and cost-effective.

#### *Promotion of sustainability*

3. (1) In return for efficiently providing services to an acceptable quality and at a fair price to consumers, licensees shall receive the opportunity to recover appropriate costs and earn a fair and reasonable return for their investors.
- (2) The application of the Regulatory Framework shall promote sustainability, consistency and, as far as possible, certainty for all Stakeholders, and shall ensure that licensees do not take unfair advantage of positions of monopoly or market dominance.
- (3) In consultation with the respective licensees, the Office shall establish performance standards in the electricity industry (in this Schedule referred to as “Performance Standards”) in each of the Islands.
- (4) The Performance Standards shall be used to identify the Office’s expectations, and if actual performance is not within the range established, shall be a basis for consultation with the Office.
- (5) After consultation, if Performance Standards are still not met, the Office may provide rewards for excellent performance and penalties for sub-standard performance.
- (6) The level of service for each Island existing as at the date of the grant of the respective licence issued under the Law shall be used as the initial standard for service in the respective Island.

- (7) A licensee shall be entitled to recover all reasonable increases in costs that arise due to changes in the standard for service.
- (8) Licensees shall be financially sound and capable of financing their operations and any necessary capital expenditure, so that there is a reasonable expectation that they can continue to operate while meeting the needs of consumers and other Stakeholders.

*Promotion of stability*

- 4. (1) To achieve stability, the Office shall balance the interests of all Stakeholders in the electricity industry in the Islands in discharging its functions under the Law.
- (2) The procedures and principles applied by the Office shall be sufficiently clear so as to lead to a high degree of confidence and encourage long-term investment and planning in the electricity industry.
- (3) The Office shall employ or retain competent staff or consultants who are qualified and knowledgeable with respect to the functions they are required to perform.

*Promotion of transparency*

- 5. (1) The actions of the Office shall be transparent and the Office shall both give to and receive from licensees and other Stakeholders, all relevant and necessary information which is needed in order to perform its statutory functions.
- (2) The Office shall give adequate reasons for specific regulatory decisions and actions affecting Stakeholders, which shall be published by the Office subject to the requirements of any other law and to necessary confidentiality of governmental, commercial or personal information of a sensitive nature.
- (3) The Office shall strive to make all procedures, notifications and relevant information made or given by the Office clear to the electricity industry in the Islands and to provide them well in advance of any formal consideration of any issue on which a decision is required to be made.
- (4) The management and operations of the Office shall be subjected to a periodic financial and operational audit to ensure that the general public and licensees will have confidence that the Office is complying with satisfactory regulatory standards and the Regulatory Framework in carrying out its functions under the Law.
- (5) The management and operations of licensees shall be subjected to financial and operational audit from time to time to ensure that the general public and the Office will have confidence that licensees are complying with the Performance Standards, their respective licences and the Regulatory Framework.



- (6) Licensees shall be entitled to pass on all regulatory fees and licence fees to consumers but shall not be entitled to pass on any fines or penalties imposed pursuant to this or any other law, or any costs awarded against them by any court.
- (7) All reasonable legal and professional fees incurred by licensees relating to disputes in the generation solicitation process not covered by any award of costs shall be passed on to consumers upon review and approval by the Office, provided that the licensee is successful in the relevant dispute.
- (8) The decisions of the Office shall apply the principles of administrative law relevant to all administrative decision-makers, such as legality, adherence to the principles of due-process and natural justice, fairness and rationality, and such decisions shall be the subject of fair and speedy dispute resolution procedures and ultimately be reviewable by the Grand Court in the last resort.

*Promotion of predictability*

- 6. (1) The Office shall strive to make rules, decisions and orders which are clear and unambiguous and predictable in the way they are applied in order to provide certainty and consistency for consumers, licensees and their shareholders.
- (2) The formula for rate modifications shall be reviewed in accordance with the respective licence, and shall not be changed without the consent of the respective licensee.
- (3) The actions and decisions of the Office shall be even-handed and shall not unfairly discriminate among licensees and applicants for licences.
- (4) There shall be a legitimate expectation that a licence will be renewed at the expiry of its term, if the licensee has operated in accordance with the provisions of the Regulatory Framework and has not breached any term or condition of its licence.
- (5) The Office may change its view on issues, or recommend changes to the Regulatory Framework as necessary and in response to unforeseen developments, provided that this is consistent with this Schedule; but the Office shall —
  - (a) seek to avoid changes which apply retroactively, with adverse consequences for Stakeholders;
  - (b) take decisions following a due process of consultation and consideration of the relevant issues; and
  - (c) provide adequate reasons for its decisions.

*Promotion of cost effectiveness*

7. (1) The costs of monitoring (including the costs of data collection and analysis) and enforcing compliance with licences and codes shall be reasonable and sufficient to enable the Office to discharge its functions under this Law.
- (2) The Office shall discharge its responsibilities in an economically efficient manner.
- (3) Trading electricity over the transmission and distribution system through the process of wheeling is not desired and shall not be permitted in any event.
- (4) Duplication of transmission and distribution infrastructure and facilities shall not be permitted.
- (5) Subject to review and approval by the Office, T&D licensees shall be responsible for determining the need for additional electricity generation based on projected load growth and operating reserve requirements, including provision for anticipated retirement of generation based on economics, reliability, obsolescence, safety, environmental and other prudent utility practices.
- (6) Generation for self-supply is available to all consumers, no matter where located, and shall not require licensing by the Office.

**Publication in consolidated and revised form authorised by the Cabinet this 12th day of February, 2019.**

**Kim Bullings**  
*Clerk of the Cabinet*<sup>1</sup>



## ENDNOTES

### Table of Legislation History:

SL #	Law #	Legislation	Commencement	Gazette
	12/2018	Electricity Sector Regulation (Amendment) Law, 2018	13-Aug-18	G17/2018/s10
		<b>Electricity Sector Regulation Law (2018 Revision)</b>	16-Mar-18	GE22/2018 s13
	51/2016	Electricity Regulatory Authority (Amendment) Law, 2016	16-Jan-17	G26/2016/s5
		<b>Electricity Sector Regulation Law (2010 Revision)</b>	25-Oct-10	G22/2010 s9
	15/2009	Electricity Regulatory Authority (Amendment) Law, 2009	12-Aug-09	GE55/2009/s1
26/2009		Cayman Islands Proclamation 4 of 2009 - Commencement of CI Constitution Order, 2009	23-Oct-09	GE69/2009/p7
		Cayman Islands Constitution Order, 2009 (U.K.S.I. 2009 No. 1379)	6-Nov-09	G14/2009/s1
		<b>Electricity Sector Regulation Law (2008 Revision)</b>	23-Jun-08	G13/2008/s1
1/2008		Electricity Regulatory Authority (Amendment) Law, 2008 (Commencement) Order, 2008	13-Feb-08	GE5/2008/s1
	1/2008	Electricity Regulatory Authority (Amendment) Law, 2008	13-Feb-08	GE4/2008/s1
		<b>Electricity Sector Regulation Law (2005 Revision)</b>	8-Aug-05	G16/2005 s3
14/2005		Electricity Regulatory Authority (Commencement) Order, 2005	11-Apr-05	GE9/2005/s1
	10/2005	Electricity Regulatory Authority Law, 2005	12-Apr-05	G7/2005/s10





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