



**PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA**

**ELECTRICITY REFORM
ACT, No. 28 OF 2002**

[Certified on 11th December, 2002]

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Electricity Reform Act, No. 28 of 2002

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L.D.—O. 36/2002.

AN ACT TO PROVIDE FOR THE REGULATION OF THE GENERATION, TRANSMISSION AND DISTRIBUTION AND SUPPLY OF ELECTRICITY IN SRI LANKA ; TO PROVIDE FOR THE TAKING OVER, AND DISCHARGE OF THE FUNCTIONS OF THE CEYLON ELECTRICITY BOARD AND THE LANKA ELECTRICITY COMPANY BY CERTAIN PUBLIC COMPANIES TO BE INCORPORATED FOR THAT PURPOSE ; TO REPEAL THE CEYLON ELECTRICITY BOARD ACT AND THE ELECTRICITY ACT ; AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THEREFO.

WHEREAS a national policy on electricity had been formulated with a view to enabling Sri Lanka to meet the increasing demands for electricity in the future :

AND WHEREAS it has become necessary to give effect to this policy by regulating the generation, transmission, distribution and supply of electricity in Sri Lanka, by providing for the taking over and discharge of the functions of the Ceylon Electricity Board and the Lanka Electricity Company, by certain public companies to be incorporated for that purpose ; and by providing for certain other related matters :

NOW THEREFORE, be it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows :—

CHAPTER I

PRELIMINARY

1. This Act may be cited as the Electricity Reform Act, No. 28 of 2002, and shall come into operation on such date as the Minister may appoint by Order published in the Gazette. Different dates may be appointed in respect of different provisions of this Act.

Show title and
dates of operation

Administration of the Act.

2. Without prejudice to the powers of the Minister under Chapter VI, from and after the date of operation of this Act or any of the provisions thereof, the administration of this Act shall vest in the Public Utilities Commission of Sri Lanka (hereinafter referred to as the "Commission") constituted under the Public Utilities Commission of Sri Lanka Act, No. 35 of 2002 and the Commission shall exercise, perform and discharge all the powers, functions and duties as are conferred on or assigned to it under this Act.

CHAPTER II

FUNCTIONS OF THE COMMISSION

Functions of the Commission.

3. The functions of the Commission shall be to act as the economic, technical and safety regulator for the electricity industry in Sri Lanka and—

- (a) to advise the Government, on all matters concerning the generation, transmission, distribution, supply and use of electricity in Sri Lanka ;
- (b) to exercise licensing, regulatory and inspection functions, as the case may be, in respect of matters provided for in this Act, licences, regulations, standards of performance, codes of practice and other requirements of, or made under this Act relating to the generation, transmission, distribution, supply and use of electricity in Sri Lanka ;
- (c) to approve such technical and operational codes and standards as are required from time to time to be developed by licensees ;
- (d) to regulate tariffs and other charges levied by licensees and other electricity undertakings ;
- (e) after consultation with transmission and distribution licensees, to publish a statement setting out the rights and obligations of consumers arising under sections 22 to 28 of, and Schedules 1 and 2 to this Act ;

- (f) to collect and record information relating to the generation, transmission, distribution, supply and use of electricity in Sri Lanka ;
- (g) to set and enforce technical and other standards relating to the safety, quality, continuity and reliability of electricity supply services and metering services ;
- (h) to promote the efficient use, and conservation, of electricity ;
- (i) to prepare, within three months of the coming into operation of this Chapter and to revise, from time to time thereafter, a regulatory manual containing a code of good practice relating to the functions assigned to the Commission by or under this Act ;
- (j) to pursue any matter relating to the functions conferred on or assigned to the Commission by or under this Act within such period and in such manner as may be specified in the regulatory manual ;
- (k) subject to the provisions of this Act, to consult to the extent the Commission considers appropriate, any person or group of persons who may be affected, or are likely to be affected, by the decisions of the Commission, and
- (l) to undertake all incidental or ancillary measures that it considers appropriate for the effective discharge of its functions.

4. (1) The Commission shall discharge the functions assigned to it by or under this Act in a manner which it considers is best calculated—

Objectives.

- (a) to protect the interests of consumers in relation to the supply of electricity, by promoting efficiency, economy and safety by persons engaged in, or in

commercial activities connected with the generation, transmission, distribution supply and use of electricity ;

- (b) to secure that, so far as it is economical to meet them, all reasonable demands for electricity in Sri Lanka are met ;
- (c) to secure that licensees acting efficiently will be able to finance the carrying on of the activities authorized or required by their licences ;
- (d) to promote the efficient use of electricity supplied to premises ;
- (e) to protect the public from dangers arising from the generation, transmission, distribution, supply or use of electricity ;
- (f) to give effect to any guidance on environmental objectives notified to the Commission by the Central Environmental Authority or, where applicable, a Provincial Council ; and
- (g) to promote competition, where appropriate,

(hereinafter referred to as the "objectives").

(2) In this section, "the interests of consumers" includes the interests of existing and future consumers with regard to --

- (a) the prices charged and other terms of supply of electricity ;
- (b) the availability and continuity of supply of electricity ;
- (c) the quality of electricity supply services provided , and
- (d) the exercise of any rights conferred under this Act to enter their premises.

5. (1) The Minister shall have the power to formulate general policy guidelines in respect of the electricity industry.

General Policy
Guidelines to be
issued by the
Minister.

(2) Without prejudice to the generality of subsection (1), it shall be lawful for the Minister to forward such guidelines to the Cabinet of Ministers for consideration on the following matters :—

- (a) the requirements for electricity in Sri Lanka in order to attain national targets for sustainable economic growth including requirements in respect of—
 - (i) different geographical areas including rural areas ; and
 - (ii) different socio-economic groups ;
- (b) fuel diversity and the preferred fuel for new electricity generating capacity ;
- (c) the priorities and objectives in meeting the needs set out in paragraph (a) ;
- (d) the measures being taken by the Government with respect to the above matters,

and upon such guidelines being issued, the Commission shall take such general policy guidelines into consideration when discharging its functions.

6. (1) The Commission may appoint electrical inspectors for the purposes of this Act.

Electrical
Inspectors.

(2) It shall be the duty of an electrical inspector appointed under subsection (1)—

- (a) to inspect and test electric lines and electrical plants belonging to persons authorized by a licence, or exempted from the requirement of obtaining a licence, to generate, transmit, distribute or supply electricity ;

- (b) to examine, the generation, transmission, distribution or supply of electricity by such persons ;
 - (c) to inspect and test, if and when required by any consumer, any such lines and plant on the consumer's premises, for the purpose of ascertaining whether any requirement imposed by this Act in respect of those lines or plant or the supply of electricity through or by them, has been complied with ; and
 - (d) to carry out such other functions as may be imposed on him or her by regulations or the Commission as it so determines.
- (3) Regulations may be made—
- (a) prescribing the manner in which, and the times at which, any duties imposed on electrical inspectors are to be performed ;
 - (b) requiring persons authorized by a licence, or exempted from the requirement of obtaining a licence, to generate, transmit, distribute or supply electricity—
 - (i) to furnish electrical inspectors with records or other information ; and
 - (ii) to allow such inspectors access to premises and the use of electrical plant and other facilities ;
 - (c) prescribing the amount of the fees (if any) which are payable to such inspectors and the persons by whom they are payable ;
 - (d) prescribing a procedure for the audit of the activities of electrical inspectors ;
 - (e) relieving a licensee from its obligation to supply electricity in circumstances the Commission may prescribe ; and
 - (f) setting out the procedure for the resolution of disputes between an electrical inspector and a consumer or a licensee.

(4) Any fees received by the electrical inspectors under this section shall be credited to the Fund of the Commission.

7. The provisions relating to public hearings in the Public Utilities Commission of Sri Lanka Act, No. 35 of 2002 shall, *mutatis mutandis*, apply to, and in relation to, a public hearing under this Act.

Public hearings.

CHAPTER III

PART I

LICENSING

8. (1) A person shall not—

Prohibition on
unlicensed supply
of electricity

(a) generate electricity ;

(b) transmit electricity ; or

(c) distribute or supply electricity for the purpose of giving a supply to any premises or enabling a supply to be given to any premises,

unless he is authorized to do so by a licence granted under this Act or is exempted from such requirement under section 9.

(2) A person who contravenes the provisions of subsection (1) shall be guilty of an offence under this Act and shall be liable on conviction, after summary trial before a Magistrate to a fine not less than one hundred thousand rupees and not exceeding two hundred thousand rupees or to imprisonment of either description for a term not less than six months and not exceeding one year or to both such fine and imprisonment.

(3) No proceedings shall be instituted in respect of an offence under this section except with the written sanction of the Commission.

9. (1) The Commission may, by Order published in the Gazette, exempt any person or category of persons from the requirement of obtaining a licence for generating or distributing electricity, having regard to the manner in which or the quantity of electricity likely to be generated or distributed by such person or category of persons.

Exemptions

(2) Every such exemption shall be to such extent, and subject to such conditions, and for such period, as may be specified in such Order.

Applications for
licences.

10. Every application for a licence to generate, transmit or distribute electricity or for an extension to any such licence shall be made in writing to the Commission and shall be in such form, and shall be accompanied by such information and documents and such fee, as may be prescribed by regulation.

Procedure prior to
grant of licences.

11. (1) Upon receipt of an application under section 10 and where the Commission intends to grant the licence or extension applied for the Commission shall—

- (a) publish a notice of its intention to do so in such manner as the Commission considers appropriate for bringing it to the attention of persons who are likely to be affected by the licence or extension; and
- (b) send a copy of the notice to the Minister for his or her information.

(2) Every notice under subsection (1) shall—

- (a) state that the Commission proposes to grant the licence or extension to the persons, and for the purposes, set out in the notice;
- (b) state the reasons for proposing the grant of such licence or extension; and
- (c) specify the period (not being less than twenty eight days from the date of publication of the notice) within which representations may be made to the Commission with respect to the proposal.

Grant of licences

12. (1) The Commission may—

- (a) after considering any representations made to it in response to the notice published under section 11;

(b) after satisfying itself that the applicant has the financial and technical capability for carrying out the activities authorized by the licence or extension, and

(c) after notifying the Minister.

(i) grant a licence authorizing any person —

(a) to generate electricity from an identified generation plant : (a licence granted under this sub-paragraph is hereinafter referred to as a “generation licence”) ;

(b) to transmit electricity (and procure and sell electricity in bulk) in the Authorized Area specified in the licence : (a licence granted under this sub-paragraph is hereinafter referred to as a “transmission licence”) ; or

(c) to distribute and supply or distribute or supply electricity for the purpose of giving a supply to any premises or enabling a supply to be so given in the Authorized Area specified in the licence : (a licence granted under this sub-paragraph is hereinafter referred to as a “distribution licence”) ; or

(ii) extend, for the period specified in the extension, a generation, transmission, or distribution licence granted under this Act.

(2) Forthwith upon the grant of a licence or an extension under this section, the Commission shall cause to be published in the Gazette, a notification giving details of the licence or extension granted, including the persons to whom, and the purposes for which, it was granted, the term of such licence or extension, as the case may be, and the conditions subject to which it was granted.

(3) A person shall not be granted both a transmission licence and—

- (a) a generation licence ; or
- (b) a distribution licence.

(4) A person shall not be granted both a generation licence and a distribution licence.

Form of Licence.

13. (1) Every generation, transmission or distribution licence or extension thereof granted under this Act shall—

- (a) be in writing ;
- (b) unless previously revoked or surrendered in accordance with the terms of the licence or extension, continue in force for the period specified in the licence or extension ; and
- (c) not be capable of being surrendered without the consent of the Commission.

(2) As soon as practicable after granting a generation, transmission or distribution licence or extension thereof the Commission shall send a copy thereof—

- (a) to the Minister for his or her information ; and
- (b) to any licensee likely to be affected.

General conditions of licences

14. (1) A generation, transmission or distribution licence may include—

- (a) such conditions (whether or not relating to the activities authorized by the licence) as the Commission considers necessary having regard to the functions assigned to it by section 3 ;

- (b) conditions requiring payment to the Commission upon the grant of the licence, or periodic payments during the term of the licence, of such amount or amounts as may be determined by the Commission, by or under the licence ;
 - (c) in addition to the provisions in sections 30 and 31 of this Act, conditions with provision for the conditions—
 - (i) to have effect or cease to have effect at such times and in such circumstances as may be specified in the licence ; or
 - (ii) to be modified in such manner as may be specified in the licence at such times, and in such circumstances, as may be so specified ; and
 - (d) conditions relating to the prohibition of abuse of monopoly position or other anti-competitive behaviour.
- (2) Conditions included in a generation, transmission or distribution licence may include, requirements—
- (a) compelling the licensee to adhere to any decision, order, direction or determination given by the Commission as to such matters as are specified in the licence ;
 - (b) compelling the licensee to comply with all requirements of the licence ;
 - (c) compelling the licensee to refer certain matters for determination by the Commission ;
 - (d) compelling the licensee to refer for approval by the Commission certain things to be done under the licence or certain contracts or agreements made in pursuance of the licence ;

- (e) restricting the ownership by the licensee, or any of its affiliates, of specified business interests; and
- (f) compelling the licensee to enter into agreements with other persons.

(3) Any sum received by the Commission by virtue of any condition of a licence shall be paid into the Fund of the Commission.

Special conditions
of generation
licences.

15. Without prejudice to the generality of section 14, a licence issued to a generation licensee shall include conditions—

- (a) prescribing how it shall discharge the functions assigned to the licensee under this Act, in so far as such condition is not inconsistent with any provision of this Act;
- (b) requiring the licensee to sell electricity generated by the licensee exclusively and only to transmission licensee;
- (c) requiring the licensee to adhere to all environmental laws for the time being in force;
- (d) requiring the licensee to take all possible steps to protect persons, plants and equipment from injury and damage;
- (e) requiring the licensee to implement and maintain such technical or operational codes in relation to the generation system as the Commission considers necessary or expedient; and
- (f) requiring it to develop and maintain electric lines, cables, plants and fuel handling plants and associated equipment.

16. Without prejudice to the generality of section 14, a transmission licence issued to a licensee shall include, conditions—

Special conditions
of transmission
licensees.

- (a) prescribing how the licensee shall discharge the functions assigned to the licensee under this Act, in so far as such condition is not inconsistent with any provision of this Act ;
- (b) requiring the licensee to forecast future demand, to plan the development of the licensee's transmission system, and to procure the development of new generation plant to meet reasonable forecast demand ;
- (c) requiring the licensee to purchase electricity and other goods and services on the most economically advantageous terms ;
- (d) relating to the establishment of tariffs the licensee may charge for the bulk sales of electricity and tariffs for the use of the transmission system by generation licensees and distributions licensees ;
- (e) requiring the licensee to maintain separate accounts in respect of different parts of the licensee's business and prohibiting cross subsidy between those parts ;
- (f) requiring the licensee to implement and maintain such technical or operational codes in relation to the transmission system (including a grid code) as the Commission considers necessary or expedient ;
- (g) requiring the licensee to develop and maintain electric lines or electrical plant or both ; and
- (h) requiring the licensee to develop and operate a transparent generation dispatch model.

and may include, conditions allowing the transmission licensee to sell electricity in bulk to certain consumers who are connected to the transmission licensee's transmission system and are identified in the transmission licence, subject to such further conditions as are included in that licence relating to such bulk sales.

Special condition
of distribution
licences.

17. Without prejudice to the generality of section 14, a distribution licence issued to a licensee may include, conditions—

- (a) prescribing how the licensee shall discharge the functions assigned to the licensee by or under this Act in so far as such conditions are not inconsistent with any provisions of this Act ;
- (b) requiring the licensee to publish codes of practice in relation to consumer issues containing such provisions as the Commission considers necessary for the protection of consumers, including provision relating to—
 - (i) the payment of bills by consumers ;
 - (ii) the disconnection of supplies to consumers ;
 - (iii) the provision of services to the elderly and disabled ;
 - (iv) the efficient use of electricity by consumers ;
 - (v) the handling of consumer complaints ; and
 - (vi) the monitoring of compliance by the licensee, with maximum charges for the resale of electricity set by the Commission ;
- (c) requiring the licensee to implement and maintain such technical or operational codes in relation to the electricity distribution network as the Commission considers necessary or expedient ; and

- (d) requiring the licensee to develop and maintain electric lines or electrical plant or both.

18. (1) A licence shall be capable of being assigned either in whole or in part if it includes a condition authorizing such assignment.

Assignment of
licences

(2) A licence shall not be capable of being assigned except with the consent of the Commission.

(3) In deciding whether to give its consent under subsection (2), the Commission shall apply the same criteria as it would apply if it were deciding whether to grant a corresponding licence or part of a corresponding licence to the assignee.

(4) A consent under subsection (3) may be given subject to the assignee agreeing to—

- (a) such modification of the conditions of the licence or the imposition of such further conditions as the Commission considers necessary for the purpose of protecting the interests of consumers ; and
- (b) such incidental or consequential modification of conditions as the Commission considers necessary.

(5) A licence may include conditions authorising assignment subject to compliance by the assignee of certain specified conditions.

(6) An assignment, or purported assignment, of a licence shall be void—

- (a) if the licence is not capable of assignment ;
- (b) if the assignment, or purported assignment, is in breach of a condition of the licence ; or
- (c) if there has been, before the assignment or purported assignment, a contravention of a condition subject to which consent was given under subsection (2).

Revocation of
licences

19. (1) The Commission may, after considering any representation made to it in response to a notice published under subsection (2), and by Order published in the Gazette, revoke a generation, transmission or distribution licence, in accordance with the terms as to revocation contained in such licence.

(2) Before revoking any licence under subsection (1), the Commission shall by notice published in the Gazette and by such other means as it considers appropriate for bringing it to the attention of persons likely to be affected by the revocation, state that it proposes to revoke the licence specified in the notice, and the reasons for proposing to do so, and specify a period within which representations may be made to it against such revocation.

Application for
exemption

20. (1) Every application for an exemption under section 9 may be made, in writing to the Commission in such form as may be prescribed and shall be accompanied by such information, documents and fees as may be prescribed by regulation.

(2) The provisions of subsection (1) and (2) of section 11 shall, *mutatis mutandis*, apply in relation to an application under subsection (1).

(3) The Commission shall consider any representation made to it in response to a notice published by it in pursuance of subsection (2), before granting an exemption under section 9.

Revocation and
withdrawal of
exemptions

21. (1) The Commission may, after considering any representation made to it in response to a notice published under subsection (2), by Order published in the Gazette—

- (a) revoke an exemption granted to a person or a category of persons under section 9; or
- (b) withdraw an exemption granted to a category of persons from a person of that category.

in accordance with any provision of the Order by which the exemption was granted or if it appears to the Commission inappropriate that the exemption should continue.

(2) Before revoking or withdrawing an exemption under subsection (1), the Commission shall by notice published in such manner as the Commission considers appropriate to bring it to the attention of the persons affected, state that it proposes to revoke or withdraw the exemption specified in the notice, and the reasons for doing so, and specify a period within which representations may be made to the Commission against such proposed revocation or withdrawal.

PART II

POWERS AND DUTIES OF LICENSEES

22. The provisions of this Part shall be in addition to, and not in derogation of, the conditions of a generation, transmission or distribution licence.

Provisions of this Part to be in addition to conditions

23. (1) A transmission licensee shall—

Duties of transmission licensee

- (a) develop and maintain an efficient, coordinated, reliable and economical transmission system ;
- (b) procure and sell electricity in bulk to distribution licensees so as to ensure a secure, reliable and economical supply of electricity to consumers ; and
- (c) ensure that there is sufficient capacity from generation plant to meet reasonable forecast demand for electricity.

(2) Sections 6, 24, 25, 26, 27, 28, 39, 40, 41, 60 and 62, of this Act and Schedules 1, 2 and 3 to this Act shall, *mutatis mutandis*, apply to bulk sales of electricity by a transmission licensee as they apply to the supply of electricity by a distribution licensee.

Duties of
distribution
licensees.

24. (1) A distribution licensee shall on any request by the owner or occupier of any premises within the Authorized Area of the licensee—

- (a) connect, supply and maintain the supply of electricity to those premises ; and
- (b) so far as may be necessary for that purpose, provide electric lines or electrical plant or both,

subject to the provisions of this Part, any regulations made under this Part or section 60, and the Electricity Supply Code (as set out in Schedule 2 to this Act.).

(2) A distribution licensee shall avoid any undue preference or undue discrimination in the connection of any premises to any electricity distribution system operated by the licensee or in the terms on which the licensee makes connections or supplies electricity.

(3) The owner or occupier of any premises in the Authorized Area of a distribution licensee which—

- (a) are situated within fifty meters from any distribution line of the licensee ; or
- (b) could be connected to any such line by an electric line supplied and laid by the owner or occupier of those premises.

may make a request for a supply under sub-section (1) to such distribution licensee.

(4) A supply of electricity to any premises shall be on the basis of a standard tariff agreement and a distribution licensee shall inform all consumers within the Authorized Area of the distribution licence (whether existing consumers or those persons requesting a supply) of the requirements set out in this Part and the distribution licence, which have to be satisfied by a consumer in order to obtain a supply of electricity.

(5) Where any person requires such a supply of electricity as is referred to in subsection (1), he or she shall request a supply from and shall inform the distribution licensee of—

- (a) the premises at which the supply is required ;
- (b) the purposes for which electricity is to be used in those premises ;
- (c) the day (not being earlier than a reasonable time after the distribution licensee is informed of a person's requirement) on which the supply is required to commence ;
- (d) the maximum power which may be required at any time ; and
- (e) the minimum period for which the supply is required to be given.

and shall provide the distribution licensee with such other information as may be prescribed, from time to time, by regulation.

(6) As soon as practicable after receiving a request under subsection (5), the distribution licensee shall give to the person making the request a notice under subsection (7), if—

- (a) such licensee has not previously given a supply of electricity to those premises ; or
- (b) the giving of the supply requires the provision of electric lines or electrical plant or both ; or
- (c) if there are other circumstances which make it necessary for the licensee to do so.

(7) A notice under this subsection shall—

- (a) state the extent to which the proposals specified in the prospective consumer's request under subsection (5) are acceptable to the distribution licensee and specify any counter-proposals made by the distribution licensee ;
- (b) specify the tariff payable ;
- (c) specify any payment which that person may be required to make under section 26 or 27 ; and
- (d) specify any other terms and conditions which that person may be required to accept.

so however, that the counter-proposals, terms and conditions proposed by the distribution licensee shall be those which the licensee is entitled to impose on that person in accordance with this Act, regulations made under this Act and the conditions of the distribution licence.

(8) In this section—

- (a) any reference to giving a supply of electricity includes a reference to continuing to give such a supply ;
- (b) any reference to requiring a supply of electricity includes a reference to requiring such a supply to continue to be given ; and
- (c) any reference to the provision of an electric line or an item of electrical plant includes a reference to the installation of a new line or item or the modification of an existing line or item.

Exemption from
duty to connect
and supply.

25. Nothing in this Act shall be deemed to require a distribution licensee to connect and give a supply of electricity to any premises under section 24 if and to the extent that the connection and giving of the supply would result in the

distribution licensee being in breach of regulations under this Part or section 60, or the Electricity Supply Code, (as set out in Schedule 2 to this Act) and the licensee has taken all such steps as are reasonable to prevent the circumstances which may result in the breach from occurring and to prevent those circumstances from having such effect.

26. (1) Where any electric line or electrical plant is provided by the distribution licensee to a person requiring a supply of electricity under section 24, the licensee may require any expenses reasonably incurred in providing the line or plant to be defrayed by that person to such extent as is allowed by the conditions of the distribution licence.

Power to recover
expenditure

(2) The Commission may direct a person requiring a supply of electricity under section 24 from a distribution licensee to pay to the licensee, in respect of any expenses reasonably incurred in providing any electric line or electrical plant used for the purpose of giving that supply, such amount as may be reasonable in all the circumstances taking into account—

- (a) the period of time between laying the distribution line and making the connection ;
- (b) any payment any other person has previously made to the licensee in respect of these expenses ; and
- (c) the extent to which the licensee has already recovered the licensee's expenses in full.

(3) Directions given by the Commission under subsection (2) may require the distribution licensee who has recovered an amount in respect of expenses reasonably incurred in providing any electric line or electrical plant, to apply any amount so recovered or part thereof in making such payments as may be appropriate towards reimbursing any person's previously contributing to such expenses.

(4) Any reference in this section to any expense reasonably incurred in providing an electric line or electrical plant includes a reference to the capitalized value of any expenses likely to be so incurred in maintaining the line or plant, in so far as such expenses are not recoverable by the distribution licensee as part of the charges made by the licensee for the supply of electricity.

Power to require security.

27. (1) Subject to the following provisions of this section, a distribution licensee may require by notice in writing any person who requires a connection, supply or re-connection of electricity under section 24 to provide reasonable security for the payment of all money which may become due to the licensee—

- (a) in respect of the supply ; or
- (b) where any electric line or electrical plant requires to be provided for such supply, in respect of the provision of the line or plant,

and if that person fails to provide such security, the distribution licensee may refuse to give the supply, or refuse to provide the line or plant, for so long as the failure continues.

(2) Where any person has not provided such security as is required under subsection (1), or the security provided by such person has become insufficient—

- (a) the distribution licensee may by notice require that person, to provide, within seven days after the service of the notice, reasonable security for the payment of all moneys which may become due to the licensee in respect of the supply ; and
- (b) if that person fails to provide such security, the licensee may refuse to make the connection or discontinue the supply, as the case may be, for so long as the failure continues.

(3) Where any sum of money is provided to a distribution licensee by way of security in pursuance of this section, the licensee shall pay interest on such sum of money, at such rate as may from time to time be fixed by the licensee with the approval of the Commission, for the period it remains in the hands of the licensee.

28. A distribution licensee may require any person who requires a supply of electricity under section 24 to accept in respect of the supply—

Additional terms.

- (a) any terms requiring that person to continue to receive, and pay for, the supply of electricity for a minimum period of time and subject to minimum consumption requirements ;
- (b) any restrictions which may be required to be imposed for the purpose of enabling the licensee to comply with regulations under this Part or section 60 or the Electricity Supply Code as set out in Schedule 2 to this Act ; and
- (c) any terms restricting any liability of the licensee for any economic, consequential or other indirect loss sustained by such person, however arising, which it is reasonable in all the circumstances for that person to be required to accept.

29. (1) This section shall apply to—

Tariffs

- (a) tariffs or charges levied by the transmission licensee for the transmission and bulk sale of electricity (hereinafter referred to as "transmission and bulk sale tariffs") ; and
- (b) tariffs or charges levied by the distribution licensee for the distribution and supply or distribution or supply of electricity (hereinafter referred to as "distribution and supply tariffs").

(2) Transmission and bulk sale tariffs and distribution and supply tariffs as the case may be, shall, in accordance with conditions specified in the relevant licence—

- (a) be set by the relevant licensee in accordance with a cost reflective methodology approved by the Commission ;
- (b) permit the relevant licensee to recover all reasonable costs incurred in the carrying out of the activities authorized by its licence on an efficient basis ;
- (c) be approved by the Commission ; and
- (d) be published in such manner as may be required by the Commission.

(3) Where a transmission licence or a distribution licence as the case may be, contains provision for transmission and bulk sale tariffs or distribution and supply tariffs as the case may be, to be subject to review, the Commission shall (unless a procedure for the review of such tariffs is specified in the relevant licence) prescribe a procedure for review which shall include—

- (a) a timetable for the review of tariffs by the Commission ; and
- (b) provision for consumers and other interested parties to participate in the process for review.

(4) Notwithstanding any other provision of this Act the Commission may set tariffs and charges which require the licensee to subsidize consumers if the Commission is satisfied that there is provision for the licensee to be adequately compensated by the Government for such subsidies.

(5) In this section, "relevant licensee" means a transmission licensee in respect of transmission and bulk sale tariffs and a distribution licensee in respect of distribution and supply tariffs.

30. The provisions contained in—

Provisions of
Schedule 1 to apply
to licensee.

(a) Schedule 1 to this Act (other powers of licensee) ;

(b) Schedule 2 to this Act (the Electricity Supply Code) ;

(c) Schedule 3 to this Act (use of electricity meters) ;
and

(d) Schedule 4 to this Act (preservation).

shall apply to, and in relation to, the respective licensee and
licensees referred to in those Schedules.

PART III

MODIFICATION AND ENFORCEMENT OF LICENCES

31. (1) Subject to the following provisions of this section,
the Commission may modify the conditions of a generation,
transmission or distribution licence if the licensee consents
to the modifications.

Modification is
agreed.

(2) Before making modifications under this section, the
Commission shall —

(a) publish a notice in such manner as the Commission
considers appropriate for bringing the proposed
modifications to the attention of persons likely to be
affected by the proposed modifications;

(b) serve a copy of the notice on the licensee ;

(c) send a copy of the notice to the Minister for his or
her information.

(3) The notice under subsection (2) shall —

(a) state that the Commission proposes to make the
modifications specified in the notice, the effect of
the proposed modifications and the reasons for the
proposed modifications ; and

- (b) state the period (not later than twenty eight days commencing from the date of publication of the notice) within which representations or objections may be made to the Commission regarding the proposed modifications.

(4) The Commission shall consider any representations and objections made to it in response to a notice published under subsection (3) before making any modifications proposed in the notice.

(5) As soon as practicable after making any modifications under this section, the Commission shall send a copy of the modifications to the licensee, and to the Minister for his or her information.

Modification
without
agreement.

32. (1) Subject to the following provisions of this section, the Commission may modify the conditions of a generation, transmission or distribution licence if the licensee does not consent to the modifications.

(2) Before making any modifications under this section, the commission shall investigate the following questions :-

- (a) whether any matters which relate to the generation, transmission (including the procurement and sale of electricity in bulk), distribution or supply of electricity under a licence, operate, or may be expected to operate, against the public interest ; and
- (b) if so, whether those matters could be remedied or prevented by modifying the conditions of the relevant licence.

and thereafter, provide a written report of the investigation to the Minister, who shall consider the report and any information given to him or her by the Commission in order to advise the Commission whether or not to give effect to the proposed modification.

(3) In its report to the Minister the Commission shall set out the following :-

- (a) the effects adverse to the public interest which it thinks the matters specified in the report have or may be expected to have ; and
- (b) proposed modifications of the conditions of the relevant licence by which, in its opinion, those effects could be remedied or prevented.

(4) The Commission may at any time, by notice to the Minister, revise the report provided under this section by adding to, or excluding matters from, such report.

(5) To assist the Minister in the consideration of the report, Commission shall give to the Minister –

- (a) any information the Commission has relating to matters within the scope of the investigation conducted by it and which the Minister requires or which the Commission thinks it would be appropriate for the Minister to have ; and
- (b) any other assistance which the Commission is able to give in relation to matters within the scope of such investigation and which is requested by the Minister.

(6) As soon as practicable after preparing a report under this section, the Commission shall –

- (a) serve a copy of the report on the relevant licensee; and
- (b) publish particulars of the report in such manner as it considers appropriate for bringing them to the attention of persons likely to be affected by them.

(7) A licensee may within twenty days of service of a copy of the report on the licensee, make any representations to the Minister, which the Minister shall take into consideration in making his or her decision.

(8) Within thirty five days of receiving the report under subsection (2), the Minister shall advise the Commission, in writing, either to give effect to the proposed modifications, or, as the case may require, not to give effect to the proposed modifications. Where the Minister advises the Commission to give effect to the proposed modifications, the Commission shall make such modifications to the conditions of the relevant licence as appear to the Commission to be necessary for the purpose of remedying or preventing the effects adverse to the public interest which have been identified in the report.

(9) The Minister shall, when advising the Commission under subsection (8), state his or her reasons for his or her advice and shall have regard to the objectives set out in section 4.

(10) The Commission shall send a copy of the Minister's advice to the licensee to whom it relates and publish the advice in such manner, as it considers appropriate for bringing the advice to the attention of persons likely to be affected by it. As soon as practicable after making modifications under this section, the Commission shall send a copy of the modifications to the licensee and to the Minister.

(11) (a) A licensee shall have the right of appeal to the Court of Appeal against any modifications made under this section.

(b) The Supreme Court Rules relating to appeals to the Supreme Court from the Court of Appeal or other court or tribunal (rule 28 of the Supreme Court Rules of 1990) or such provision of law as would correspond to such rule, shall, *mutatis mutandis*, apply to all matters connected with the filing, hearing and disposal of an appeal preferred under this section.

33. (1) If the Commission is satisfied that a generation, transmission or distribution licensee is contravening, or is likely to contravene any condition of a licence, or any statutory requirement, it shall make an enforcement order containing such provision as it may deem necessary to secure compliance with such condition or requirement, by the licensee.

Enforcement
orders.

(2) An enforcement order—

- (a) shall require the licensee to whom it relates to do, or desist from doing such things as are specified in the order ;
- (b) shall be in force for such period as may be specified in the order ;
- (c) may be revoked, or modified at any time by the Commission, but in any event shall cease to have effect at the end of the period specified in the order.

34. (1) Before making an enforcement order under section 33, the Commission shall —

Procedure for
making
enforcement
orders

- (a) publish a notice in such manner as it thinks is appropriate for bringing the matter to the attention of persons likely to be affected by the enforcement order stating that the Commission is proposing to make such order ;
- (b) serve on the licensee a copy of the notice and a copy of the proposed order.

(2) A notice referred to in subsection (1) shall set out —

- (a) the relevant licence conditions or statutory requirements with which the proposed order is intended to secure compliance ;
- (b) the acts or omissions which, in the opinion of the Commission, constitute a contravention of that condition or requirement ;

- (c) any other facts which in the opinion of the Commission, justify the making of the proposed order ;
- (d) the effects of the proposed order ; and
- (e) the period, not being less than twenty eight days from the date of the notice, within which the licensee may make representations or objections to the proposed order.

(3) Before making an enforcement order under section 33, the Commission shall consider any representations and objections made to it under subsection (2).

(4) The Commission shall not make an enforcement order if it is satisfied that –

- (a) the licensee has agreed to take, and is taking, all such steps as the Commission considers that the licensee should take to secure compliance with the condition or requirement in question ; or
- (b) that the objectives imposed on the Commission by section 4 precludes it from doing so ; or
- (c) the contraventions or apprehended contraventions are trivial.

(5) As soon as practicable after making an enforcement order the Commission shall –

- (a) serve a copy of the order on the licensee to whom the order relates ; and
- (b) publish the order in such manner as it considers appropriate for bringing it to the attention of persons likely to be affected by it.

(6) Before revoking an enforcement order, the Commission shall –

- (a) publish a notice in such manner as it thinks appropriate for bringing the proposed order of revocation to the attention of persons likely to be affected by it ;
- (b) serve a copy of the proposed order of revocation on the licensee ; and
- (c) consider any representations and objections made in response to the notice.

(7) Every notice published under subsection (6) shall –

- (a) state that the Commission proposes to revoke the order specified in the notice and the effect of the revocation ; and
- (b) specify a period being not later than twenty eight days from the date of publication of the notice, within which representations or objections to the proposed order of revocation may be made to the Commission.

(8) If, after considering any representations and objections made in response to a notice published under subsection (6), the Commission decides not to revoke the enforcement order to which the notice relates, it shall give notice of its decision to the persons affected.

35. (1). It shall be the duty of a licensee to whom an enforcement order relates –

Effect of
enforcement
order.

- (a) to comply with such order ;
- (b) if the licensee decides to challenge the validity of the enforcement order in any court, to provide security for costs to the Commission, of such amount as the Commission may consider reasonable to ensure that such challenge is not frivolous or vexatious.

(2) A duty is also owed by the licensee to any person who may be affected by a contravention of the enforcement order and any such person who sustains any loss or damage as a result of such contravention may institute an action against the licensee in a court of competent jurisdiction, for damages for such loss or damage.

(3) In proceedings brought against a licensee under subsection (2) it shall be a defence for the licensee to prove that the licensee took all reasonable steps and exercised all due diligence to avoid contravening the enforcement order.

Offences.

36. (1) If, a licensee to whom an enforcement order applies, fails to comply with such enforcement order in whole or part, the licensee shall be guilty of an offence under this Act, and shall be liable on conviction after summary trial before a Magistrate, to a fine not exceeding ten thousand rupees and a further fine not exceeding five hundred rupees for every day for which such contravention continues after conviction.

(2) The Commission shall, in making an enforcement order under this Part, be entitled to direct that compensation be paid by the licensee to whom the enforcement order relates to any person affected by the contravention specified in such order.

(3) The levies by way of fine and compensation, which may be imposed under this section, shall be in addition to and not in derogation of any other liability, which the person guilty of noncompliance, may have incurred.

(4) The Commission may apply to a court for an injunction or other remedy to secure compliance with an enforcement order by a licensee, notwithstanding the fact that it has instituted a prosecution against such licensee for failure to comply with such enforcement order.

37. (1) Where the Commission is satisfied that a licensee who is -

- (a) subject to an enforcement order made by the Commission ; or
- (b) subject to an insolvency event,

Power of
Commission to
vest management
and control of
undertaking of
licensee in another
authority or
person

is not carrying on the activities that such licensee is authorized to carry on under the licence properly and that the supply of electricity to consumers is not being, or likely to be, given in an efficient, secure and a safe manner, the Commission may, after consultation with the Minister, by Order published in the Gazette, vest the management and control of the whole or a part of the undertaking of the licensee in any other authority or person specified in the Order and such authority or person shall have all the powers necessary for carrying on such undertaking.

(2) Any person or authority in whom the management and control of an undertaking is vested under subsection (1), shall not be held liable for conduct amounting to a fraudulent preference under the Companies Act, No. 17 of 1982, on the ground that it is continuing to carry on the management and control of the licensee's undertaking.

(3) No order shall be made under this section without giving the relevant licensee written notice of the proposed order and affording the licensee a reasonable opportunity of being heard.

(4) During such period as an order under this section is in force -

- (a) the licensee shall not be or continue to be (as the case may be) voluntarily or compulsorily wound up without the consent of the Commission ;
- (b) no steps shall be taken by any person to enforce or execute a judgment, or security over that licensee's property without ten days prior notice in writing to the Commission ; and

(c) The licensee shall not exercise any of its rights under the licence in relation to the undertaking or part thereof.

(5) In this section, "insolvency event" means -

- (a) the passing of a resolution for the winding up of a licensee other than for the purposes of amalgamation or reconstruction ; or
- (b) a licensee entering into a compromise with the licensee's creditors ; or
- (c) the suspension, by the licensee, of payment of debts or the inability of the licensee to pay the licensee's debts or the declaration of the licensee as bankrupt or insolvent ; or
- (d) the filing of a petition for the winding up of the licensee ;

The resolution of disputes.

38. (1) The following disputes arising in connection with the supply or use of electricity shall be referred to the Commission by any party to the dispute :-

- (a) a dispute between a licensee and a tariff customer arising under sections 24 to 29 of, or Schedules 1, 2 or 3 to this Act;
- (b) any dispute (other than a dispute referred to in paragraph (a) between a licensee and -
 - (i) a tariff customer ;
 - (ii) another licensee ; or
 - (iii) any other affected party.

which the parties have not been able to resolve through any dispute resolution procedure prescribed by the Commission, despite the licensee using its best efforts to do so.

(2) On a reference under paragraph (a) of subsection (1), the Commission shall mediate and resolve the dispute and on a reference under paragraph (b) of subsection (1) the Commission shall mediate and resolve the dispute unless it decides that it is more appropriate for the dispute to be determined either by the court or arbitration.

(3) The practice and procedure to be followed in the resolution of any such dispute shall be such as the Commission shall set out by rules made under the Public Utilities Commission of Sri Lanka Act, No. 35 of 2002.

(4) Where any dispute arising under section 26 is to be resolved by the Commission under this section, the Commission may give directions as to the security (if any) to be given pending the determination of the dispute.

(5) A resolution by the Commission under this section –

- (a) may include such incidental, supplemental and consequential provisions (including provisions requiring either party to pay a sum in respect of the costs or expenses incurred by the Commission) as the Commission considers appropriate; and
- (b) shall be final and shall be enforceable, so far as it includes such provisions as to costs or expenses incurred by the Commission, in the District Court of Colombo as if it were a decree entered by that court for the payment of money.

(6) In including a provision as to costs and expenses in a resolution under this section, the Commission shall have regard to the conduct and means of the parties and any other relevant circumstances.

CHAPTER IV

CONSUMER PROTECTION

Standard of
performance for
supply of
electricity

39. (1) Regulations may be made under this Act prescribing the standards of performance to be attained by distribution licensees in connection with the supply of electricity, and the provision of electricity supply services, to tariff customers.

(2) Different standards may be prescribed in respect of different distribution licensees, having regard to any special circumstances or conditions in, or subject to which those distribution licensees are required to supply electricity or provide electricity supply services to tariff customers.

(3) Regulations referred to in this section shall, as far as practicable, be made after consultation with distribution licensees and bodies representative of persons likely to be affected by the regulations.

(4) Where any person suffers any loss or damage of a prescribed description by reason of the failure of a distribution licensee to meet any standard prescribed by regulations made under this section, the distribution licensee shall pay to such person, compensation of such amount, or calculated in such manner, as is specified in such regulations.

(5) The payment of compensation to any person, as provided for in subsection (4), in respect of a failure by a distribution licensee to meet a standard prescribed by regulations made under this section shall be without prejudice to any other remedy, which is available to such person in respect of the act or omission constituting such failure.

(6) Any dispute arising from the enforcement of regulations made under this section may be referred to the Commission, by a distribution licensee or a tariff customer or any other affected party, and the Commission may determine such dispute in accordance with the provisions of section 38.

40. (1) The Commission may, after consultation with distribution licensees and with persons or bodies appearing to the Commission to be representative of persons likely to be affected, from time to time –

Standards of overall performance and efficient use of electricity

- (a) determine such standards of overall performance in connection with the quality of electricity supply and electricity supply services and the promotion of the efficient use of electricity by consumers as, in its opinion, ought to be attained by such distribution licensees ; and
- (b) arrange for the publication, in such form and in such manner as it considers appropriate, of the standards so determined.

(2) Different standards may be determined under this section in respect of different distribution licensees, having regard to any special circumstance or conditions in, or subject to, which those distribution licensees are required to supply electricity.

41. (1) The Commission shall from time to time collect information with respect to –

Information with respect to levels of performance

- (a) the compensation paid by distribution licensees under regulation made under section 39 (if any) ;
- (b) the levels of overall performance attained by such licensees in connection with the provision of electricity and electricity supply services ; and
- (c) the levels of performance attained by such licensees in connection with the promotion of the efficient use of electricity by consumers.

(2) On or before such date in each year as may be specified in a direction given by the Commission, each distribution licensee shall furnish to the Commission such information as it may require relating to the standards, including –

- (a) as respects each standard prescribed by regulations under section 39, the number of cases in which compensation was paid and the aggregate amount or value of the compensation paid ; and

- (b) as respects each standard determined under section 40, such information with respect to the level of performance attained by the licensee as may be required by the Commission.

(3) A distribution licensee who without reasonable excuse, fails to do anything required of the licensee by subsection (2) shall be guilty of an offence and be liable on conviction after summary trial before a Magistrate to a fine not exceeding twenty five thousand rupees which shall be paid into the Fund of the Commission.

(4) Subject to the provisions of section 64 the Commission shall at least once in every year arrange for the publication, in such form and in such manner as it considers appropriate, of such of the information collected by, or furnished to, it under this section as may appear to it expedient to give to customers or potential customers of distribution licensees.

CHAPTER V

NEW GENERATION PLANT AND OVERHEAD LINES

Provision of new generation plant and extension of existing plant.

42. (1) Subject to section 9, no person shall operate or provide any new generation plant, or extend any existing generation plant except as authorized by a transmission licensee under this section.

(2) A transmission licensee shall, in accordance with the conditions of the transmission licence and such guidelines relating to procurement as may be prescribed by regulation, and by notice published in the Gazette, call for tenders to provide new generation plant or to extend existing generation plant, as specified in the notice.

(3) A transmission licensee shall, with the consent of the Commission, select a person to provide the new generation plant or to extend the existing generation plant, specified in the notice published under subsection (2), from amongst the persons who have submitted tenders in response to such notice.

43. (1) Subject to the provisions of subsection (2) no person shall –

Consent required for overhead and underground electric line.

(a) install,

(b) keep installed,

an electric line above or below the ground, except in accordance with a consent granted by the Commission.

(2) The provisions of subsection (1) shall not apply –

(a) to an electric line or an underground cable which has a nominal voltage up to and of thirty three kilovolts, or any other higher voltage as may be deemed fit to be decided by the Commission ;

(b) in relation to so much of an electric line as is, or will be, within the premises in occupation or control of the person responsible for its installation.

(3) A consent granted under this section –

(a) may include such conditions (including conditions as to the ownership and operation of the line) as appear to the Commission to be appropriate ;

(b) may be varied or revoked by the Commission at any time after the end of such period as may be specified in the consent ; and

(c) Subject to paragraph (b), shall continue in force for such period as may be specified in or determined by or under the consent.

44. The Commission may direct that an electric line be designated as a “high voltage line” for the purposes of this Act.

High voltage lines

CHAPTER VI

REORGANIZATION OF THE ELECTRICITY INDUSTRY

Scheme for
reorganization of
electricity
industry.

45. (1) After the coming into operation of this Chapter and before a date to be specified for the purposes of this section, by the Minister, by Order published in the Gazette, the Minister shall, in consultation with the Commission persons representative of the electricity industry and persons likely to be effected by the reorganization, prepare a scheme for the reorganization of the electricity industry in Sri Lanka.

(2) The objects of the scheme prepared under subsection (1) shall be to -

- (a) ensure that the functions of the Ceylon Electricity Board and the Lanka Electricity Company, relating to the generation, transmission (and bulk procurement) distribution and supply, of electricity, are clearly separated and are discharged by separate companies incorporated for those purposes;
- (b) enable each company so proposed to be incorporated to discharge its functions with the maximum independence, efficiency and economy, whilst ensuring security of electricity supply to consumers.

(3) The scheme prepared under subsection (1) shall -

- (a) identify the functions presently discharged by the Ceylon Electricity Board and the Lanka Electricity Company;
- (b) notionally separate the functions of the Ceylon Electricity Board and the Lanka Electricity Company into the following categories, for the purpose of enabling the allocation of those functions to the companies proposed to be incorporated :—

- (i) hydro electric generation and thermal electricity generation ;
 - (ii) transmission (and power procurement) ;
 - (iii) distribution and supply ;
 - (iv) any other activities not captured in subparagraphs (i) to (iii) in such divisions as the Minister may see fit, including :
 - (a) the management of pension assets ;
 - and
 - (b) ancillary services.
- (c) determine the functions, if any, which shall continue to be discharged by the Ceylon Electricity Board and the Lanka Electricity Company and the periods for which they are to be so discharged ;
- (d) allocate to the companies proposed to be incorporated, such officers and servants of the Ceylon Electricity Board and the Lanka Electricity Company ;
- (e) specify the companies proposed to be incorporated and their functions, namely -
- (i) one company to take over the functions of the Ceylon Electricity Board relating to hydroelectric generation and thermal electricity generation ;
 - (ii) one company to take over the functions of the Ceylon Electricity Board relating to transmission and bulk procurement of electricity ;
 - (iii) three or more distribution companies ;
 - (iv) one or more companies to take over the other functions of the Ceylon Electricity Board and the Lanka Electricity Company ;

- (f) contain such incidental and consequential provisions as may be necessary for the implementation of the scheme.

(4) The scheme shall contain provision requiring any one or more of the companies proposed to be incorporated to enter into agreements with, or to execute instruments in favour of, other companies so proposed to be incorporated or other specified persons, for the more effective discharge of their functions.

(5) Any duty imposed on a company proposed to be incorporated under the scheme shall be enforceable by or against such company after it is incorporated in pursuance of a direction under section 2 of the Conversion of Public Corporation or Government owned Business Undertakings into Public Companies Act, No. 23 of 1987.

(6) After the preparation of the scheme referred to in this section the Minister shall, notwithstanding anything to the contrary in any other law, cause the details of the scheme to be published in such manner as he or she considers appropriate for bringing them to the attention of persons likely to be affected by the proposed reorganization.

Incorporation of
companies to take
over functions of
the Ceylon
Electricity Board
and the Lanka
Electricity
Company.

46. (1) The Minister shall submit a copy of the scheme prepared under section 45 to the Cabinet of Ministers for its approval.

(2) Upon the approval by the cabinet of Ministers, of the scheme and the incorporation of the companies proposed in the scheme, the Minister shall, in consultation with the Minister in charge of the subject of Finance, direct the Registrar of Companies, under subsection (1) of section 2 of the Conversion of Public Corporation or Government owned Business Undertakings into Public Companies Act, No. 23 of 1987, to incorporate -

- (a) one company to take over the functions of the Ceylon Electricity Board relating to hydro electric generation and thermal electricity generation ;

- (b) one company to take over the functions of the Ceylon Electricity Board relating to transmission and bulk procurement of electricity;
- (c) three or more distribution companies;
- (d) one or more companies to take over the other functions of the Ceylon Electricity Board and Lanka Electricity Company.

as specified in the direction. A company incorporated in pursuance of such direction is hereinafter referred to, as a "successor company" and the expression "successor companies" shall be construed accordingly. Except as otherwise provided in this Chapter, the provisions of the Conversion of Public Corporation or Government owned Business Undertakings into Public Companies Act, No. 23 of 1987, shall apply to, and in relation to, every successor company.

(3) Orders relating to the incorporation of all the successor companies shall be published under subsection (2) of section 2 of the Conversion of Public Corporation or Government owned Business Undertakings into Public Companies Act, No. 23 of 1987 on the same date.

(4) One or more successor companies may, by agreement and in so far as their memoranda and articles of association permit them to do so, take over such of the functions of the Lanka Electricity Company as relate to their own functions.

Example :

A company incorporated to take over the functions of the Ceylon Electricity Board relating to thermal generation can take over, by agreement, the functions of the Lanka Electricity Company relating to thermal generation.

47. (1) Officers and servants of the Ceylon Electricity Board on the day preceding the relevant date shall be offered employment in any one of the successor companies on terms and conditions not less favourable than those enjoyed by them on the day preceding the relevant date.

Provision relating to officers and servants of Ceylon Electricity Board and the Lanka Electricity Company.

(2) (a) Officers and servants of the Lanka Electricity Company on the day preceding the relevant date shall be offered employment in any one of the successor companies on terms and conditions not less favourable than those enjoyed by them on the day preceding the relevant date; and

(b) The taking up of employment in a successor company by an employee of the Lanka Electricity Company, shall, for the purposes of the Termination of Employment of Workmen (Special Provisions) Act, No.45 of 1971 be deemed not to be a termination of the services of such employee by the Lanka Electricity Company.

(3) An officer or servant referred to in subsection (1) or subsection (2) who wishes to opt out of service in a successor company may do so within thirty days from the date on which he was notified of the option by the successor company. If an officer or servant exercise his option not to accept the offer, he shall be paid compensation under a Voluntary Retirement Scheme to be prescribed in that behalf.

Successor
company to
establish
Provident Fund
and contributory
pension scheme.

48. (1) Officers and servants of the Ceylon Electricity Board who have exercised the option to accept the offer under section 47 and are in the service of any of the successor companies as provided in that section, shall continue to be members of the Ceylon Electricity Board Provident Fund and Pension Scheme, and shall be entitled to all the benefits thereunder.

(2) The successor companies and the officers and servants of the Ceylon Electricity Board who have become the employees of the successor companies on the relevant date, shall make such contributions to the Provident Fund and Pension Scheme as they are required to make by rules or regulations of the Ceylon Electricity Board Provident Fund and Pension Scheme, as the case may be.

(3) Notwithstanding the provisions of section 47, any officer or servant of the Ceylon Electricity Board, who was on the day preceeding the relevant date employed in the Provident Fund branch or Pension Fund branch of the Board, may within ten days from the relevant date opt to continue in the service of the Ceylon Electricity Board, and shall for all purposes be deemed to continue in the service of the Ceylon Electricity Board.

49. The memorandum and articles of association of every successor company shall, notwithstanding anything to the contrary in any other law, contain provision —

Mandatory provisions in memorandum of a successor company

- (a) for the appointment and removal of the directors of such company, by the Minister, only on the recommendation of the Monitoring and Advisory Committee appointed under section 50 ;
- (b) prohibiting a person from being a director of more than one successor company ;
- (c) requiring —
 - (i) the board of directors of the company to submit for approval to the Minister, a statement of corporate intent, at least three months prior to the commencement of each financial year ;
 - (ii) the statement of corporate intent to specify —
 - (A) the commercial and other performance objectives and levels of the company ;
and
 - (B) the financial targets (including rates of return) required to be achieved by the company, during the next three financial years ;

- (iii) the board of directors to incorporate any amendments to the statement of corporate intent as suggested by the Minister on the recommendation of the Monitoring and Advisory Committee ;
- (iv) the Minister on approval of the statement of corporate intent, to cause it to be published in the Gazette, at least fourteen days before the commencement of the financial year to which the statement relates ;
- (d) requiring the board of directors of the company to take all long term and financial decisions in compliance with the statement of corporate intent in force ;
- (e) prohibiting the board of directors of the company from amending the statement of corporate intent, except with the approval of the Minister ; and
- (f) prohibiting the board of directors of the company from acting in a manner that would result in the breach by the company, of the conditions of any licence granted or deemed to be granted to the company under this Act.

Monitoring and
Advisory
Committee.

50. (1) There shall be a monitoring and Advisory Committee for the purposes of this Chapter.

(2) The Monitoring and Advisory Committee shall consist of –

- (a) the Deputy Secretary nominated by the Secretary to the Treasury ;
- (b) an Additional Secretary to the Ministry of the Ministry nominated by the secretary to the Ministry of the Minister ;

(c) a representative each from –

- (i) the Ceylon Chamber of Commerce nominated by the Chamber ; and
- (ii) the Institute of Chartered Accountants of Sri Lanka, nominated by that Institute ;
- (iii) the Institution of Engineers of Sri Lanka, nominated by that Institution ; and
- (iv) the domestic consumer group nominated by the Minister in charge of the subject of Trade ; and

(d) two persons appointed by the Minister, from amongst persons employed in the private sector who have experience in business and management and who do not have relevant interest.

(3) Regulations may be made in respect of –

- (a) the procedure for the conduct of business of meetings of the Monitoring and Advisory Committee ;
- (b) the funding of the Committee.

(4) The functions of the Monitoring and Advisory Committee shall be –

- (a) to make recommendations to the Minister, on the appointment and removal of the directors of every successor company ;
- (b) to review the statement of corporate intent submitted to the Minister by each such company, and recommend to the Minister, amendments, if any, to such statement ;

- (c) to monitor the actual financial and operational performance of each such company for each financial year (as reflected in the reports published by the company for that year) against the targets specified by that company in its statement of corporate intent, and make appropriate recommendations to the Minister ;
- (d) in the event of any such Company failing to meet the objectives and targets specified in its statement of corporate intent, to advise the Minister on the exercise of his or her powers, as a share holder, under the Companies Act, No. 17 of 1982 ;
- (e) to cause to be published in the Gazette, an annual report setting out the reasons for any advice and recommendations given by the Committee to the Minister in the year to which the report relates.

(5) the Committee shall discharge its functions under subsection (4) in relation to a successor Company, only so long as the Government owns at least fifty *per centum* of the shares of that successor company.

Restriction of sale
of shares of
successor
company.

51. The Secretary to the Treasury may, with the prior approval of the Parliament dispose of any shares issued or allotted to him or her in any successor company or of any rights over such shares except that upto ten *per centum* of the aggregate of the shares of all successor companies incorporated under section 46, shall be distributed to the employees of the successor company, in such manner as may be prescribed by regulation.

52. (1) Where the relevant date is prior to the date of the coming into operation of Chapters II and VI of this Act, the successor company shall be deemed to have been –

Successor company deemed to have been granted relevant licence to carry on activities it is authorized to carry on by its memorandum

- (a) granted a licence under the Electricity Act to carry on the activities which it is authorized to carry on by its memorandum and articles of association for the period commencing on the relevant date and ending on the date on which Chapters II and VI of this Act are brought into operation ; and
- (b) granted a licence under this Act to carry on such activities for the period commencing on the date on which Chapters II and VI of this Act are brought into operation and ending two years thereafter.

(2) Where the relevant date is after the date of coming into operation of Chapters II and VI of this Act, the successor company shall be deemed to have been granted the licence under this Act to carry on the activities it is authorized to carry on by its memorandum and articles of association, for a period of two years from the relevant date.

53. The Public Enterprises Reform Commission of Sri Lanka shall not exercise any of the powers conferred on it by section 5(1)(f), (g), and (h), of the Public Enterprises Reform Commission of Sri Lanka Act, No. 1 of 1996, in relation to a successor company.

Application of Act, No. 1 of 1996 to successor companies.

CHAPTER VII

FINANCE

54. (1) There shall be levied and recovered from every licensee, an annual levy of such amount as may be determined by the Commission by Order published in the Gazette.

Annual levy

(2) In determining the annual levy for any year, the Commission shall have regard to the following : —

- (a) the estimated expenditure of the Commission for that year ; and
- (b) any unrecovered expenditure from the previous year.

(3) The levy imposed under subsection (1) on a licensee for any year shall be paid by the licensee to the Commission before the thirtieth day of June that year.

(4) Where the licensee fails to pay the levy imposed under subsection (1) for any year before the thirtieth day of June that year the levy shall be deemed to be in default and the Chairman shall certify the amount of the levy due from the licensee.

(5) Upon the production of a certificate issued by the Chairman under subsection (4), before the District Court within whose jurisdiction the business of the licensee referred to in the certificate is carried on, the court shall issue a writ of execution to issue to the Fiscal authorizing the Fiscal to seize and sell all or any of the property, movable or immovable, of such licensee as may be necessary for the recovery of the amount specified in the certificate; and the provisions of sections 226 to 297 of the Civil Procedure Code shall, *mutatis mutandis*, apply to the execution of such writ and to such seizure and sale.

(6) Where the Chairman issues a certificate under subsection (4), he or she shall notify in writing to the licensee specified in the certificate, that the amount specified in the certificate is payable by the licensee but the non-receipt of such notice shall not invalidate any proceedings instituted under this section.

(7) Nothing in this section shall affect or be deemed to affect the right of the Commission to recover in any other manner, the amount of any levy in default.

CHAPTER VIII

OFFENCES AND REGULATIONS

General penalty.

55. (1) Every person who contravenes any provision of this Act or any regulation or rule made under this Act or any requirement imposed under any provision of this Act, or any decision, direction, Order or determination of the Commission, shall be guilty of an offence under this Act and shall, except as otherwise expressly provided in this Act, be liable on conviction after summary trial before a Magistrate to a fine not exceeding ten thousand rupees and in any case where such offence is continued after conviction, to a further fine not exceeding five hundred rupees for each day on which such offence being continued after conviction.

(2) Upon conviction of any person for an offence under this Act, a Magistrate may, in addition to, or in lieu of, imposing any punishment prescribed for the offence, make an order directing that any installation or other apparatus involved in the commission of the offence shall be dismantled and removed before a date specified in the Order.

(3) An officer authorized in writing by the Commission may institute proceedings in a Magistrate's court for an offence under this Act notwithstanding anything to the contrary in any other law.

(4) No prosecution for an offence under this Act shall be instituted except with the written sanction of the Commission.

56. (1) Every person who takes, uses or extracts any electricity—

Extraction of electricity to be an offence.

- (a) which is in the course of being transmitted or distributed by a transmission or distribution licensee ; and
- (b) otherwise than in pursuance of a contract made with a distribution licensee or other electricity undertaking.

shall be guilty of an offence under this Act and shall be liable on conviction after summary trial before a Magistrate in addition to a penalty not less than ten thousand rupees and not exceeding twenty five thousand rupees, to a fine in a sum of money being the value of the loss or damage caused to the licensee as a result of the act or default constituting such offence and any sum recovered as such additional fine shall be paid to the licensee on application made to Court by such licensee.

(2) Any person who aids or abets the commission of any offence punishable under this section shall be guilty of an offence under this Act and shall be liable to the same

punishment as is provided for the principal offence. Where two or more persons are convicted of having committed the same offence whether as principal or abettor, the value of such loss or damage may be apportioned among such persons and the amount so apportioned shall be imposed on each of such persons as a fine.

(3) A certificate issued by the licensee shall be receivable as proof of the value of such loss or damage in the absence of evidence to the contrary. In the absence of any agreement a licensee may charge for energy supplied to any consumer in accordance with any method of charging provided for in the licence.

Improper use of
electricity to be an
offence

57. (1) Without prejudice to the provisions of Schedule 2 to this Act, every person who—

- (a) not being an authorized officer of a licensee, connects or disconnects any electric line through which electricity is or may be supplied by the licensee to or from any meter, indicator or other apparatus; or
- (b) without the consent of a licensee lays, or causes to be laid, any electric line or connects up any electric line, equipment, apparatus, or works, for the purpose of establishing a connection with any electric line, apparatus or works belonging to a licensee,

shall be guilty of an offence under this Act and shall be liable on conviction after summary trial before a Magistrate, in addition to a penalty not less than ten thousand rupees and not exceeding twenty-five thousand rupees, to a fine in a sum of money being the value of the loss or damage caused to the licensee as a result of the act or default constituting such offence and any sum recovered as such additional fine shall be paid to the licensee on application made to Court by such licensee.

(2) Any person who aids or abets the commission of any offence punishable under this section shall be guilty of an offence under this Act and shall be liable to the same punishment as is provided for the principal offence. Where two or more persons are convicted of having committed the same offence whether as principal or abettor, the value of such loss or damage may be apportioned among such persons and the amount so apportioned shall be imposed on each of such persons as a fine.

(3) A certificate issued by the licensee shall be received as proof of the value of such loss or damage in the absence of evidence to the contrary. In the absence of any agreement a licensee may charge for energy supplied to any consumer in accordance with any method of charging provided for in the licence.

(4) In the case of such offence being continued after conviction, there shall be imposed a further fine not exceeding five hundred rupees for each day on which such offence being continued after conviction.

(5) Every offence under section 56 or this section shall be a cognizable offence within the meaning, and for the purposes of the Code of Criminal Procedure Act, No. 15 of 1979.

58. Where an offence under this Act is committed by a body of persons, then –

Offences by
bodies of persons

- (a) if that body of persons is a body corporate, every director and officer of that body corporate ;
- (b) if that body of persons is a firm, every partner of that firm,

shall be deemed to be guilty of that offence :

Provided however, that a director or officer of that body corporate or partner of such firm shall not be deemed to be guilty of such offence if he or she proves that such offence

was committed without his or her knowledge or that he or she used all such diligence as was necessary to prevent the commission of such offence.

Rules.

59. (1) The Commission may make rules in respect of all matters for which rules are required or authorized to be made under this Act.

(2) All rules made by the Commission shall be published in the Gazette and shall come into force on the date of such publication or on such later date as may be specified therein.

Regulations.

60. (1) The Minister may, on the recommendation of the Commission, make regulations under this Act in respect of all matters required by this Act to be prescribed or in respect of which regulations are required or authorized by this Act to be made.

(2) Every regulation made under this section shall be published in the Gazette and shall come into force on the date of such publication or on such later date as may be specified therein.

(3) Every regulation made under this section shall, as soon as convenient after its publication in the Gazette, be brought before Parliament for approval. Any such regulation, which is not so approved within thirty days of it being brought before Parliament, shall be deemed to be rescinded as from the date of its disapproval, but without prejudice to anything previously done thereunder.

(4) Notification of the date on which any regulation made by the Minister is so deemed to be rescinded shall be published in the Gazette.

Removal of
difficulties.

61. (1) If any difficulty arises in giving effect to the provisions of this Act or the rules, regulations, or orders made under this Act, the Minister may by Order published in the

Gazette, make such provision not inconsistent with the provisions of this Act or any other law, as appears to him or her to be necessary or expedient for removing the difficulty.

(2) Every Order made under this section shall, as soon as practicable after it is made, be laid before Parliament.

62. (1) Regulations may be made for the purpose of —

Purposes for which regulations may be made

- (a) allowing and securing appropriate electricity trading arrangements between licensees ;
- (b) securing that supplies of electricity are regular and efficient ;
- (c) protecting the public from dangers arising from the generation, transmission, distribution, supply or use of electricity from any electric line or electrical plant ; and
- (d) without prejudice to the generality of paragraph (c), eliminating or reducing the risks of personal injury, or damage to property or interference with its use, arising from any of the activities referred to in that paragraph.

(2) Without prejudice to the generality of subsection (1), regulations may —

- (a) prohibit the supply, transmission or distribution of electricity except by means of a system approved by the Commission ;
- (b) make provision requiring notice to be given to the Commission, in such cases as may be specified in the regulations, of accidents and of failures in the supply, transmission or distribution of electricity ;
- (c) make provision as to the keeping, by persons authorized by a licence, or exempted from the requirement to obtain a licence, to supply, transmit or distribute electricity, of maps, plans and sections and as to their production for inspection or copying ;

- (d) make provision for relieving persons authorized by a licence to supply electricity from any obligation to supply in such cases as may be prescribed ;
- (e) make provision requiring compliance with notices given by the Commission specifying action to be taken in relation to any electric line or electrical plant, or any electrical appliance, under the control of a consumer, for the purpose of -
 - (i) preventing a breach of any regulation,
 - (ii) eliminating or reducing a risk of personal injury or damage to property or interference with its use ;
- (f) provide for particular requirements of the regulations to be deemed to have been complied with in the case of any electric line or electrical plant complying with specified standards or requirements ; and
- (g) provide for the granting of exemptions from any requirement of the regulations for such periods as may be determined by or under the regulations.

CHAPTER IX

GENERAL

Register.

63. (1) The Commission shall maintain a register at its office, in such form, as it may determine.

(2) The Commission shall cause to be entered in such register—

- (a) particulars in relation to every licence and exemption granted under this Act ;
- (b) particulars relating to the modification of the conditions of any such licence or the revocation of any such licence ;

- (c) every decision of the Commission, including every order, direction or determination ;
- (d) every enforcement order made under section 33;
- (e) the minutes of the proceedings at a public hearing held under section 7 ; and
- (f) particulars relating to any other instrument or document to which the Commission's seal has been fixed.

(3) The contents of the register shall be available for inspection by the public during such hours, and subject to the payment of such fees, as may be prescribed by regulation.

44. (1) The Commission may, for the purposes of discharging and performing its functions and duties under this Act, by notice in writing, require any person to furnish to the Commission or any person authorized by the Commission, and within such period as may be specified in the notice, all such returns and information as may be specified in such notice.

Returns and
information

(2) It shall be the duty of every person who is required to furnish any returns or information by a notice under subsection (1), to comply with the requirements of the notice within the period specified in the notice, except where he or she is prohibited from furnishing such returns or information by the provisions of any law.

(3) No information furnished in compliance with the requirements of a notice sent under this section shall be published or disclosed by the Commission to any other person except with the consent of the person furnishing such information.

(4) The disclosure by the Commission of any information referred to in subsection (3) without the consent of the person furnishing such information—

- (a) to a court of law when required to do so by such court ;
- (b) for the purposes of discharging any function assigned to it by this Act ; or
- (c) for the purposes of enabling compliance with a condition of a licence granted under this Act.

shall be deemed not to be a contravention of the provisions of subsection (3).

Sinhala text to prevail in case of inconsistency.

65. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

CHAPTER X

REPEALS AND TRANSITIONAL PROVISIONS

Repeals and transitional provisions.

66. (1) The Electricity Act is repealed with effect from the date on which Chapter II of this Act comes into operation.

(2) The Ceylon Electricity Board Act, No. 17 of 1969 is repealed with effect from the relevant date.

(3) Notwithstanding the repeal of the Electricity Act--

- (a) all licences issued under that Act and in force on the day preceding the date on which Chapter II of this Act comes into operation, shall, in so far as such licences authorize any one of following activities, namely, the generation, transmission, distribution or supply of electricity, continue in force after that date ;
- (b) all regulations made under section 60 of that Act and in force on the day preceding the relevant date, shall in so far as such regulations are not inconsistent with any provision of this Act continue in force after that date ; and

- (c) the regulatory powers, duties and functions under the Electricity Act conferred on or assigned to the Energy Supply Committee and to the Energy Regulator by and under the Energy Supply (Temporary Provisions) Act, No. 2 of 2002 shall, so long as the last mentioned Act is in operation be exercised, performed and discharged respectively, by the said Committee and the Energy Regulator under the corresponding provisions of this Act, in consultation with the Commission.

(4) Notwithstanding the repeal of the Ceylon Electricity Board Act, No. 17 of 1969—

- (a) all regulations made under section 56 of that Act and in force on the day preceding the date on which Chapter II of this Act comes into operation, shall, in so far as such regulations are not inconsistent with any provision of this Act, continue in force after that date ;
- (b) all tariffs fixed by the Board under section 52 of that Act, for the supply of electricity by the Board, and in force on the day preceding the relevant day shall continue in force after the relevant day, until varied or replaced by the respective successor companies in accordance with the conditions of their respective licences ; and
- (c) where in respect of any matter or issue arising in or concerning the electricity industry no provisions or no effective provisions are made in this Act, such of the provisions of the Ceylon Electricity Board Act as are not inconsistent with the provisions of this Act shall apply in respect of such matter or issue.

CHAPTER XI

INTERPRETATION

Interpretation.

67. In this Act, unless the context otherwise requires—

“authorized” means authorized by licence or exemption under this Act ;

“Authorized Area” in relation to a person authorized by a licence to transmit or to distribute and supply electricity, means the area designated in the licence ;

“bulk sales” in relation to the sale of electricity, means the sale of electricity in bulk by the transmission licensee via its transmission system to—

(i) distribution licensees ; and

(ii) those consumers who are connected to the transmission licensee’s transmission system and identified in the transmission licence ;

“Ceylon Electricity Board” means the Ceylon Electricity Board established by the Ceylon Electricity Board Act, No. 17 of 1969 ;

“Connect” in relation to any premises, means connect to a distribution line of the distribution licensee and the expression “connection” shall be construed accordingly ;

“consumer” means a consumer of electricity in Sri Lanka and includes a prospective consumer ;

“contravention”, in relation to any decision, direction, determination, licence condition, requirement, regulation, rule or order, includes any failure to comply with it ;

"distribute" in relation to electricity means distribute by means of a system which consists (wholly or mainly) of low voltage lines and electrical plant and is used for conveying electricity to any premises or to any other distribution system and the expressions "distribution" and "distribution system" shall be construed accordingly ;

"distribution licensee" means a person who has been granted a distribution licence ;

"distribution line" in relation to a distribution licensee, means any distribution line in the Authorized Area of the distribution licensee which is being used for the purpose of giving a supply of electricity to any premises ;

"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 ;

"electric line" means any line whether underground or over ground which is used for carrying electricity for any purpose and includes, unless the context otherwise requires—

- (a) any support for any such line, including, but not limited to, any structure, pole or other thing in, on, by or from which any such line is or may be supported, carried or suspended ;
- (b) any apparatus connected to any such line for the purpose of carrying electricity ; and
- (c) any wire, cable, tube, pipe or other similar thing (including its casing, insulator 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, any such line ;

"distribute" in relation to electricity means distribute by means of a system which consists (wholly or mainly) of low voltage lines and electrical plant and is used for conveying electricity to any premises or to any other distribution system and the expressions "distribution" and "distribution system" shall be construed accordingly ;

"Distribution licensee" means a person who has been granted a distribution licence ;

"distribution line" in relation to a distribution licensee, means any distribution line in the Authorized Area of the distribution licensee which is being used for the purpose of giving a supply of electricity to any premises ;

"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 ;

"electric line" means any line whether underground or over ground which is used for carrying electricity for any purpose and includes, unless the context otherwise requires—

- (a) any support for any such line, including, but not limited to, any structure, pole or other thing in, on, by or from which any such line is or may be supported, carried or suspended ;
- (b) any apparatus connected to any such line for the purpose of carrying electricity ; and
- (c) any wire, cable, tube, pipe or other similar thing (including its casing, insulator 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, any such line ;

"electrical plant" means any plant, equipment, apparatus or appliance used for, or for purposes connected with, the generation, transmission, distribution or supply of electricity, other than—

- (a) an electric line ;
- (b) a meter used for ascertaining the quantity of electricity supplied to any premises ; or
- (c) an electrical appliance under the control of a consumer ;

"Electricity Supply Code" means the provisions of Schedule 2 to this Act ;

"electricity undertaking" means any person engaged in the generation, transmission, distribution or supply of electricity, including any holder of a licence under this Act ;

"enforcement order" means an enforcement order made by the Commission under section 33 ;

"exemption" means an exemption granted under section 9 ;

"financial year" means the calendar year ;

"generation licensee" means a person who has been granted a generation licence ;

"generator" means a generation licensee or a person exempt from the requirement of obtaining a generation licence ;

"high voltage lines" means an electric line of a nominal voltage not less than 33 kilovolts or such other voltage as the Commission may direct in accordance with section 44 and the expression "low voltage line" shall be construed accordingly ;

“Institution of Engineers, Sri Lanka” means the Institute of Engineers, Sri Lanka, established by the Institution of Engineers, Sri Lanka Act, No. 17 of 1968 ;

“Institute of Chartered Accountants” means the Institute of Chartered Accountants established by the Institute of Chartered Accountants Act, No. 23 of 1959 ;

“Lanka Electricity Company” means the Lanka Electricity Company (Private) Limited registered under the Companies Act, No. 17 of 1982 ;

“licence” means a licence granted under section 12 and “licensee” or “licensees” shall be construed accordingly ;

“line” means any wire, cable, pipe, conductor or other similar thing (including its casing or coating) which is designed or adapted for use in carrying electricity ;

“local authority ” means a Municipal Council, Urban Council or a Pradeshiya Sabha, and includes any authority created and established by or under any law to exercise, perform and discharge, powers, duties and functions corresponding to, or similar to, the powers, duties and functions exercised, performed and discharged by any such Council or Sabha ;

“Minister” means the Minister in charge of the subject of Power and Energy ;

“modifications” includes additions, alterations and omissions ;

“necessary wayleave” means consent for the licensee to install and keep installed the electric line on, under or over the land and to have access to the land for the purpose of inspecting, maintaining, adjusting, repairing, altering, replacing or removing the electric line ;

“notice” means notice in writing ;

“premises” includes any land, building or structure ;

“prescribed” means prescribed by rules or regulations made under this Act ;

“Provincial Council” means a Provincial Council established under Chapter XVIIIA of the Constitution ;

“public company” means a public company registered under the Companies Act, No. 17 of 1982 ;

“register” means the register maintained under section 63 ;

“regulations” means regulations made by the Minister under this Act ;

“relevant condition” in relation to a licensee, means any condition of its licence or any duty imposed on it by or under this Act ;

“relevant date” means the date on which Orders relating to successor companies are published in the Gazette under section 46 ;

“relevant interest” means any financial or other interest directly or indirectly, in any company or undertaking carrying on any of the following activities —

- (i) generation, transmission, distribution or supply of electricity ;

- (ii) manufacture, production, sale or supply of fuel for the generation of electricity ;
- (iii) import, manufacture, sale, lease, hire or other supply of, or dealing in, machinery, plant, equipment, apparatus or fittings for the generation, transmission, distribution, supply or use, of electricity ; or
- (iv) the provision of legal, accountancy or banking services to any company or undertaking carrying on any of the activities referred to in paragraphs (i), (ii), or (iii) ;

"relevant licensee" has the meaning provided in subsection (5) of section 29 ;

"relevant undertaker " has the meaning provided in paragraph 2 of Schedule 1 to this Act ;

"rules" means rules made by the Commission under this Act ;

"sell electricity in bulk" has the same meaning as "bulk sales " ;

"supply" in relation to electricity, means supply of electricity to any premises (other than premises occupied by a licensee for the purpose of carrying on the activities which it is authorized by its licence to carry on) but shall exclude bulk sales of electricity ;

"tariff customer" means a person who requires a supply of electricity from a distribution licensee in pursuance of section 24 and is supplied by the distribution licensee ;

"transmission licensee" means a person who has been granted a transmission licence under this Act ; and

"transmit", in relation to electricity, means the transportation of electricity by means of a system, which consists (wholly or mainly) of high voltage lines and electrical plant and is used for conveying electricity from a generating station to a sub-station, from one generating station to another or from one sub-station to another ; and the expressions "transmission" and "transmission system" shall be construed accordingly ;

"Urban Development Authority" means the Urban Development Authority established by the Urban Development Authority Law, No 41 of 1978.

SCHEDULE I

(Section 30)

1. (1) Subject to the following provisions of this paragraph, licensee may, for any purpose connected with the carrying on of the activities which it is authorized by its licence to carry on, execute in its Authorized Area, any of the following works :-

(a) installing under, over, in on, along or across any street---

(i) any electric lines or electrical plant ; and

(ii) any structures for housing or covering any such lines or plant.

and from time to time inspect, maintain, adjust, repair, alter, replace or remove any such plant or lines ; and

(b) any works requisite for or incidental to the purposes of any works referred to in subparagraph (a), including for the following purposes---

(i) opening or breaking up any streets or any sewers, drains or tunnels within or under any streets ;

(ii) tunneling or boring under any streets ; and

(iii) removing or using all earth and materials in or under any street ;

but nothing in this subparagraph shall empower a licensee to lay down or place any electric line or electrical plant into, through or against any building, or in any land not dedicated to the public use.

(2) The power conferred on a licensee under paragraph (1) to place on or over a street any structure for housing any line or plant shall be exercisable only with the consent of the local authority or other relevant authority.

(3) Except in cases of emergency arising from faults in any electric lines or electrical plant, a street which does not come within the authority of local authority or other relevant authority shall not be opened or broken up in the exercise of the powers conferred by paragraph (1) except with the consent of the Commission.

(4) Notwithstanding anything in paragraph (7), licensee may with the consent of the Commission construct lines, which are temporary, and not in compliance with the prescribed standards.

(5) The Commission shall not consider an application for its consent under paragraph (3) unless the licensee has served notice of the application on any person whose consent would otherwise be required.

(6) A licensee shall do as little damage as possible in the exercise of the powers conferred by paragraph (1) and shall make compensation for any damage done in the exercise of those powers.

(7) A licensee shall exercise the powers conferred by paragraph (1) in such manner as will secure that nothing which it installs or keeps installed under, over, in, on, along or across any street becomes a source of danger to the public and shall—

- (a) immediately cause the part broken up or opened to be fenced and guarded ;
- (b) while such part remains broken up or open, cause a light sufficient for warning passers by, to be set up at sunset and maintained until sunrise against or near such part ; and
- (c) with all reasonable speed fill in the ground and reinstate and make good the soil or pavement or the sewer, drain or tunnel broken up or opened, and shall keep it in good repair for three months and, where any subsidence occurs, for any further period, not exceeding six months, during which the subsidence continues.

(8) A licensee who fails to comply with the provisions of paragraph (7) shall be guilty of an offence under this Act and shall be liable on conviction after summary trial before a Magistrate, to a fine not less than five thousand rupees and not exceeding twenty five thousand rupees.

2. (1) A licensee may execute works in the exercise of the powers conferred by item 1, notwithstanding that they involve a temporary or permanent alteration of any of the following :—

- (a) any electric line or electrical plant under the control of another licensee ;
- (b) any pipe, including any pipe used for the conveyance of gas, which (whether or not it is in a street) which is under the control of a gas undertaker, a water undertaker, a sewerage undertaker or a person supplying water in the exercise of statutory powers ;
- (c) any telecommunication apparatus used for the purposes of a telecommunication system which is operated by a person licensed under the Sri Lanka Telecommunications Act, No. 25 of 1991 ;
- (d) any telecommunication apparatus used for the purpose of a telegraphic system which is operated by the General Manager of the railway ; or
- (e) any telecommunication apparatus used for the purposes of a cable television system to which the Sri Lanka Rupavahini Corporation Act, No. 6 of 1982 applies.

(2) Where a licensee is proposing to execute works in the exercise of the powers conferred by item 1 which involve or are likely to involve any such alteration as is referred to in subparagraphs (1) (a), (b), (c) (d) or (e) the succeeding provisions of this paragraph shall apply and a reference in those provisions to "relevant undertaker" shall be deemed to be a reference to an undertaker referred to in subparagraphs (1)(a), (b), (c), (d) or (e).

(3) A member of the public may request the relevant licensee to carry out alterations in respect of any electric line or electrical plant notwithstanding that such works may fall within sub-paragraph (1)(a).

(4) Subject to the provisions of paragraph (5), a licensee shall, not less than one month prior to the commencement of the works, give the relevant undertaker a notice specifying the nature of the works proposed to be executed by the licensee, the alteration or likely alteration involved, and the time and place at which the execution of the works will be commenced.

(5) The provisions of paragraph (4) shall not apply in relation to any emergency works of which the licensee gives the relevant undertaker notice as soon as practicable after commencing the execution of the works.

(6) Where a notice has been given under paragraph (4) by the licensee to the relevant undertaker, the undertaker may, within the period of seven days of the date of the notice, give the licensee a counter notice which may state either-

- (a) that the underaker intends himself or herself to make any alteration made necessary or expedient by the works proposed to be executed by the licensee ; or

- (6) shall he or she requires the licensee to make any such alterations under the supervision, and to the satisfaction of, the undertaker:

(7) Where a counter notice given under paragraph (6) states that the relevant undertaker intends himself or herself or to make any alteration:

- (a) the undertaker shall have the right, instead of the licensee, to execute any works for the purpose of making that alteration; and
- (b) any reasonable expenses incurred by the undertaker in or in connection with the execution of those works and the amount of any loss or damage sustained by the undertaker in consequence of the alteration shall be recoverable by the undertaker from the licensee.

(8) Where a counter notice given under paragraph (6) states that any alteration is to be made under the supervision, and to the satisfaction of, the relevant undertaker—

- (a) the licensee shall not make the alteration except in compliance with the requirements of the counter notice; and
- (b) any reasonable expenses incurred by the undertaker in or in connection with the provision of that supervision and the amount of any loss or damage sustained by the undertaker in consequence of the alteration shall be recoverable by the undertaker from the licensee in any court of competent jurisdiction.

(9) Where—

- (a) no counter notice is given under paragraph (6); or
- (b) the relevant undertaker, having given a counter notice under that paragraph fails to make any alteration made necessary or expedient by the works proposed to be executed by the licensee, within any 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 execute works for the purpose of making the alteration or, as the case may be, may execute such works without the supervision of the undertaker; but in either case the licensee shall execute the works to the satisfaction of the undertaker.

(10) Licensee or any of its agents who—

- (a) executes any works without giving the notice required by paragraph (4); or

- (b) unreasonably fails to comply with any reasonable requirement given by a relevant undertaker under this paragraph.

shall be guilty of an offence under this Act and shall be liable on conviction after summary trial before a Magistrate, to a fine not less than five thousand rupees and not exceeding twenty five thousand rupees.

1. (1) This item applies where—

- (a) for any purpose connected with the carrying on of the activities which a licensee is authorized by its licence to carry on, it is necessary or expedient for a licensee to install and keep installed an electric line on, under or over any land; and
- (b) the owner or occupier of the land, having been given a notice by the licensee requiring him or her 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 which are not acceptable to the licensee.

1.2) This item also applies where—

- (a) for any purpose connected with the carrying on of the activities which the licensee is authorized by its licence to carry on, it is necessary or expedient for a licensee to keep an electric line installed on, under or over any land; and
- (b) the owner or occupier of the land has given notice to the licensee under paragraph 5(2) requesting it to remove the electric line.

(3) Where paragraph (1) or (2) applies and the Commission is satisfied that—

- (a) the licensee has made all reasonable efforts to secure the grant of a wayleave; and
- (b) those efforts have been unsuccessful; and
- (c) the acquisition of that wayleave is necessary for the carrying on of the activities authorized by the licence of the licensee.

the Commission, shall, within six weeks of an application made by the licensee, recommended to the Minister, the acquisition of the wayleave. Where the Minister approves the proposed acquisition, by Order published in the Gazette, the wayleave shall be deemed to be acquired for a public purpose and may be acquired under the Land Acquisition Act, and transferred to the licensee.

(4) The Commission shall not recommend the acquisition of a wayleave under paragraph (3) in any case where—

- (a) the land is covered by an authorized dwelling, or planning permission has been granted under the relevant laws for the construction of a dwelling on that land; and
- (b) the line is to be installed on or over that land.

(5) Before making a recommendation under paragraph (3), the Commission shall give—

- (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 by a person appointed by the Commission.

(6) Where a wayleave is acquired under the Land Acquisition Act, and transferred to a licensee, the wayleave—

- (a) shall not be subject to the provisions of any enactment requiring the registration of interests in or charges over, or other obligations affecting, land; but
- (b) shall bind any person who is at any time the owner or occupier of the land.

4. (1) Where a wayleave is granted to a licensee under item 3—

- (a) the occupier of the land; or
- (b) where the occupier is not also the owner of the land, the owner of the land,

may recover from the licensee reasonable compensation in respect of the grant, as may be determined by the Commission.

(2) Where as the exercise of any right conferred by such a wayleave any damage is caused to land or to movables, any person interested in the land or the movables may recover from the licensee reasonable compensation in respect of that damage; and where as consequence of the exercise of such a right a person is disturbed in his or her enjoyment of any land or movables he or she may recover from the licensee compensation in respect of that disturbance of such amount as may be determined by the Commission.

(3) The Commission may on its own motion or on the application of a person affected, conduct such inquiries as may be necessary to determine whether a licensee is liable to pay any person any compensation under paragraph (1) and (2).

(4) The Commission shall communicate any decision under paragraph (3) to the licensee and to any person who applied for, or was awarded, compensation.

(5) A person who is aggrieved by the decision of the Commission that no compensation is payable under paragraph (3) or (2) or who is dissatisfied with the amount of compensation determined to be payable by the Commission, may institute, in a court of competent jurisdiction, an action against the licensee from whom the compensation is claimed for recovery of the compensation claimed by that person or the difference between the amount of the compensation claimed by that person and the amount of the compensation determined to be payable to that person by the Commission.

(6) An action by any person under paragraph (5) shall be instituted within six months of the date on which—

- (a) that person receives a communication sent by the Commission under paragraph (4);
- (b) the amount of compensation determined by the Commission is paid to that person under paragraph (7); or
- (c) the notice of the payment of that amount into the Court is given, as is exhibited for the first time under paragraph (7).

(7) A licensee who is liable to pay to the owner of that land an amount of compensation under paragraph (3) or (2) shall pay that amount to that person within such period as may be determined by the Commission. Where the owner is unknown or where the ownership of that land is subject to dispute, the licensee shall—

- (a) pay that amount into the District Court having jurisdiction over the place where that land is situated, within such period as may be determined by the Commission to be drawn from that court by that person upon proof of title; and
- (b) give the occupier of that land written notice of the payment of that amount into the court, within such period as is determined by the Commission or, if there is no occupier, exhibit that notice in some conspicuous position on that land.

5. (1) This paragraph applies where at any time such a wayleave as is mentioned in item 3 (whether granted under that item 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; or

- (c) by reason of a change in the ownership or occupation of the land after the granting of the wayleave, ceases to be binding on the owner or occupier of the land.

(2) The owner or occupier of the land may in a case falling within paragraph (1) —

- (a) at any time after or within three months before the end of the period specified in the wayleave ;
- (b) at any time after the wayleave has been terminated by him or her ; or
- (c) at any time after becoming the owner or occupier of the land by virtue of such a change in the ownership or occupation of the land as is referred to in that paragraph,

give to the licensee a notice requiring the licensee to remove the electric line 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 paragraph.

(3) Where within the period of three months beginning from the date of the notice under paragraph (2) the licensee —

- (a) fails to make an application for the grant of the necessary wayleave under section 3 ;
- (b) makes an application for the grant of the necessary wayleave under section 3 and that application is refused by the Commission ;
- (c) fails to obtain an order authorizing the compulsory purchase of the land under section 2 of this Schedule,

the licensee shall comply with the notice at the end of that period, or in the case of subparagraph (b), at the end of the period of one month beginning from the date of the Commission's decision or such longer period as the Commission may specify.

(4) In this Schedule, "wayleave" in relation to a land means such interest in the land as consists of a right of a licensee, to install and keep installed, an electric line on, under or over, that land and to have access to that land for the purpose of inspecting, maintaining, adjusting, repairing, altering, removing or replacing such electric line.

6. (1) This item applies where any tree is or will be in such close proximity to an electric line or electrical plant which has been installed or is being or is to be installed, by a licensee as —

- (a) to obstruct or interfere with the installation, maintenance or working of the line or plant, or

- (b) to constitute an unacceptable source of danger (whether to children or to other persons) ;

and in this item the "land" means the land on which the tree is growing ;

(2) The licensee may give notice to the occupier of the land requiring him or her to fell or top the tree or cut back its roots so as to prevent it from having the effect mentioned in subparagraph (1) (a) or (b), subject to the payment to him or her by the licensee of the expenses reasonably incurred by him or her in complying with the requirements of the notice ;

(3) Where the occupier is not also the owner of the land, a copy of any notice under paragraph (2) shall also be served on the owner ;

(4) If within twenty one days from the giving of a notice under paragraph (2)---

- (a) the requirements of the notice are not complied with ; and
- (b) neither the owner nor occupier of the land gives a counter notice under paragraph (5) ;

the licensee may cause the tree to be felled or topped or its roots to be cut back so as to prevent it from having the effect mentioned in subparagraph (1) (a) or (b) ;

(5) If, within twenty one days from the giving of a notice under paragraph (2), the owner or occupier of the land gives a counter notice to the licensee objecting to the requirements of the notice, the matter shall be referred to the Commission ;

(6) On a reference to it under paragraph (5), the Commission may after giving the parties an opportunity of being heard by a person appointed by it, may make such order as it thinks just, in the circumstances and any such order---

- (a) may allow the licensee (after giving such notice to any person by whom a counter notice was given of the commencement of the work as the order may direct) to cause the tree to be felled or topped or its roots to be cut back so as to prevent it from having the effect mentioned in subparagraph (1) (a) or (b) ; and
- (b) may determine any question as to what expenses (if any) are to be paid to the licensee by the owner or occupier ;

(7) Where the licensee acts in pursuance of paragraph (4) or an order made under paragraph (6), the licensee shall---

- (a) cause the tree to be felled or topped or their roots to be cut back at accordance with good arboricultural practice and so as to cause little damage as possible to trees, fences, hedges and growing crops ;

(c) cause the felled trees, logged logs, or root castings to be removed in accordance with the directions of the owner or occupier; and

(d) make good any damage done to the land.

(8) In this item, "tree" includes any shrub, and references to "felling" and "logging" shall be construed accordingly.

7. (1) Where the Commission is satisfied that any immovable property is required for the purposes of carrying on the activities which a licensee is authorized to carry on by its license, or for the purposes of discharging any function assigned to such licensee by this Act and that—

(a) the licensee has made all reasonable efforts to negotiate the acquisition of such property with the owner of the property and

(b) those efforts have been unsuccessful,

the Commission may recommend to the Minister that the immovable property be acquired under the Land Acquisition Act and transferred to the licensee.

(2) Where the Minister, by Order published in the Gazette, approves the proposed acquisition of the immovable property specified in the recommendation of the Commission made under paragraph (1), such immovable property shall be deemed to be required for a public purpose and may accordingly be acquired under the Land Acquisition Act and transferred to the licensee.

(3) Any sum payable for the acquisition of any immovable property under the Land Acquisition Act, for a licensee shall be payable by the licensee.

(4) The Commission shall not recommend the acquisition of any immovable property under paragraph (1) if such immovable property is being used by another licensee in whom it belongs for the purpose of an installation necessary for carrying on of the activities which the licensee is authorized by its license to carry on or is proposed to be used, within a period of five years, by such other licensee for the purposes of such an installation.

SCHEDULE 2

[Section 30]

1. (1) Subject to paragraph (2), a distribution licensee may recover from a tariff customer any charges due to the licensee in respect of the supply of electricity, or in respect of the provision of any electricity meter, electric line or electrical plant.

(2) If a tariff customer quits any premises at which electricity has been supplied to him or her by a distribution licensee, without giving at least two working days' prior notice to the licensee, he or she shall be liable to pay the licensee, in respect of the supply of electricity to the premises, all incurred charges due up to the earlier of—

- (a) the second working day after he or she gives such notice to the licensee provided that reasonable access to the premises has been granted ;
- (b) the next day on which the register of any meter is ascertained ; and
- (c) the day from which any subsequent occupier of the premises requires the supplier to supply electricity to the premises.

(3) The provisions of paragraph (2) or a statement setting out those provisions shall be endorsed upon every demand note for electricity charges payable to a distribution licensee by a tariff customer.

(4) If a tariff customer quits any premises at which electricity has been supplied to him or her by a distribution licensee, without paying all charges due from him or her in respect of that supply, or the provisions of any electricity meter, electric line or electrical plant for the purposes of the supply, the licensee—

- (a) may refuse to furnish him or her with a supply of electricity at any other premises until he or she pays the charges due ; but
- (b) shall not be entitled to require payment of that charge from the next occupier of the premises.

(5) If a tariff customer—

- (a) has not, within the requisite periods, paid all charges due to a distribution licensee in respect of the supply of electricity to any premises, or the provision of any electricity meter, electric line or electrical plant for the purposes of that supply ; or
- (b) has failed to comply with a notice from the licensee requiring him or her to cease using any appliance which unduly or improperly interferes with the supply of electricity by the licensee to any other consumer,

the distribution licensee may, at the end of the requisite period cut off the supply to the premises, or to any other premises occupied by the consumer, by such means as the licensee thinks fit and recover any expenses incurred in so doing from the customer.

(6) In paragraph (5) the "requisite period" means—

- (a) in the case of premises which are used wholly or mainly for domestic purposes, a period of not less than ten days after either the making by the distribution licensee of a demand in writing for the payment of the charges due or a notice by the distribution licensee requiring the tariff customer to cease to use the appliances which interfere with electricity supplied to another customer ; and
- (b) in the case of any other premises, a period of ten days after the making of such a demand.

(7) A distribution licensee shall not exercise the powers conferred on the licensee by paragraph (5), if there is a genuine dispute regarding the amount of the charges due.

(8) In this item a reference to the provision of any electric line or item of electrical plant shall include a reference to the provision of such a line or item by the installation of a new one or by the modification of an existing one.

2. (1) Where a distribution licensee has cut off the supply of electricity to any premises in consequence of any default by a tariff customer, the licensee shall be under an obligation to resume the supply of electricity within two working days of the requirements of paragraph (2) being fulfilled.

(2) The requirements of this paragraph are that the customer in default—

- (a) has made good the default ;
- (b) has paid the reasonable expenses of disconnecting and reconnecting the supply ; and
- (c) has given such security as is mentioned in section 26 of this Act.

(3) The obligation imposed by paragraph (1) on a distribution licensee shall be a duty owed by the licensee to any person who may be affected by a failure to comply with the obligation.

(4) Where a duty is owed by a licensee to any person by virtue of paragraph (3), any breach of that duty which causes any loss or damage to that person shall be actionable at the suit or instance of that person.

(5) In any proceedings brought against a distribution licensee in pursuance of paragraph (4), it shall be a defence for the distribution licensee to prove that the licensee took all reasonable steps and exercised all due diligence to avoid failing to comply with the obligation imposed on the licensee by paragraph (1).

(6) Without prejudice to any right which any person may have by virtue of paragraph (5) to bring civil proceedings against a distribution licensee in respect of any failure to comply with the obligation imposed on the licensee by paragraph (1), compliance with that obligation may be enforced by the Commission against the licensee by the institution of appropriate proceedings in a court of civil jurisdiction.

3 (1) Where a supply of electricity to any premises has been cut off by a distribution licensee no person other than such licensee shall restore such supply.

(2) If any person acts in contravention of paragraph (1), he or she shall be guilty of an offence under this Act and shall be liable on conviction after summary trial before a Magistrate to a fine not exceeding twenty five thousand rupees and the distribution licensee may cut off the supply.

4. (1) If any person intentionally or negligently damages or causes to be damaged---

- (a) any electrical plant or electric line belonging to or operated by
 - (i) a distribution licensee ;
 - (ii) a generation licensee ; or
 - (iii) a transmission licensee ; or
- (b) any part of any domestic electricity supply equipment belonging to or operated by a distribution licensee that is situated on his or her property,

he or she shall be guilty of an offence under this Act and shall be liable on conviction after summary trial before a Magistrate to a fine not less than five thousand rupees and not exceeding fifty thousand rupees.

(2) In this item, "domestic electricity supply equipment" includes all line and plant up to, and including, the meter situated on a consumer's property.

(3) Where an offence has been committed under subparagraph (1)(a) in respect of the electric line or electrical plant of a distribution licensee, the distribution licensee may discontinue the supply of electricity to the person so offending until the matter has been remedied.

(4) Where an offence has been committed under subparagraph (1)(b) in respect of any domestic electricity supply equipment, the distribution licensee---

- (a) may discontinue the supply of electricity to the person so offending until the matter has been remedied ; and

- (b) may remove the meter in respect of which the offence was committed.

(5) Where a distribution licensee removes a meter in the exercise of powers under paragraph (4), the licensee shall keep it safely until the Commission authorizes the licensee to destroy it or otherwise dispose of it.

5. (1) Subject to the provisions of item 8, any officer authorized by a distribution licensee may enter any premises to which a supply of electricity is being given by the distribution licensee through the electric lines and electrical plant belonging to, or operated by, the distribution licensee for any of the following purposes, namely:

- (a) inspecting any electric line or electrical plant belonging to or operated by the distribution licensee;
- (b) ascertaining the register of any electricity meter and, in the case of a prepayment meter, removing any money or tokens belonging to or operated by the distribution licensee;
- (c) removing, inspecting or re-installing any electricity meter or installing any substitute meter or associated equipment.

(2) The powers conferred by subparagraphs (1) (a) and (b) shall not be exercised in respect of a premises if -

- (a) the consumer has applied in writing to the distribution licensee for the licensee to cease to supply electricity to the premises; and
- (b) the licensee has failed to do so within a reasonable time.

6. (1) Where a distribution licensee is authorized by paragraph 5 (3) or 4 (4) of this Schedule -

- (a) to discontinue the supply of electricity to any premises; or
- (b) to remove the electricity meter in respect of which the offence under that paragraph was committed,

any officer authorized by the distribution licensee may, subject to item 8, enter the premises for the purpose of disconnecting the supply or removing the meter or any associated electrical plant used for, or for purposes connected with, the distribution or supply of electricity.

(2) Where -

- (a) a distribution licensee is authorized by any other provision of this Act or of regulations made under it to cut off or discontinue the supply of electricity to any premises;

- (b) a person occupying any premises supplied with electricity by a distribution licensee ceases to require such a supply ;
- (c) a person entering into occupation of any premises previously supplied with electricity by a distribution licensee does not require such a supply ; or
- (d) a person entering into occupation of any premises previously supplied with electricity through a meter belonging to or operated by a distribution licensee does not hire or borrow that meter.

any officer authorized by the distribution licensee may, subject to item 8, enter the premises for the purpose of disconnecting the supply or removing any electrical plant, electric line or electricity meter.

7. (1) Any officer authorized by a distribution licensee, a generation licensee or a transmission licensee, as the case may be, may, subject to item 8, enter any premises for the purpose of —

- (a) placing a new electric line or new electrical plant in place of, or in addition to, any existing line or plant which has already been lawfully placed ; or
- (b) repairing or altering any such existing line or plant.

(2) In the case of emergency arising from faults in any electric line or electrical plant, entry may be made under paragraph (1) without the notice required to be given by item 8, but the notice shall then be given as early as possible.

8. (1) An electrical inspector or a licensee or officer of a licensee authorized to enter upon any land or premises under this Act shall not demand to do so as of right unless —

- (a) three days notice of the intended entry has been given by the electrical inspector or the licensee or officer of the licensee stating as fully and accurately as possible the nature and extent of the acts intended to be done ;
- (b) if required to do so, he or she has produced evidence of his or her authority ;
- (c) reasonable compensation is paid to the owner of the land or premises for any disturbance, disability or damage that may be caused pursuant to the entry.

(2) Any notice referred to in subparagraph (1) (a) shall —

- (a) where the land is occupied, be given to the occupier ;

- (b) where the land is not occupied, be given to the owner if his or her name and address are known or can with reasonable diligence be ascertained ;
- (c) where the land is not occupied and the name and address of the owner cannot with reasonable diligence be ascertained, be exhibited in some conspicuous position on the land ; and
- (d) where the land is used or reserved for any public purpose, be given to the officer or other person in charge of the execution of that purpose.

(3) The electrical inspector or the licensee or person authorized by the licensee in writing in that behalf shall be entitled to enter the land, for the purpose of giving a notice referred to in subparagraph (1) (a).

(4) Where any person exercises any powers conferred by this item, the licensee by whom he or she was authorized in writing shall make good any damage done to the land as a result of such entry.

(5) Where in the exercise of any power conferred by or under this Act any damage is caused to any land or to any movable property, any person interested in the land or movable property may recover compensation in respect of that damage from the licensee on whose behalf the power is exercised ; and where in consequence of the exercise of such a power a person is disturbed in his or her enjoyment of any land or movable property he or she may recover from that licensee reasonable compensation in respect of that disturbance as determined by the Commission.

9. (1) If, in an attempt to exercise any of the powers of entry conferred by this Schedule, the distribution licensee has made all reasonable efforts, otherwise than by the use of force, to obtain entry to the premises and those efforts have been unsuccessful, it may apply, *ex parte* , to the Magistrate's Court having jurisdiction over the place where the premises are situated for an order authorizing the licensee or an officer authorized by the licensee to enter the premises by force.

(2) An order granted under paragraph (1) shall specify the action, which may be taken by the licensee, or an officer authorized by the licensee to effect the entry by force and may stipulate the conditions to be observed by the licensee or such officer after such entry.

(3) The licensee or an officer authorized by the licensee shall incur no liability to any person in respect of the entry by force to the premises provided that he or she —

- (a) takes no action to effect entry other than such action as is specified in the order ;

- (b) observes any condition stipulated by the order; and
 - (c) does as little damage as is reasonably practicable in taking the specified action and in observing any stipulated condition.
- (4) No appeal shall lie from a decision of the Magistrate's Court—
- (a) to grant or not to grant an order under paragraph (1); or
 - (b) regarding the terms of, or the conditions stipulated in, any such order.

(5) Any costs incurred by the licensee in obtaining and executing an order under paragraph (1) shall be recoverable as a civil debt from the owner or the occupier of the premises to which the order relates.

18. (1) Where, in pursuance of any powers of entry conferred by this Schedule, entry is made on any premises by an officer authorized by a distribution licensee—

- (a) the officer shall ensure that the premises are left as less secure by reason of the entry; and
- (b) the distribution licensee shall make good, or pay compensation for, any damage caused by the officer, or by any person accompanying him or her in executing the premises, or in taking any action authorized by this Schedule, or in making the premises secure.

(2) Any officer exercising powers of entry conferred by this Schedule may be accompanied by such persons as may be necessary or expedient for the purpose for which the entry is made or for the purposes of paragraph (1).

(3) If any person intentionally resists or obstructs any officer exercising powers of entry conferred by this Schedule, he or she shall be guilty of an offence under this Act and shall be liable on conviction after summary trial before a Magistrate to a fine not exceeding ten thousand riyals.

19. Any electrical plant, electric line or electricity meter owned by or let for hire or lent to a consumer by a distribution licensee and marked or impressed with a sufficient mark or brand indicating the distribution licensee or the owner—

- (a) shall be deemed not to be landlord's fixtures, notwithstanding that they may be fixed or fastened to any part of the premises in which they may be situated; and
- (b) shall not be subject to distress or be liable to be taken in execution under process of any court or any proceedings in bankruptcy against the person in whose possession they may be.

SCHEDULE 3

[Section 30]

1. (1) Where a consumer of electricity supplied by a distribution licensee is to be charged for the supply wholly or partly by reference to the quantity of electricity supplied, then, unless otherwise agreed between the consumer and the distribution licensee, the supply shall be given through, and the quantity of electricity shall be ascertained by, an appropriate meter or meters, as the case may be.

(2) The metre shall be provided—

- (a) by the distribution licensee ; or
- (b) if agreed by the parties in the case of a meter used or intended to be used in connection with an exempt supply, by the consumer.

(3) The meter shall be installed on the consumer's premises in a position determined by the distribution licensee, unless in all the circumstances it is more reasonable to place it outside those premises or in some other position. For the purpose of this Act, the supply of energy by a licensee to a consumer shall be deemed to commence, unless otherwise agreed between them, at the outgoing terminals of the meter or metering equipment used to measure the supply to the consumer.

(4) The distribution licensee may require the replacement of any meter provided and installed in accordance with paragraphs (2) and (3) where the replacement --

- (a) is necessary to secure compliance with the provisions of this Schedule or any regulations made under the Act ; or
- (b) is otherwise reasonable in all the circumstances.

and any meter so replaced shall be provided and installed in accordance with those paragraphs.

(5) If the consumer refuses or fails to take his or her supply of electricity through an appropriate meter provided and installed in accordance with paragraphs (2) and (3), the supplier may refuse to give, or may discontinue, the supply.

(6) For the purposes of this paragraph, a meter is an appropriate meter for use in connection with any particular supply of electricity if it is of a pattern or construction, which, having regard to the terms on which the supply is to be charged for is suitable for such use.

(7) Pending the determination under section 38 of any dispute arising under this item, the Commission may give directions as to the provision or installation of a meter and directions under this paragraph may apply either in the case of meters of particular description or in particular cases.

(3) In this Schedule "exempt supply" means a supply of electricity to any premises where—

- (a) the premises are not premises used wholly or mainly for domestic purposes ; or
- (b) the supplier or the consumer is a person authorized by an exemption to supply electricity to those premises.

2. (1) No meter shall be used for ascertaining the quantity of electricity supplied by a distribution licensee to a consumer unless the meter—

- (a) is of an approved pattern or construction and is installed in an approved manner ; and
- (b) subject to the provisions of paragraph (2), is certified under item 4.

and in this Schedule "approved" means approved by the Commission in accordance with regulation made under this Act

(2) The provisions of sub paragraph (1) (b) shall not apply to a meter used in connection with an exempt supply if the distribution licensee and the consumer have agreed in writing to dispense with the requirements of that paragraph.

(3) Regulations may provide—

- (a) for determining fees to be paid for approvals given by or under the regulations;
- (b) for revoking an approval so given to any particular pattern or construction of meter and requiring meters of that pattern or construction which have been installed to be replaced with meters of another approved pattern or construction within a prescribed period ;
- (c) for revoking an approval so given to any particular manner of installation in that manner to be installed in another approved manner within such period as is specified in the regulation.

and may make different provision for meters of different descriptions or for meters used or intended to be used for different purposes.

3. (1) Where a distribution licensee supplies electricity through a meter which is used for ascertaining the quantity of electricity supplied and—

- (a) the meter is not of an approved pattern or construction or is not installed in an approved manner ; or

- (b) except in the case of a meter referred to in subparagraph (2) (a) of item 1, is not certified under item 4.

the distribution licensee shall be guilty of an offence under this Act and shall be liable on conviction after summary trial before a Magistrate, to a fine not less than five thousand rupees and not exceeding twenty five thousand rupees.

(7) Where any person is guilty of an offence under this item due to the act or default of some other person, that other person shall also be guilty of the offence and that other person may be charged with and convicted of the offence by virtue of this paragraph whether or not proceedings are taken against the first mentioned person.

(8) In any proceedings in respect of an offence under this item it shall be a defence for the person charged to prove that he or she took all reasonable steps and exercised all due diligence to avoid committing the offence.

(9) No proceedings shall be resumed in respect of an offence under this item except by or on behalf of the Commission.

4. (1) The Commission may appoint any person to examine, test and certify meters.

(2) No meter shall be certified in accordance with paragraph (1) unless—

- (a) the meter is of an approved pattern or construction; and
- (b) the meter conforms to such standards (including standards framed by reference to margins of error) as may be prescribed by regulation.

and references in this Schedule to “prescribed margins of error” shall be construed accordingly.

(3) Regulations may be made providing different provisions for meters of different descriptions or for meters used, or intended to be used, for different purposes and may include provision—

- (a) for the termination of certification in the case of meters which no longer conform to the prescribed standards; and
- (b) for determining the fees to be paid for examining, testing and certifying meters, and the persons by whom they are payable; and
- (c) as to the procedure to be followed in examining, testing and certifying meters.

5 (1) Where a consumer of electricity supplied by a distribution licensee is to be charged for his or her supply wholly or partly by reference to the quantity of electricity supplied, the distribution licensee may, in the normal course of business, estimate the amount of electricity consumed by the consumer and recover charges accordingly, so long as the estimated consumption is confirmed by a meter reading within a reasonable period of time—

(2) In the event of—

- (a) a meter (by which the quantity of electricity supplied to any consumer is ascertained) being proved to register consumption incorrectly; or
- (b) the malfunction of any meter; or
- (c) any person altering the register of any meter used for measuring the quantity of electricity supplied to any premises,

the distribution licensee shall be entitled to estimate consumption and recover charges accordingly.

(3) Where the consumption of electricity has been estimated by a distribution licensee in accordance with paragraph (1) or (2), the consumer shall pay for any electricity consumed in accordance with the estimate prepared by the distribution licensee or otherwise determined in accordance with the provisions relating to dispute resolution.

6 (1) This item applies to meters used for ascertaining the quantity of electricity supplied to any premises.

(2) The register of a meter to which this item applies shall be admissible in any proceeding in court as evidence of the quantity of electricity supplied through it.

(3) Where electricity has been supplied for any period through such a meter which is of an approved pattern or construction and is installed in an approved manner, the register of the meter shall be presumed to have been registering during that period—

- (a) within the prescribed margins of error; and
- (b) in the case of a meter used in connection with an exempt supply, within any relevant margins of error.

(4) Where a meter to which this item applies is presumed to be registering for any period—

- (a) within the prescribed margin of error; and

- (b) in the case of a meter used in connection with an exempt supply, within any agreed margins of error.

the burden shall be on the consumer to prove that the meter was incorrectly registering the quantity of electricity supplied through it during that period.

7. (1) A consumer of electricity supplied by a distribution licensee, shall at all times, at his or her own expense, keep any meter belonging to him or her in proper order for correctly registering the quantity of electricity supplied to him or her ; and in default of his or her doing so, the supplier may discontinue the supply of electricity through that meter.

(2) A distribution licensee shall at all times, at its own expense, keep any meter let for hire or lent by it to any consumer in proper order for correctly registering the quantity of electricity supplied and, in the case of pre-payment meters, for operating properly on receipt of the necessary payment.

(3) A distribution licensee shall have power to remove, inspect and re-install any meter by which the quantity of electricity supplied by the licensee to a consumer is registered, and shall, while any such meter is removed, fix a substitute meter on the premises ; and the cost of removing, inspecting and re-installing the meter and of fixing a substitute meter shall be met by the distribution licensee.

(4) The provisions of paragraphs (2) and (3) shall be without prejudice to any remedy the distribution licensee may have against a consumer for failure to take proper care of the meter.

8. (1) If any person intentionally or negligently—

- (a) alters the register of any meter used for measuring the quantity of electricity supplied to any premises by a distribution licensee ; or
(b) prevents any such meter from duly registering the quantity of electricity supplied through that meter,

he or she shall be guilty of an offence under this Act and shall be liable on conviction after summary trial before a Magistrate to a fine not less than five thousand rupees and not exceeding twenty five thousand rupees.

(2) Where any person is prosecuted for an offence under paragraph (1), proof —

- (a) that the meter was in his or her custody or under his or her control ; and
(b) of possession by him or her of artificial means for causing an alteration of the register of the meter or, as the case may be, for the prevention of the meter from duly registering,

shall be sufficient evidence that the alteration or prevention was intentionally caused by him or her.

(3) Where a consumer is convicted of an offence under paragraph (1), the distribution licensee may discontinue the supply of electricity to the premises of the consumer and remove the meter in respect of which the offence was committed.

(4) Where a distribution licensee removes a meter under paragraph (3), the licensee shall keep it in safe custody until the Commission authorizes the licensee to destroy or otherwise dispose of it.

9. (1) A consumer of electricity supplied by a distribution licensee who takes his or her supply through a pre-payment meter shall be under a duty to take all reasonable precautions for the safekeeping of any money or tokens which are inserted into that meter.

(2) Except with the permission of the consumer, a pre-payment meter shall not be used to recover any sum owing to a distribution licensee by a consumer otherwise than in respect of the supply of electricity, the provision of an electric line or electrical plant or the provision of the meter.

SCHEDULE 4

[Section 30]

1. A person authorized by a licence, or exempted from the requirement to obtain a licence, to transmit, generate, distribute or supply electricity

(a) shall, in generating, transmitting, distributing or supplying electricity, have regard to the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest; and

(b) shall do what the person reasonably can to mitigate any effect which such generation, transmission, distribution or supply would have on the natural beauty of the countryside or on any such flora, fauna, features, sites, buildings or objects.

2. Without prejudice to the provisions of paragraph (1), a person authorized by a licence, or exempted from the requirement to obtain a licence, to transmit, generate, distribute or supply electricity and the Commission shall, in generating, transmitting, distributing or supplying electricity, or as the case may be, in the discharge of the Commission's functions, avoid, so far as reasonably practicable, causing injury to fisheries or to the stock of fish in any waters.

3. (1) A generation licensee shall, in circumstances specified by the Commission, be entitled to construct, subject to conditions prescribed by the Commission in consultation with the relevant water authority, waterways and pipelines and to use water for its licensed activities and the relevant water authority shall not unreasonably deny such right.

(2) For the purpose of this item the "relevant water authority" means such authority, as the Commission shall prescribe.

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