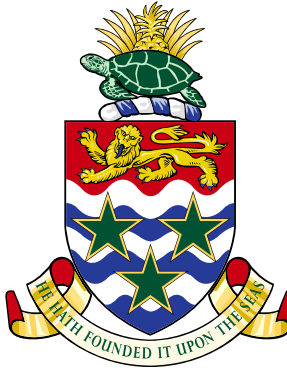


CAYMAN ISLANDS



ELECTRICITY LAW

(2008 Revision)

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Note (not forming part of the Law): This revision replaces the 2005 Revision which should now be discarded.



CAYMAN ISLANDS



ELECTRICITY LAW
(2008 Revision)

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CAYMAN ISLANDS



ELECTRICITY LAW

(2008 Revision)

ENACTED by the Legislature of the Cayman Islands.

Short title

1. This Law may be cited as the *Electricity Law (2008 Revision)*.

Definitions

2. In this Law —

“**animal**” includes bird, fish and reptile but does not include insects or vermin;

“**Appeals Tribunal**” means the tribunal established under section 4 of the *Development and Planning Law (2008 Revision)*;

“**Authority**” means the Cayman Islands’ Electricity Regulatory Authority established by section 3 of the *Electricity Regulatory Authority Law (2008 Revision)*;

“**Board**” means the Electrical Board of Examiners established under section 6;

“**circuit**” means a system of conduction by means of which electricity is conveyed;

“**conductor**” means a substance which readily permits the passage of electricity;

“**contract**” with reference to a licensee, has reference to that licensee’s licence granted by the Authority;

“**dynamo**” means a device for converting mechanical energy into electricity;

“**electric line**” means any wire or other conductor together with any material insulating, supporting or protecting the same, designed for the purpose of conveying electricity;

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

“**Governor**” means the Governor in Cabinet;

“**induction**” means the phenomenon whereby certain types of electricity can be conveyed from one circuit to another without recourse to a conductor;

“**Inspectorate**” means the Electrical Inspectorate of the Government established by section 5, and includes an officer thereof;

“**insulator**” means a substance or thing used to prevent leakage of by impeding the passage of electricity;

“**licensed**”, unless the context otherwise requires, means licensed under this Law;

“**main**” includes any plant, electric line, building, machinery, apparatus, material, fibre optic lines, fuel lines and work of whatever description owned, used or controlled by a licensee for effecting the generation, transmission, distribution, measurement and supply of electricity in terms of the licensee’s licence issued by the Authority.

“**mains engineer**” means a contractor licensed to install, maintain, repair and supervise the installation, maintenance and repairs of mains;

“**Minister**” means the Minister responsible for the time being for the administration of this Law;

“**plant**” means a generating station used for the production of electricity for general purposes;

“**regulation**” includes every regulation, rule and order enforceable by virtue of this Law;

“**repealed law**” means the repealed *Electric Lighting Law (Cap. 46 of the 1963 Revised Edition)*;

“**vehicle**” includes any vehicle capable of being licensed as such under the *Traffic Law (2003 Revision)*; and

“**vessel**” includes a ship, aircraft, hovercraft and boat.

Application

3. Save as specifically provided otherwise, this Law does not apply to —
- (a) electrical apparatus incorporated in any vessel or vehicle;
 - (b) electricity produced or stored by chemical means unless so connected as to have an output in excess of twenty volts pressure: or
 - (c) dynamos used for scientific purposes or as children’s toys which are incapable of producing electricity at a pressure exceeding twelve volts.



Application to licensees

4. Where a provision of this Law or the *Electricity Regulatory Authority Law (2008 Revision)* is inconsistent with a term of a licensee's licence, this Law or the *Electricity Regulatory Authority Law (2008 Revision)* shall, in the absence of vested rights, prevail to the extent of such inconsistency.

Electrical Inspectorate

5. There is established an Electrical Inspectorate which shall be maintained from funds provided by the Authority and consist of such officers as the Governor may, from time to time, appoint who shall have such qualifications, functions and powers as may be prescribed.

Establishment of an Electrical Board of Examiners

6. (1) There is established an Electrical Board of Examiners.
- (2) The Board shall consist of a chairman, a deputy chairman and not more than five nor less than two other members, all of whom shall be appointed by the Governor and who shall hold office for such period as the Governor may determine.
- (3) The secretary to the Board shall be an officer appointed by the Governor who shall have the right to attend all meetings but not to vote.
- (4) The chairman and three other members shall constitute a quorum.
- (5) Subject to subsections (2) to (4), the Board shall have power to regulate its own proceedings.

Powers and duties of Board

7. The Board shall be responsible for the licensing of all categories of persons carrying out electrical work in the Islands. Such licensing shall be carried out within such categories, in such manner and by the holding of such examinations, either written, oral or both, as may be laid down or prescribed, from time to time, by regulations made under section 30.

Appeals

8. (1) Any person who has applied to the Board for a licence to carry out electrical work under this Law and whose application has not been successful may appeal against the decision of the Board to the Appeals Tribunal whose decision shall be final.
- (2) An appeal under subsection (1) may only be made on one or more of the following grounds namely that the decision —
- (a) is erroneous in law;
 - (b) is unreasonable; or

- (c) was arrived at contrary to the principles of natural justice.

Mains to be under the control of mains engineers

9. No person other than a mains engineer or a licensed contractor subject to his direct supervision shall install, maintain, repair or operate any main.

Certain work to be performed only by contractors

10. No person other than a licensed contractor shall, for reward, install, maintain or repair any plant, electric line or electrical apparatus.

Obligation of licensees to employ a mains engineer

11. Every licensee who is licensed by the Authority under the *Electricity Regulatory Authority Law (2008 Revision)* shall employ at least one mains engineer and may in addition engage subcontractors or employ other qualified personnel whose work is subject to the supervision of a mains engineer.

Power of mains engineers to withhold or cut off supplies in certain cases

12. Where a mains engineer is of the opinion that the provision or continued provision of a mains supply to any premises in an area under his control would —
- (a) constitute a danger to any person, animal or property by reason of the risk of fire or other hazard; or
 - (b) result in a breach or continuance of a breach of this Law or any regulation,
- he may disallow or cut off the supply to such premises until every defect giving rise to the danger or breach has been remedied.

Right of appeal against a decision made under section 12

13. Any person aggrieved by a decision of a mains engineer made under section 12 may appeal thereagainst to the Inspectorate whose decision shall be final and binding upon the licensee and the aggrieved person.

Mains engineers' right of access to premises

14. In order to enable them to perform their duties under section 12, mains engineers, and subcontractors or qualified personnel under their control, shall have the right of entry to and inspection of all premises connected to mains supplies under their control —
- (a) at all times when there is reasonable apprehension of danger under paragraph (a) of section 12; and
 - (b) at all reasonable times when a breach of this Law under paragraph (b) of section 12 is suspected.



Right of Inspectorate to enter and inspect premises

- 15.** The Inspectorate shall have the right of entry to and inspection of any premises in the Islands where any electric line is present or suspected to be present and, where any danger or breach of this Law or any regulation is observed or apprehended, and may disconnect any mains supply until satisfied that the danger, breach or the apprehension thereof has been removed.

Road works, etc.

- 16.** (1) Subject to subsection (4), a licensee may, with prior approval of the Authority, execute —
- (a) the following kinds of works —
 - (i) installing under, over, in, on, along or across any private land, road or other public land; and,
 - (ii) from time to time, inspecting, maintaining, adjusting, repairing, altering, replacing or removing,any main or any structures for housing or covering any such main; and
 - (b) any works requisite for the purpose of the works falling within paragraph (a), including for those purposes —
 - (i) opening or breaking up a road or any sewers, drains or tunnels within or under a road;
 - (ii) tunnelling or boring under a road; and
 - (iii) removing or using all earth and materials in or under a road.
- (2) Nothing in subsection (1) shall empower a licensee to lay down or place an electric line or electrical plant into, through or against a building or on any land not dedicated to the public use without a licence from a person whose interest in the land is affected.
- (3) The licence of a person interested in private land which may be affected by the works may contain such terms as mutually agreed and where a licensee and an interested party are unable to reach agreement the provisions of sections 19, 21 and 25 shall apply.
- (4) Except in cases of emergency or pursuant to the terms of an agreement, a licensee shall not execute any works in connection with a road or other public land by virtue of subsection (1) except with the consent of the Chief Engineer of the Public Works Department; and, in the case of private land where the licensee is of the opinion that emergency works are required, the licensee may execute the works in, under or over the private land without the consent of the owner or occupier provided that as soon as possible after such execution it furnishes the owner with notice in writing of the works executed or the Chief Engineer with a plan of the emergency works.

- (5) A licensee shall do as little damage as possible in the exercise of the powers conferred by subsection (1) and, where repairs are required to a road or public land, the Chief Engineer shall assess the cost of such repairs and the licensee shall pay compensation accordingly.
- (6) Where repairs are required under subsection (5) to a road or public land, the Public Works Department shall carry out such repairs.
- (7) A licensee shall, in exercising the powers conferred by subsection (1), use all reasonable endeavours to ensure that nothing which he installs or keeps installed under, over, in, on along or across any road or other public land becomes a source of danger to the public.
- (8) In this section —
“**road**” includes —
 - (a) the carriage way, waterway, bridges, culverts and fordings on the edge of the road, and the land on each side of the carriageway and waterways up to the boundary of the road;
 - (b) a footway;
 - (c) a footpath;
 - (d) a cycle track; and
 - (e) a mosquito trail.

Alteration of works

- 17.** (1) A licensee may execute works under section 16 notwithstanding that they involve a temporary or permanent alteration of any of the following —
- (a) an electric line or electrical plant under the control of another party;
 - (b) any gas pipe;
 - (c) any pipe under the control of a person supplying water or carrying sewage in accordance with a contract or in the exercise of statutory powers; or
 - (d) any telecommunication apparatus used for the purposes of a telecommunication system which is operated by a person to whom the *Information and Communications Technology Authority Law (2006 Revision)*, applies.
- (2) Where a licensee is proposing to execute works under section 16 which involve or are likely to involve any such alteration as is mentioned in subsection (1) (a), (b) or (c), the following provisions of this section shall apply; and in those provisions “the relevant licensee” means the other licensee or the person supplying a service to the public as specified in subsection (1).
- (3) A licensee shall, not less than one month before the works are commenced, give the relevant licensee a notice, addressed to the General Manager or a



similar person specifying the nature of the licensee's works, the alteration or likely alteration involved and the time and place at which the works will be commenced.

- (4) Subsections (3) and (5) shall not apply in relation to any emergency works of which the licensee gives the relevant licensee notice as soon as practicable after commencing the works.
- (5) Where a notice has been given under subsection (3) by the licensee to the relevant licensee, the relevant licensee may, within the period of seven days beginning with the giving of the notice, give the licensee a counter notice which may state either —
 - (a) that the relevant licensee intends himself to make any alteration necessary or expedient by the licensee's proposed works; or
 - (b) that he requires the licensee, in making such alteration, to do so under the supervision and to the satisfaction of the relevant licensee.
- (6) Where a counter notice given under subsection (5) states that the relevant licensee intends himself to make any alteration —
 - (a) the relevant licensee shall (subject to subsection (8)) have the right, instead of the licensee, to execute any works for the purpose of making that alteration to the satisfaction of the licensee; and
 - (b) any reasonable and proper expenses incurred by the relevant licensee directly in or in connection with the execution of those works shall be recoverable by the relevant licensee from the licensee.
- (7) Where a counter notice given under subsection (5) states that any alteration is to be made under the supervision and to the satisfaction of the relevant licensee —
 - (a) the licensee shall not make the alteration except as required by the notice or as permitted under subsection (8); and
 - (b) any reasonable and proper expenses incurred by the relevant licensee directly in or in connection with the provision of that supervision shall be recoverable by the relevant licensee from the licensee.
- (8) Where —
 - (a) no counter notice is given under subsection (5); or
 - (b) the relevant licensee, having given a counter notice falling within that subsection, fails to make any alteration necessary by the licensee's proposed works within such period (being not less than forty-eight hours) as the licensee may by notice specify, or as the case may be, unreasonably fails to provide the required supervision,the licensee may himself execute the works for the purpose of making the alteration or may execute such works without the supervision of the relevant

licensee, but in either case the licensee shall execute the works to the satisfaction of the relevant licensee.

- (9) Except in the case of emergencies, if the licensee or any of his agents —
- (a) executes any works without the notice required by subsection (3) or prior to the expiry of the period from the giving of a counter notice under subsection (5) or in disregard of the counter notice having been given; or
 - (b) unreasonably fails to comply with any reasonable requirement of the relevant licensee under this section,
- he shall be guilty of an offence and liable on summary conviction to a fine of one thousand dollars.
- (10) The licensee shall not be liable to compensate the relevant licensee for any loss or damage sustained by the relevant licensee as a result of the negligence of the relevant licensee in carrying out any alteration under this section.
- (11) A water licensee, a gas licensee, a sewerage licensee or a person licensed under the *Information and Communications Technology Authority Law (2006 Revision)* may execute such works, notwithstanding that the works involve a temporary or permanent alteration of any electric line or electrical plant under the control of a licensee.
- (12) Where a relevant licensee is proposing to execute such works as are mentioned in subsection (11) which involve any alteration as is there mentioned, subsections (3) to (10) shall apply as if —
- (a) any reference to the licensee were a reference to the relevant licensee; and
 - (b) any reference to the relevant licensee were a reference to the licensee.

Protection from interference

- 18.** (1) Subject to subsection (2) and any agreement between the licensee and any other person to whom the *Information and Communications Technology Authority Law (2006 Revision)* applies, a licensee who installs, alters or changes the mode of operation of any main shall take all reasonable precautions for securing that the operation of that main does not interfere with the operation of any telecommunication apparatus which —
- (a) is under the control of a person to whom the *Information and Communications Technology Authority Law (2006 Revision)* applies; and
 - (b) is not usually sensitive to interference with its operation.
- (2) In the case of any telecommunication apparatus which is subsequently installed or altered or whose mode of operation is changed, the duty imposed by subsection (1) shall not apply in relation to —
- (a) any momentary interference with its operation; or



- (b) where it is installed in unreasonably close proximity to the main, any other interference with its operation.
- (3) Subsections (1) and (2) shall be read as also applying in the converse case of any person to whom the *Information and Communications Technology Authority Law (2006 Revision)* applies who installs or alters, or changes the mode of operation of any telecommunication apparatus, and in such a case shall have effect as if —
 - (a) any reference to the licence holder were a reference to that person;
 - (b) any reference to a main were a reference to such apparatus; and
 - (c) any reference to such apparatus under the control of a person to whom that Law applies were a reference to such a main under the control of a licensee.
- (4) Any conflict under this section between a licensee and a person to whom the *Information and Communications Technology Authority Law (2006 Revision)* applies shall be referred to arbitration by an arbitrator in accordance with the *Arbitration Law (2001 Revision)*.
- (5) In this section —

“**momentary interference**” means any interference of momentary duration which is not a regular occurrence (whether caused by physical contact or otherwise).

Acquisition of wayleaves

19. (1) This section applies where —

- (a) for any purpose connected with the carrying on of the activities which he is authorised by his contract to carry on it is necessary or expedient for a licensee to install and keep installed a main, under or over any land; and
- (b) the owner or occupier of the land having been given a notice requiring him to give the necessary wayleave within a period (not being less than twenty-one days) specified in the notice —
 - (i) has failed to give the wayleave before the end of that period; or
 - (ii) has given the wayleave subject to terms and conditions to which the licensee objects,

and in this section as it so applies “**the necessary wayleave**” means consent for the licensee to carry out activities to which this Law applies.

- (2) Subject to subsections (3) and (4), the Authority may, on the application of the licensee, grant the necessary wayleave subject to such terms and conditions as he sees fit; and a necessary wayleave so granted shall, unless previously terminated in accordance with a term contained in the wayleave, continue in force for such period as may be specified in the wayleave.

- (3) The Authority shall not entertain an application under subsection (2) in any case where —
 - (a) the land is covered by a dwelling, or will be so covered on the assumption that any planning permission which is in force is acted on; and
 - (b) the main is to be installed on or over the land.
- (4) Before granting the necessary wayleave, the Authority shall afford —
 - (a) the occupier of the land; and
 - (b) where the occupier is not also the owner of the land, the owner, an opportunity of being heard.
- (5) A necessary wayleave granted under this section or by an agreement between the licensee and the owner of land —
 - (a) shall not be subject to the provisions of any enactment requiring the registration of interests in, charges over or other obligation affecting the land; and
 - (b) shall bind any person who is at any time the owner and occupier of the land.
- (6) In this section —

“**dwelling**” means a building or part of a building occupied, or (if not occupied) last occupied or intended to be occupied, as a private dwelling and includes any garden, yard, outhouses and appurtenances belonging to or usually enjoyed with that building or part of a building.

Provisions supplementary to section 19

- 20.** (1) Where a wayleave is granted to a licensee under section 19 —
- (a) the occupier of the land; or
 - (b) where the occupier is not also the owner of the land, the owner,
- may recover from the licensee reasonable compensation in respect of the grant in accordance with subsection (2).
- (2) Where, in the exercise of any right conferred by a wayleave granted to a licensee under section 19, any damage is caused to land or to moveables, any person interested in the land or moveables may recover from the licensee reasonable compensation in respect of that damage or, at the option of the licensee, agree with the licensee that the licensee shall repair the damage; and where, in consequence of the exercise of such a right, a person is disturbed in his enjoyment of any land or moveables he may recover from the licensee compensation in respect of that disturbance.



- (3) Compensation under this section may be recovered as a lump sum or by periodical payments or partly in one way and partly in the other.

Temporary continuation of wayleaves

21. (1) This section applies where at any time such a wayleave as is mentioned in section 19 (whether granted under that section or by agreement between the parties) —

- (a) is determined by the expiration of a period specified in the wayleave; or
- (b) is terminated by the owner or occupier of the land in accordance with a term contained in the wayleave.

(2) The owner or occupier of the land may —

- (a) in a case falling within subsection (1)(a), at any time after or within three months before the end of the period specified in the wayleave; or
- (b) in a case falling within subsection (1)(b), at any time after the wayleave has been terminated by him,

give to the licensee a notice requiring him to remove the main from the land; but the licensee shall not be obliged to comply with such a notice except in the circumstances and to the extent provided by the following provisions of this section.

(3) Where, within the period of three months beginning with the date of the notice under subsection (2), the licensee makes neither —

- (a) an application for the grant of the necessary wayleave under section 19; nor
- (b) an order authorising the compulsory purchase of the land made by virtue of this Law,

the licensee shall comply with the notice at the end of that period.

(4) Where —

- (a) within the period mentioned in subsection (3), the licensee makes an application for the grant of the necessary wayleave under section 19; and
- (b) the application is refused by the Authority,

the licensee shall comply with the notice under subsection (2) at the end of the period or one month beginning with the date of the Authority's decision or such longer period as the Authority may specify.

(5) Where —

- (a) within the period mentioned in subsection (3), the licensee makes an order by virtue of this Law authorising the compulsory purchase of the land; and
- (b) the order is not confirmed by the Governor,

the licensee shall comply with the notice under subsection (2) at the end of the period of one month beginning with the date of the Governor's decision or such longer period as the Governor may specify.

Felling and lopping of trees, etc.

- 22.** (1) This section applies where a tree is or will be in such close proximity to a main which is kept installed or is being or is to be installed by a licensee —
- (a) in such a manner as to obstruct or interfere with the installation, maintenance or working of the main; or
 - (b) in such a manner as to constitute an unacceptable source of danger;
- and, in this section —
- “land”** means the land on which the tree is growing.
- (2) The licensee may, except in the case of an emergency, give notice to the occupier of the land requiring him to fell or lop the tree or to cut back its roots so as to prevent it from having the effect mentioned in subsection (1) (a) or (b).
 - (3) Where the occupier is not the owner of the land, a copy of a notice under subsection (2) shall also be served on the owner.
 - (4) If, within fourteen days from the giving of a notice under subsection (2), the requirements of the notice are not complied with or, in the case of an emergency, the licensee may cause the tree to be felled or lopped or its roots to be cut back so as to prevent it from having the effect mentioned in subsection (1) (a) or (b), and the licensee shall recover the cost of carrying out such work from the owner of the land.
 - (5) A licensee may, upon the request of the owner or occupier of land, fell or lop the tree or cut back its roots subject to payment to the licensee of the expenses incurred in carrying out the request.
 - (6) Where the licensee exercises any power conferred under subsection (4) or (5), he shall —
 - (a) cause trees to be felled or lopped or their roots to be cut back in accordance with good arboricultural practice and so as to do as little damage as possible to trees, fences, hedges and growing crops;
 - (b) cause felled trees, lopped boughs or root cuttings to be removed unless otherwise directed by the owner or occupier; and
 - (c) make good any damage done to the land.
 - (7) In this section —

“tree” includes any shrub, and references to felling or lopping, felled trees and lopped boughs shall be construed accordingly.
 - (8) For the purposes of this section —



- (a) any notice required to be given by the licensee to any person for the purposes of any provision of this section shall be in a form approved by the Authority as adequate for indicating to that person the effect of the notice;
- (b) the notice may be given to —
 - (i) the person either by delivering it to him or by leaving it at his proper address or by post; or
 - (ii) the notice may be given to an incorporated company or body by serving it at the registered office of the company; or
- (c) if it is not practicable, for the purposes of giving any notice under this section, after reasonable inquiries to ascertain the name and address —
 - (i) of the person who is for the purposes of any provision of this section the occupier of any land; or
 - (ii) of the owner of any interest in any land,

a notice may be given by addressing it to a person by the description of “occupier” of the land (describing it) or, as the case may be, “owner” of the interest (describing both the interest and the land) and by delivering it to some person on the land or, if there is no person on the land to whom it can be delivered, by affixing it, or a copy of it, to some conspicuous object on the land or by publishing the notice in two consecutive issues of a daily local newspaper.

Entry on land for purposes of exploration

- 23.** (1) Subject to the following provisions of this section and without prejudice to any other right of entry, a person authorised in writing by a licensee may, at any reasonable time, enter upon and survey any land for the purpose of ascertaining whether the land would be suitable for use for any purpose connected with the carrying on of the activities that the licensee is authorised by the terms of its licence to perform.
- (2) A person authorised to enter upon land under this section shall not demand to do so as of right unless —
- (a) fourteen days notice of the intended entry (or such shorter period as may be agreed) has been given to the occupier; and
 - (b) if required to do so, he has produced evidence of his authority.
- (3) The power to survey land conferred by this section includes power to search and bore for the purposes of ascertaining the nature of the subsoil; but works may not be carried out on the land for this purpose unless —
- (a) notice of the proposed works is included in the notice under subsection (2); and

- (b) where land is held by statutory licensees who object to the works on the ground that the carrying out of the works would be seriously detrimental to the carrying on of their operations, the Authority gives his consent.
- (4) Where any person exercises any powers conferred by this section, the licensee by whom he was authorised shall make good any damage done to the land.

Provisions supplementary to sections 19 to 23

- 24.** (1) Whoever intentionally obstructs a person acting in the exercise of any power or duty conferred under sections 19 to 23 shall be guilty of an offence and liable on summary conviction to a fine of one thousand dollars.
- (2) Where, in the exercise of any power conferred by or under sections 19 to 23, any damage is caused to land and to moveables, the licensee may, at its option, either repair the damage or pay reasonable compensation to any person interested in the land or moveables for the damage; and where, in consequence of the exercise of such a power, a person is disturbed in his enjoyment of any land or moveable he may recover from that licensee compensation in respect of that disturbance.

Compulsory acquisition of land by licensee

- 25.** (1) The Governor may, upon the application in writing by a licensee and where it is in the interests of the public so to do, permit a licensee to acquire compulsorily any land required for any purpose connected with the carrying on of the activities which a licensee is authorised by his contract to carry on.
- (2) In this Law —
- “**land**” includes rights over land, and the power of the licensee under this section includes power to authorise the acquisition of rights over land by creating new rights as well as acquiring existing ones.
- (3) Where for any purpose a licensee has acquired, or proposes to acquire any land to which this section applies or any right over any such land, and any other land is required for the purpose of being given in exchange for the land or right in question, the Governor may authorise the licensee to purchase that other land compulsorily, or he may acquire it by agreement.
- (4) Where a licensee has acquired any land by virtue of this section he shall not dispose of that land or of any interest in or right over it except with the consent of the Governor.

Procedure and compensation respecting compulsory acquisition by licensee

- 26.** The procedure for the acquisition of land and for the payment of compensation for such land by a licensee is set out in the Schedule.



Superfluous lands

27. Where land acquired under this Law has become superfluous, the licensee may, with the consent of the Governor, sell, lease, exchange, license or otherwise dispose of such land.

Power of licensee to disconnect supply from a consumer in default of payment

28. Where any consumer is indebted to a licensee for electricity supplied or services rendered and remains so indebted for thirty days or more after demand has been made and served upon him in writing, either by letter addressed to his ordinary address or delivered to the premises to which the supply has been made or at which the services have been rendered, it shall be lawful for the licensee to enter upon the relevant premises and cut off the supply of electricity from such premises until the amount of the debt, together with the cost of cutting off and restoring the supply, has been paid by the consumer.

Protection of licensee's property against distress, etc.

29. Subject to the compulsory divestiture provision of the *Electricity Regulatory Authority Law (2008 Revision)*, mains in the ownership or control of a licensee shall not be liable to seizure or detention —
- (a) by distress;
 - (b) in the course of any remedy otherwise available to a landlord against his tenants; or
 - (c) in the course of any execution proceedings by any court otherwise than in a case where the actual default of the licensee himself has given rise to the proceedings.

Regulations

30. The Governor may make regulations —
- (a) prescribing the experience, qualifications, examinations or conditions of testing requisite for the granting of licenses to contractors in various categories;
 - (b) for the granting of licenses for the installation and operation of private plants;
 - (c) for the imposition of safety precautions in the installation, repair maintenance and operation of works for the generation, supply, measurement and distribution of electricity;
 - (d) prescribing standards to be adhered to in the management and maintenance of electrical installations;
 - (e) imposing safety measures in electrical operations for the protection of the public and of persons working on electric lines;

- (f) for the giving of notice by licensed contractors of work being or about to be undertaken;
- (g) prescribing pressures and forms of electricity to be provided by licensees to the public and permissible variations thereof;
- (h) prohibiting the sale or use of electrical equipment considered by the Inspectorate to be dangerous or unreliable;
- (i) defining vermin for the purpose of the definition “animals” in section 2;
- (j) for the testing and inspection of electrical measuring instruments;
- (k) for the testing of consumer installations prior to connection or reconnection to any main;
- (l) for the internal management of the Inspectorate; and
- (m) prescribing fees for services rendered and licenses granted by the Inspectorate.

Offences

31. Whoever —

- (a) fails to comply with any direction of the Inspectorate given under this Law;
- (b) makes any connection to a main without the consent of the mains engineer in charge;
- (c) falsifies any electrical measuring instrument or does anything to render it ineffective so as to deceive any person or be likely to deceive any person as to any amount of electricity transferred or consumed;
- (d) maliciously or fraudulently obstructs, wastes, consumes, diverts or uses any electricity;
- (e) without the authorisation of the responsible mains engineer, interferes with any main;
- (f) falsely purports himself to be a licensed contractor or, being a licensed contractor, performs or offers to perform any work or service outside the scope of his licence;
- (g) obstructs any member of the Inspectorate or any mains engineer in the performance of any duty required or authorised by this Law to be performed;
- (h) sells, installs or operates any electrical equipment, the sale or use of which is prohibited by this Law;
- (i) notwithstanding sections 3 and 4, maintains or operates any electric line or other apparatus which, by induction or otherwise, adversely affects the operation of any other electrical installation or the transmission or reception of any radio or other like signals;



- (j) contravenes any safety regulation; or
- (k) contravenes any other regulation or provision of this Law,

is guilty of an offence and liable on summary conviction to a fine of ten thousand dollars and to imprisonment for three months and, in the case of a continuing offence, to a further fine of one hundred dollars for each day the offence continues after conviction, without prejudice to any alternative punishment which may be inflicted under any other law.

Savings

- 32.** (1) Any licences made by virtue and remaining in effect under the repealed law shall continue in operation as if they had been made under the authority of this Law.
- (2) Any licence granted by virtue of the Electricity Law in force immediately before the 13th February, 2008 and remaining in effect immediately before that date, shall, on and after that date, continue in operation as if it had been granted under the authority of the Law as contained in this Revision, until terminated or until the date of its expiry, whichever is sooner.

Validation

- 33.** Anything which has been done between the 5th December, 1978 and the 20th May, 1999 by the Board of Examiners purportedly established under Electricity Regulations, 1977 made the 27th September, 1977, in purported exercise of any power conferred by the said regulations, which would have been lawfully done if the said regulations had been properly and lawfully made and if the said Board of Examiners had been properly and lawfully established under a regulation making provision contained in this Law, shall for all purposes be deemed to have been lawfully done and shall have effect and be deemed to have effect accordingly.

SCHEDULE

(section 26)

Application of the Land Acquisition Law (1995 Revision)

1. (1) The following sections of the *Land Acquisition Law (1995 Revision)* shall have effect with the necessary modifications necessary to make it apply to a licensee's compulsory acquisition of land in the Islands —

- (a) section 2;
- (b) section 3;
- (c) section 4;
- (d) section 5;
- (e) section 6;
- (f) section 7; and
- (g) section 8.

(2) Compensation may be determined by agreement, by arbitration if mutually agreed between the parties or by a Judge in the Grand Court.

Assessment of compensation

2. (1) Subject to this paragraph, the value of land compulsorily acquired by a licensee is the amount which the land might be expected to realise if, in the condition in which it was at the date of acquisition, it had been sold in the open market by a willing seller to a willing buyer.

(2) Where the owner of the land is in occupation of the land at the date of acquisition, and as a result of the acquisition, it has been necessary for the owner to give up occupation of the land, the value of the land is the greater of —

- (a) the market value of the land determined as set out in subparagraph (1); and
- (b) the aggregate of —
 - (i) the market value of the land determined on the basis that the use to which the land was being put at the time of its acquisition was at its highest and best use; and
 - (ii) the reasonable and proper costs, expenses and losses arising out of, or incidental to, the owner's disturbance, including moving to other premises.

(3) Where the costs, expenses and losses referred to in subparagraph (2) cannot practically be estimated or determined, there may be allowed in lieu a percentage, not exceeding fifteen, of the market value as set out in subparagraph (1), together with the

value to the owner of any element of special economic advantage to that owner arising out of, or incidental to, the owner's occupation of the land.

- (4) In determining the value of land, regard shall also be had to —
- (a) any damage caused by the severance of the land from other land in which the owner had an interest at the date of the acquisition; and
 - (b) any planning permission which has been granted in accordance with the *Development and Planning Law (2008 Revision)* and which is in force at the date of acquisition in respect of the land.
- (5) Where other land of the person interested adjoins the land acquired and the value of the other land is enhanced or depreciated by reason of the carrying out of, or the proposal to carry out, the public purpose for which the land is acquired, the enhancement or depreciation shall be set off against, or added to, as the case may require, the amount of the compensation otherwise payable to the person interested.
- (6) Where the land is, and but for the compulsory acquisition would continue to be devoted to a purpose of such a nature that there is no general demand or market for land for that purpose, compensation may be assessed on the basis of the reasonable cost of equivalent reinstatement.
- (7) No allowance shall be made on account of —
- (a) the acquisition being compulsory or the degree of urgency or necessity which has led to the acquisition; or
 - (b) any disinclination of the person interested to part with the land acquired.

Assessment of leasehold interest

3. In determining the value of a leasehold interest where the whole of the leased premises has been compulsorily acquired regard shall be had to —
- (a) the length of the term of the leasehold interest and the portion of the term remaining unexpired at the time at the date of acquisition;
 - (b) any right or reasonable prospect of renewal of the term that the owner of the leasehold interest had; and
 - (c) any investment in the land by the owner of the leasehold interest and the nature of any business carried on by him on the land.

Severance

4. In assessing severance, regard shall be had to —
- (a) the amount of any reduction in the market value of the land caused by its severance from the acquired land; and
 - (b) the fact that any specified works, crossings, or access agreed to by or on behalf of the licensee shall be erected, provided and allowed; and any



such agreement shall be reduced in writing and signed by the licensee and the person interested.

Mortgages

5. (1) The compensation payable to a mortgagee is an amount equal to the sum of —
- (a) the principal secured by the mortgage at the date of the acquisition; and
 - (b) the interest, costs or charges due to the mortgagee under the mortgage at the date of acquisition, but not exceeding the compensation payable to the mortgagor in respect of the land.
- (2) For the purposes of this paragraph, the compensation payable to the mortgagor shall be —
- (a) where there was only one mortgage over the land, the compensation that would have been payable to the mortgagor if there had been no mortgage over the land; or
 - (b) where there were more than one mortgage over the land, the compensation that would have been payable to the mortgagor if there had been no mortgage over the land less the amount, or the sum of the amounts, of principal, interest, costs and charges due at the date of acquisition to a mortgagee in respect of a mortgage having priority over the mortgage of which the compensation is to be determined.
- (3) In addition to the compensation payable in accordance with subparagraph (1) the mortgagee shall be paid —
- (a) interest upon the amount of principal included in that compensation at the lowest rate provided by the mortgage from the date of acquisition to the date of payment of compensation or, where payment is delayed through a default of the mortgagee, the date when payment would have been made but for the default; and
 - (b) where the principal is not repayable at the date when interest ceases to be payable under this paragraph, the cost to the mortgagee of reinvesting the principal and a reasonable allowance for loss of interest until the date on which the principal would have been repayable.
- (4) The compensation payable to a mortgagee under subparagraph (1) shall be deducted from the compensation that would have been payable to the mortgagor if the mortgage did not exist, and interest under paragraph 23 is payable to the mortgagor on the reduced amount only.

Injurious affection

6. (1) In this paragraph —
- “**injurious factor**” includes —
- (a) noise;



- (b) vibration;
- (c) smell;
- (d) smoke;
- (e) fumes;
- (f) artificial lighting;
- (g) discharge of substance;
- (h) heat;
- (i) gas;
- (j) vapour;
- (k) loss of support;
- (l) restriction or prevention of access between the relevant land and a public road, waterway or seashore; or
- (m) anything in relation to which, in the absence of statutory authority or immunity, there exists a right of action for nuisance by an owner of land against the owner or occupier of other land;

“relevant day” means —

- (a) in relation to an injurious factor caused by the existence of anything constructed on land, the first anniversary of the completion of the construction of that thing;
- (b) in relation to an injurious factor caused by the use of land or of anything constructed on land, the first anniversary of the commencement of that use; and
- (c) in relation to an injurious factor caused by the intensification of the use of land or of anything constructed on land, the first anniversary of the completion of the construction as a result of which the use was intensified.

(2) Where the value of land has been depreciated by an injurious factor caused by —

- (a) the existence of anything constructed on land vested in the licensee, the construction of which was completed after the 17th February, 2003 and after the land became vested in the licensee;
- (b) the use of the land vested in the licensee or of anything constructed on land vested in the licensee, being a use that commenced after the 17th February, 2003 and after the land became vested in the licensee; or
- (c) a substantial intensification in the use, whenever commencing, of land vested in the licensee, being an intensification that results from the completion of construction on the land after the 17th February, 2003 and after the land became vested in the licensee,

the person interested in that land on the relevant day, has a right to compensation in respect of the depreciation in the value of the interest.

(3) The compensation payable under this paragraph to a person interested is the amount by which the market value of the land on the relevant day is less than the amount that



would have been the market value of the land on the relevant day if the depreciation in value caused by the existence of the thing constructed, by the commencement of the use or by the substantial intensification of the use, as the case may be, had not occurred.

(4) No person shall be paid compensation under this paragraph in respect of depreciation of land by an injurious factor unless the source of the injurious factor is on land vested in the licensee.

Interest on compensation

7. (1) Compensation payable in respect of an acquisition under this Law bears interest from the date of acquisition of the land to the date on which payment is made to the person interested or, where the compensation is deposited with the court in accordance with this Schedule, to the date upon which the compensation is so deposited.

(2) The rate at which interest is payable under subparagraph (1) is at the United States prime interest rate plus two per cent.

(3) Where the amount of compensation determined upon an arbitration or by a court does not exceed an amount offered by the licensee, interest is payable only up to the date upon which the offer of the licensee was received by the person interested.

(4) Where compensation (not being compensation deposited in the court) is determined upon an arbitration or is determined or ordered to be paid by a court, interest continues to accrue under this paragraph to the date of payment.

(5) Where a person interested and the licensee agree to the amount of compensation, the licensee shall not pay interest on the compensation where —

- (a) there has been an unreasonable delay on the part of the person interested in submitting a proper claim; or
- (b) the person interested continued in beneficial enjoyment of the land in whole or in part after the date of acquisition until the date of payment.

Assessment Committee

8. (1) Where the licensee and a person interested are unable to agree on the quantum of compensation payable in respect of the acquisition of the land, they may agree to submit the determination of that amount to the Assessment Committee in accordance with this paragraph.

(2) The Assessment Committee referred to in subparagraph (1) shall comprise —

- (a) the Chief Engineer or his designate;
- (b) the Permanent Secretary of the Ministry responsible for the administration of this Law or his designate; and
- (c) a member of the public appointed by the Governor in Cabinet and who, in his opinion, is a person qualified as having had experience and shown capacity in arbitration or land valuation.

- (3) The licensee or the person interested shall apply to the Committee in writing and such application shall set out details of the acquisition including the amount of compensation offered, if any.
- (4) Service upon the Committee of the application shall be effected by sending the application by post to the Permanent Secretary of the Ministry.
- (5) The Committee —
- (a) may endeavour, by all reasonable and equitable means, to resolve by conciliation the disagreement that is the subject of the application;
 - (b) shall take all steps that it considers reasonable and equitable in the circumstances to effect an amicable settlement of an application and may adjourn a proceeding at any stage to enable the parties to negotiate for that purpose.

Arbitration and revocation of agreement to arbitrate

9. (1) Where the licensee and a person interested are unable to agree on the quantum of compensation payable in respect of the acquisition of the land, they may, as an alternative, agree to submit the determination of the compensation to arbitration.
- (2) The *Arbitration Law (2001 Revision)* shall apply to the determination by arbitration of any compensation payable by virtue of this Law.
- (3) Where, at any time after an agreement for arbitration is made in relation to a claim by a person interested in land and before the award is made upon arbitration in pursuance of that agreement, another person makes a claim for compensation in relation to that land or the licensee learns of another person who may be entitled to make a claim under this Law, the licensee may revoke the agreement.
- (4) Where the licensee revokes an agreement under subparagraph (3), the licensee is liable to pay the reasonable costs of and incidental to the agreement and, if the arbitration has commenced, of and incidental to the arbitration.

Determination of compensation by Grand Court

10. (1) Compensation payable under this Law shall, in default of determination by agreement, by the Assessment Committee or by arbitration, be determined by a judge of the Grand Court.
- (2) Proceedings in respect of a claim to compensation under this Law (other than claims determined by arbitration) may be taken either by a person interested or by the licensee and shall be instituted by originating summons (referred to in this Law as the “summons for assessment”) entitled “In the Matter of the Electricity Law (2008 Revision), and of the compulsory acquisition of land”.



(3) No person shall institute proceedings under subparagraph (1) until after the expiration of fourteen days from the date of the publication in the *Gazette* of a notice under section 6 of the *Land Acquisition Law (1995 Revision)*.

(4) A summons for assessment shall contain —

- (a) particulars of the land acquired;
- (b) particulars of each person who has an interest in the land acquired and of the nature of the interest; and
- (c) particulars of the compensation claimed including the total amount of the compensation and the amounts distinguished under separate heads which make up the total.

(5) A summons for assessment shall be returnable within fourteen days or within such other period as the Judge may allow and shall be served on the licensee or the person interested or on such other person as the Judge may direct.

(6) Proceedings on a summons for assessment and all matters and things incidental and ancillary thereto shall be had and taken in the same manner, and the powers of the Judge shall be the same as in a trial in an action in the Grand Court.

(7) Without prejudice to the generality of subparagraph (6), in any proceedings on a summons for assessment —

- (a) the hearing shall be in open court unless the Judge otherwise directs; and
- (b) any award made by the Judge may be enforced in the same manner as a judgement in the Grand Court.

Summons for assessment

11. (1) In any proceedings on a summons for assessment instituted by the licensee for determining the amount of compensation payable under this Law, every person who has a registered interest in the land in respect of which compensation is payable under this Law, shall be made a party to the proceedings.

(2) Where in any proceedings on a summons for assessment, the Judge is of the opinion that a person by whom or on whose behalf compensation is claimed or who has an interest in the land in respect of which compensation is payable is subject to any disability or incapacity, the Judge may appoint a guardian *ad litem* to protect the interests of that person.

Costs

12. (1) Subject to this paragraph, the amount of costs to be awarded in the proceedings in the Grand Court and all questions relating thereto shall be determined by the Judge, who may direct to and by whom and in what manner the costs or any part thereof shall be paid, and the Judge may award lump sum costs or may direct that the costs be taxed.

(2) The licensee shall pay to the person interested the reasonable costs incurred by that person in or about the preparation and submission of his claim unless —

- (a) that person has failed to put forward a proper claim within the time specified in the notice under paragraph 9;
- (b) the claim put forward is grossly excessive; or
- (c) that person has been a party to some deceit or fraud in respect of his claim.

(3) Subject to subparagraph (2), where a person interested has made an unconditional offer in writing to accept any sum as compensation and has put forward a proper claim in sufficient time to enable the licensee to make a proper offer and the sum awarded is equal to or exceeds that sum, the Judge shall, unless for special reasons he thinks proper not to do so, order the licensee to bear his own costs and to pay the costs of the person interested so far as the costs of the person interested were incurred after the offer was made.

(4) Where the Judge orders the person interested to pay the costs or any part of the costs of the licensee, the costs may be deducted from the amount of compensation payable to that person.

(5) Without prejudice to subparagraph (6), all costs shall be recoverable as though they were costs awarded in an action in the Grand Court.

(6) In this paragraph —

“costs” include fees, charges and expenses.

Appeal

13. Either party may appeal to the Court of Appeal and every such appeal shall be made within the time and in the manner laid down by any enactment or rules of court for the purposes of appeals from the Grand Court to the Court of Appeal and shall be subject in all respects to the law relating to such appeals.

Rules

14. The Rules Committee of the Grand Court may make rules for regulating the practice and procedure of the Grand Court and the Court of Appeal in respect of powers under this Law.

Title to land

15. (1) When the amount of compensation to which a person is entitled under this Law has been determined that amount shall be paid to that person when he has —

- (a) made out, to the satisfaction of the licensee, a title as at the date of acquisition to the interest in respect of which the compensation is payable;



- (b) produced or surrendered all deeds and documents relating to, or evidencing that title which the licensee reasonably requires to be produced or surrendered as the case may be; and
 - (c) executed such documents as the licensee reasonably requires.
- (2) Subparagraph (1) (a) shall not apply where a court has, under this Law, declared or determined that the person interested had immediately before the date of acquisition of land, the interest in respect of which the compensation is payable.

Limitation

16. (1) No claim for compensation in respect of the compulsory acquisition of land shall be admitted or considered by the licensee unless it is made in writing to the licensee within two years after the publication in the *Gazette* of the notice of acquisition of land under section 16 of the *Land Acquisition Law (1995 Revision)*.
- (2) No claim for compensation for injurious affection shall be admitted or considered by the licensee unless it is made in writing to the licensee within two years after the publication by the Minister in the *Gazette* of a notification of the completion of work in respect of which the land was acquired.
- (3) Where a person fails to make a claim for compensation within the time limits specified in this section, that person may apply in writing to the Governor to extend the time and the Governor may, in his absolute discretion, grant the extension in respect of the whole claim or any part thereof upon such terms and conditions as he sees fit.
- (4) An application for an extension under subparagraph (3) shall be made in writing and shall be made within six months from the time when the claim became barred.

Refusal to give up possession

17. Where a person refuses to give up possession of land or hinders the licensee or a person authorised by the licensee in taking possession of land which has been acquired for public purposes or on which the licensee or such other person is authorised by virtue of this Law to do any work or thing, a magistrate may issue his precept or warrant to a constable to enter upon the land and to take possession of the land and to deliver possession of it to the licensee or such person.

Assault or obstruction of licensee

18. Whoever assaults or obstructs or abets any other person in assaulting or obstructing —
- (a) a constable in the execution of his duties under this Law; or
 - (b) the licensee or a person authorised by the licensee in the exercise or performance of any power or duty conferred or imposed by this Law,

is guilty of an offence and liable on summary conviction to a fine of one thousand dollars.



Payment of reasonable costs, etc. by the licensee

19. (1) The licensee shall pay all reasonable and proper conveyancing costs, charges and expenses incurred by persons interested.
- (2) The licensee shall not be responsible for the payment of any stamp duty and property transfer tax due on the transfer of the land under this Law.

Payment of compensation into court

20. (1) Where no person is able to give a good discharge for any compensation payable under this Law or no person can be found to receive such compensation after the amount of the compensation has been determined by the licensee, the licensee may pay the compensation into the Grand Court.
- (2) Compensation paid into court under subparagraph (1) may, on the application of a person claiming and proven to be entitled to such compensation, be paid out to that person by the order of the court.

Person in possession deemed to be owner

21. Where a question arises respecting the title of a person to land which may be taken or entered for the purposes of this Law or respecting any estate or interest in the land, the person having the ostensible possession or enjoyment of the rents and profits of the land shall, for the purposes of this Law, be deemed the owner of the land until the contrary be proved.

Question of title to be determined by judge

22. (1) A Judge may, upon an application respecting a question of title to lands in respect of which compensation is by this Law authorised to be made, summon all relevant parties to appear before the Judge.
- (2) Upon the appearance of the parties after proof of due service of the summons, the Judge may hear and determine the question of title to land and, for that purpose, may examine the parties or any of them and their witnesses upon oath.
- (3) The cost of the enquiry under this paragraph shall be in the discretion of the Judge.

Special provisions as to mortgagees

23. (1) A person interested in a mortgage or charge on land may give notice in writing to the licensee or to a person authorised by the licensee within the time specified in the notice after such land has been acquired, of the amount due in respect of the mortgage or charge and the nature and date of the instrument or security under which the mortgage or charge is claimed.
- (2) Upon receipt of the notice and verification of the mortgage or charge, the licensee may deduct from the compensation payable in respect of the land or so much of the compensation as is sufficient to pay the amount due in respect of the mortgage or charge



with the permission of the Registrar to the Grand Court to the credit of the party having mortgage or charge on the land. The mortgagee or chargee shall provide to the licensee all necessary papers to remove the charge at the Land Registry.

(3) The compensation deducted under subparagraph (2) shall be subject to the control and disposition of the Grand Court.

Special rules as to leases

24. (1) Where land is comprised in a registered lease for a term of years unexpired and part of the land is compulsorily acquired, the rent payable in respect of the land comprised in the lease may, on the application of the lessor or lessee to a Judge in the Grand Court, be apportioned between the land acquired and the residue of land.

(2) After the apportionment under subparagraph (1) the lessee shall, as to all future accruing rent, be liable only to so much of the rent as is so apportioned in respect of the residue of the land.

(3) As against the lessee, the lessor shall have all the same rights and remedies for the recovery of that portion of the rent as previously to the apportionment he had for the recovery of the whole rent reserved by the lease.

(4) All the covenants, conditions and agreements of the lease except as to the amount of the rent to be paid shall remain in force with regard to the residue of the land in the same manner as they would have done in the case the residue of the land only had been included in the lease.

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this 13th day of May, 2008.**

Carmena Watler
Clerk of Cabinet