



PARLIAMENT OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

ENERGY SUPPLY (TEMPORARY PROVISIONS) ACT, No. 2 OF 2002

[Certified on 21st March, 2002]

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*Energy Supply (Temporary Provisions)
Act, No. 2 of 2002*

[Certified on 21st March, 2002]

L.D.—O. 16/2002.

AN ACT TO PROVIDE FOR THE CONSTITUTION OF AN ENERGY SUPPLY COMMITTEE ; TO PROVIDE FOR THE EXERCISE BY SUCH COMMITTEE, OF POWERS UNDER CERTAIN OTHER LAWS ; AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

Be it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows :—

1. This Act may be cited as the Energy Supply (Temporary Provisions) Act, No. 2 of 2002 and shall come into operation on such date as the Minister may appoint by Order published in the Gazette (hereinafter referred to as the "appointed date").

Short title and date of operation.

PART I

CHAPTER I

CONSTITUTION OF THE ENERGY SUPPLY COMMITTEE

2. (1) There shall be established a Committee to be called the Energy Supply Committee (hereinafter referred to as the "Committee").

Constitution of the Energy Supply Committee.

(2) The Committee shall consist of the following :—

(a) *ex-officio* members—

- (i) the Secretary to the Treasury, who shall be the Chairman ;
- (ii) the Secretary to the Ministry of the Minister in charge of the subject of Power and Energy ;
- (iii) the Secretary to the Ministry of the Minister in charge of the subject of Enterprise Development, Industrial Policy and Investment Promotion ;

- (iv) the Chairman of the Ceylon Electricity Board established by the Ceylon Electricity Board Act;
 - (v) the Chairman of the Ceylon Petroleum Corporation established by the Petroleum Corporation Act ;
 - (vi) the Director-General of the Board of Investment of Sri Lanka established by the Sri Lanka Board of Investment Law ;
 - (vii) the Chairman of the National Energy Council ;
 - (viii) the Energy Regulator appointed under section 8 ; and
- (b) a representative of the Ministry of the Minister in charge of the subject of Policy Development and Implementation, nominated by the Minister of Policy Development and Implementation and appointed by the Minister.
- (3) A member appointed under paragraph (b) of subsection (2), shall hold office for the period of two years from the date of his appointment, unless he resigns his office by letter addressed to the Minister or, is removed from office by the Minister, in consultation with the Minister in charge of the subject of Policy Development and Implementation, for reasons assigned.
- (4) The quorum for any meeting of the Committee shall be six members and the Committee may regulate the procedure, in regard to the meetings of the Committee and the transaction of business at such meetings.

CHAPTER II

OBJECTS, POWERS AND FUNCTIONS OF THE COMMITTEE

Objects of the Committee.

3. The objects of the Committee shall be—

- (a) to ensure an adequate supply of electrical energy, petroleum and other energy requirements ;

- (b) to regulate the provision of electrical energy, the petroleum supply and the utilisation of other energy resources.

4. The Committee shall exercise the following powers to— Powers of the Committee.

- (a) purchase or otherwise deal with—
(i) electricity ;
(ii) all forms of petroleum products ;
- (b) deal in any manner with all forms of renewable energy resources ;
- (c) purchase or otherwise deal with ancillary equipment such as electricity meters and prepare schemes for the purchase of such equipment by the private sector ;
- (d) ensure the cost effectiveness of all aspects of the operations of the Ceylon Petroleum Corporation and the Ceylon Electricity Board ;
- (e) conserve energy and promote other energy resources ;
- (f) take such measures as may be necessary to ensure compliance with the provisions of this Act.

5. For the purpose of attainment of its objects, the Committee, may discharge the following functions :— Functions of the Committee.

- (a) the preparation of a national plan to ensure an adequate supply of energy ;
- (b) the preparation of a detailed statement on the availability of electrical energy and petroleum, and a programme for the use of such electrical energy and petroleum ;

- (c) the discharge of functions in respect of licensing, regulatory and inspection measures provided for under this Act ;
- (d) tendering advise to the Government on all matters concerning the—
 - (i) generation, transmission, distribution, supply and use of electrical energy ;
 - (ii) importation, exportation, storage, distribution and supply of petroleum and petroleum products ;
- (e) the collection and recording of information concerning the generation, transmission, distribution, supply and use of electrical energy and the distribution, supply and use of petroleum and petroleum products ;
- (f) the supervision and issue of directives to—
 - (i) the Ceylon Electricity Board or such other authority that may be designated by law to control the generation, transmission, distribution, supply and use of electricity ;
 - (ii) the Ceylon Petroleum Corporation or such other authority that may be designated by law to control the importation, exportation, storage, distribution and supply of petroleum and petroleum products ;
- (g) the regulation the activities of persons of engaged in the—
 - (i) generation, transmission, distribution, supply and use of electricity ;

- (ii) importation, exportation, storage, distribution and supply of petroleum and petroleum products;
- (h) taking such measures as may be necessary to ensure as far as possible the—
 - (i) uninterrupted generation, transmission, distribution and supply of electricity;
 - (ii) uninterrupted importation, exportation, storage, distribution and supply of petroleum and petroleum products;
 - (i) regulating and fixing tariffs and other charges from time to time for the supply of electricity;
 - (j) protecting the interests of consumers in relation to the supply of—
 - (i) electricity, by promoting efficiency, economy and safety, by persons engaged in activities connected with the generation, transmission, distribution and supply of electricity;
 - (ii) petroleum and petroleum products, by promoting efficiency, economy and safety, by persons engaged in activities connected with the importation, exportation, storage, distribution and supply of petroleum and petroleum products;
- (k) securing and ensuring that persons engaged in commercial organizations connected with the—
 - (i) generation, transmission, distribution and supply of electricity shall efficiently finance the operation and conduct such activities;

- (ii) the importation, exportation, storage, distribution and supply of petroleum and petroleum products shall efficiently finance the operation and conduct such activities;
- (l) taking such measures as may be necessary to protect the public from the dangers arising from the —
 - (i) generation, transmission, distribution and supply of electricity;
 - (ii) importation, exportation, storage, distribution and supply of petroleum and petroleum products;
- (m) promoting the efficient use and conservation of electricity and petroleum and petroleum products ;
- (n) promoting the introduction and use of alternate and economical resources and methods of generation and producing electricity and other forms of electrical energy;
- (o) the undertaking of any other activity referred to the Committee by the Cabinet of Ministers as may be necessary for or conducive to, the attainment of the objects of the Committee;
- (p) the undertaking of all such incidental and ancillary activities as the Committee may consider necessary, and appropriate for the effective discharge of any of its functions under this Act.

Committee to exercise its powers subject to the directions of the Minister.

- 6. In the exercise of its powers and the discharge of its functions, the Committee shall comply with any special or general direction issued to it by the Minister in relation to the implementation of the energy policy of the Government.

The Ceylon
Electricity Board
and the Ceylon
Petroleum
Corporation to
implement plans
and programmes
drawn up by the
Committee.

7. Notwithstanding anything to the contrary in any other Law, it shall be the duty of the Ceylon Electricity Board and the Ceylon Petroleum Corporation, as the case may be, to implement the plans and programmes drawn up by the Committee, for the purpose of attainment of the objects of the Committee.

CHAPTER III

STAFF OF THE COMMITTEE

Energy Regulator.

8. (1) The Minister may, on the recommendation of the Committee, appoint a person as the Energy Regulator of the Committee, who shall be the Chief Executive Officer of the Committee.

(2) The Cabinet of Ministers shall determine the qualifications that any person to be appointed as the Energy Regulator should possess, and the terms and conditions subject of which, such person may be appointed and the salary and other allowances that may be paid to such Energy Regulator.

(3) The Committee shall, delegate to the Energy Regulator such powers as it considers necessary.

(4) The Energy Regulator may, with the approval of the Committee, whenever he considers it necessary to do so, delegate to any person, whose services have been obtained under section 10 of this Act, any power, function or duty conferred or imposed on or assigned to him by this Act, and such person shall exercise, discharge and perform such power, function or duty, subject to the general or special directions of the Energy Regulator.

Other staff of the
Committee.

9. (1) The Cabinet of Ministers shall—
(a) determine the qualifications and formulate a scheme of recruitment;

(b) specify the terms and conditions, of persons to be appointed as officers and servants of the Committee.

(2) The Committee shall for the implementation of the provisions of this Act, appoint such officers and servants as may be necessary, to the staff of the Committee, and the disciplinary control of such officers and servants shall vest in the Committee.

Services of the officers and servants of the Ceylon Electricity Board or the Ceylon Petroleum Corporation, as the case may be, to be made available to the Committee.

10. At the request of the Committee, the services of any officer or servant of the Ceylon Electricity Board or the Ceylon Petroleum Corporation, as the case may be, may, with the consent of such officer or servant, be made available to the Committee, for such period as may be determined by the Committee, on such terms and conditions, including those relating to pension or provident fund rights, as may be agreed upon by the Committee and such officer or servant.

CHAPTER IV

GENERAL

Requisition of movable property.

11. (1) Where any movable property is required for the purposes of this Act, the Secretary to the Ministry of the Minister in charge of the subject of Finance, may, by an Order (hereinafter referred to as a "Requisition Order"), requisition with effect, from such date as is specified in such Order, the movable property specified in the Order.

(2) A Requisition Order made under subsection (1), shall have the effect of authorizing the Secretary, to take possession of the property specified in the Order, and hand over such property to the Committee, to be used for the purposes of the Act.

(3) Any property requisitioned by the Secretary under subsection (1), may be derequisitioned by an Order (hereinafter referred to as an "Derequisition Order") by such Secretary with effect from such date as shall be specified in such Order.

(4) (a) Compensation in respect of any movable property requisitioned under subsection (1) shall be paid out of the Consolidated Fund;

(b) The assessment of the amount of compensation payable and the manner of awarding such compensation in terms of the provisions of paragraph (a), shall be as prescribed.

12. Where any immovable property of the State is required for any purpose of the Committee, such purpose shall be deemed to be a purpose for which a special grant or lease of such property may be made under section 6 of the State Lands Ordinance, and accordingly the provisions of that Ordinance shall apply to a special grant or lease of such property to the Committee.

Immovable
property of the
State to be made
available to the
Committee.

13. No prosecution shall lie against any member, officer or servant of the Committee for any act or omission, which in good faith is done by him, under this Act or on the directions of the Committee.

Protection for
action taken under
this Act or on the
direction of the
Committee.

14. (1) The Energy Regulator shall enter into contracts, for and on behalf of the Committee, in the exercise and discharge of the Committee's powers and functions and such contracts, shall be performed by the Committee, as if it were a body corporate.

Contracts and
actions.

(2) All actions in relations to the exercise of its powers or discharge of its functions, shall be brought by or against the Committee, as it were a body corporate.

15. The Committee shall be deemed to be a Scheduled Institution within the meaning of the Bribery Act, and the provisions of that Act shall be construed accordingly.

Committee
deemed to be a
Scheduled
Institution within
the meaning of the
Bribery Act.

16. The Minister may, from time to time direct the Committee to furnish to him in such form as he may require, returns, accounts and other information with respect to the work of the Committee and the Committee shall comply with every such direction.

Furnishing of
information to the
Minister.

17. Any person who contravenes any provision of this Act or any regulation made thereunder or fails to comply with any direction issued thereunder, shall be guilty of an offence under this Act.

Offence.

Penalty for offence.

18. (1) Any person found guilty of an offence under this Act, shall be liable, on conviction after summary trial by a Magistrate, to imprisonment of either description for a period not exceeding five years or to a fine not exceeding ten million rupees or to both such imprisonment and fine.

(2) Where an offence under this Act is committed by a body of persons then—

- (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 that a director or an officer of such body corporate or a partner of such firm shall not be deemed to be guilty of such offence, if the director, officer or partner proves that such offence was not committed with the knowledge of the director, officer or partner, or that the director, officer or partner exercised due diligence to prevent the commission of such offence.

Regulations.

19. (1) The Minister may make regulations in respect of matters required by this Act to be prescribed, or in respect of which regulations are authorized to be made.

(2) Without prejudice to the generality of the powers conferred by subsection (1), regulations may be made in respect of any or all of the following matters :—

- (a) the provision of an adequate and uninterrupted supply of electrical energy, petroleum and other energy resources that are essential to the life of the community ;
- (b) the conditions to be observed for the safety of energy projects ;
- (c) the measures necessary for the conservation and use of electrical energy.

(3) Every regulation made by the Minister shall, be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified in the regulation.

(4) Every regulation made by the Minister shall, as soon as convenient after its publication in the Gazette, be brought before Parliament for approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of such disapproval, but without prejudice to anything previously done thereunder.

(5) Notification of the date on which any regulation is deemed to be rescinded shall be published in the Gazette.

20. (1) The Committee shall, as soon as possible, after the end of each financial year of the Committee, make available to the Minister a report, on the exercise and performance by the Committee, of its powers and functions during that year and on its plans and programmes. Such report shall set out any direction given by the Minister to the Committee during that year.

Report of the Committee to be sent to the Minister and laid before Parliament, and copies of such report to be made available for purchase by the public.

(2) The Committee shall, transmit the report to the Minister and the Minister shall cause such report to be laid before Parliament.

(3) The Committee shall cause the report to be printed at the expense of the Committee and to be made available for purchase by the public, at such price as shall be determined by the Committee.

21. (1) The Committee shall prior to granting approval for any project relating to the—

Minister to obtain report from the Central Environmental Authority prior to approval of new energy projects.

- (i) generation, transmission, distribution or supply of electrical energy ;
- (ii) importation, exportation, storage, distribution or supply of petroleum and petroleum products,

obtain a report from the Central Environmental Authority established under the National Environmental Act as to the environmental impacts of the proposed project.

(2) The Committee shall, after consulting the Minister and having given due consideration to the matters contained in the report of the Central Environmental Authority, grant approval for any project referred to in subsection (1).

Anything done
under the
provisions of this
Act to prevail over
certain laws.

22. Subject to the provisions of section 21, anything done under the provisions of this Act shall have effect, notwithstanding anything to the contrary in the Nuisances Ordinance, the National Environmental Act, section 261 of the Penal Code and section 98 of the Code of Criminal Procedure Act and accordingly in the event of any conflict or inconsistency between the provisions of this Act and the aforesaid laws, the provisions of this Act shall prevail.

PART II

EXERCISE OF POWER UNDER OTHER LAWS

Committee to
exercise powers
under Part V of
the Ceylon
Electricity Board.

23. The powers relating to tariffs and other charges specified in Part V of the Ceylon Electricity Board Act, as amended from time to time, shall, from and after the appointed date and notwithstanding anything to the contrary in the Ceylon Electricity Board Act, be exercised by the Committee in accordance with the provisions of such Part and the Ceylon Electricity Board shall not exercise any power under that Part for so long as this Act is in operation and any reference to the "Board" in that Part or any regulation or Order made under that Part, shall unless the context otherwise requires, be read and construed as a reference to the "Committee".

Committee to
exercise powers
under sections 2
to 11 of the
Electricity Act.

24. (1) The powers relating to licensing in respect of the supply of electrical energy under section 2 to section 11 of the Electricity Act, as amended from time to time, shall, from and after the appointed date and notwithstanding anything to the contrary in the said Act, be exercised by the Committee in accordance with the provisions of the said sections and the

Minister shall not exercise any power under such sections, so long as this Act is in operation and any reference to the "Minister" in such sections or any regulation made thereunder shall unless the context otherwise requires be read and construed as a reference to the "Committee".

(2) The Committee shall, in the exercise of its powers under subsection (1), be subject to the special or general directions of the Minister.

25. The powers and functions of the Competent Authority under the Petroleum Products (Regulation and Control of Supplies) Act, shall from and after the appointed date, and notwithstanding anything to the contrary in the said Petroleum Products (Regulation and Control and Supplies) Act, be exercised by the Committee in accordance with the provisions of that Act and the Competent Authority shall not exercise any powers under that Act so long as this Act is in operation and any reference to the "Competent Authority" in that Act or any regulation made thereunder shall unless the context otherwise requires, be read and construed as a reference to the "Committee".

Committee to
exercise powers of
the Competent
Authority under
Petroleum
Products
(Regulation and
Control of
Supplies) Act.

26. From and after the appointed date, the Committee may where it considers it necessary and expedient so to do in the due discharge of its functions—

Committee to
exercise rights and
powers exercised
by the Ceylon
Petroleum
Corporation, the
Minister or the
Board of Directors
as the case may be
under sections 5B
to 5i, 34A and 42
of the Ceylon
Petroleum
Corporation Act.

- (a) exercise one or more of the rights vested in the Petroleum Corporation established by the Ceylon Petroleum Corporation Act, under sections 5B, 5c, 5D, and 34A ; or
- (b) exercise any one or more of the powers or special powers conferred on the Minister or the Board of Directors as the case may be, under sections 5B, 5E, 5F, 5G, 5H, 5I and 42 of the aforesaid Act,

and where the Committee exercises such rights or powers, the Corporation, the Minister or the Board of Directors as the case may be, shall not exercise any power under those

sections so long as this Act is in operation and any reference to the "Corporation", "Board of Directors" or the "Minister", as the case may be in such sections shall unless the context otherwise requires, be read and construed as a reference to the "Committee".

Power to issue
special directions.

27. (1) Notwithstanding anything to the contrary in the Ceylon Electricity Board Act, the Electricity Act, the Ceylon Petroleum Corporation Act, and the Petroleum Products (Regulation and Control of Supplies) Act, the Committee shall have the power, with the concurrence of the Minister, to issue special directions as may be necessary for the purpose of exercising the powers conferred on the Committee under sections, 23, 24, 25 or 26 as the case may be, to—

- (a) the Ceylon Electricity Board, established by section 2 of the Ceylon Electricity Board Act and to any officer or servant of such Board ;
- (b) the holder of any license issued under section 2 of the Ceylon Electricity Act ;
- (c) to the Competent Authority appointed under section 2 of the Petroleum Products (Regulation and Control of Supplies) Act, and the Petroleum Controller or any Deputy Petroleum Controller or any Assistant Petroleum Controller appointed under that section ; and
- (d) to the Ceylon Petroleum Corporation established by section 2 of the Ceylon Petroleum Corporation Act, and to any officer and servant of such Corporation.

(2) It shall be the duty of every person, to whom any direction has been issued under subsection (1), to comply with such direction.

28. (1) Notwithstanding anything to the contrary in the Ceylon Electricity Board Act or in any contract or agreement entered into under the provisions of the aforesaid Act, the Committee shall have power to adopt special procedure in the imposition of tarriffs or other charges in the interests of national economy and in view of the necessity to take expeditious measures for the effective exercise of the powers and rights of the Committee.

Special procedure
to be followed by
the Committee.

(2) Special procedure may be adopted for the imposition of tarriffs or other charges as shall be prescribed.

29. The provisions of this Act shall be in operation for a period of two years from the appointed date.

Duration of this
Act.

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

Sinhala text to
prevail in case
of inconsistency.

31. In this Act unless the context otherwise requires—

“Board of Investment of Sri Lanka Law” means the Board of Investment of Sri Lanka Law, No. 4 of 1978 ;

“Ceylon Electricity Act” means the Ceylon Electricity Act, (Chapter 205) ;

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

“Ceylon Petroleum Corporation Act” means the Ceylon Petroleum Corporation Act, No. 28 of 1961 ;

“Code of Criminal Procedure Act” means the Code of Criminal Procedure Act, No. 15 of 1979 ;

“electrical energy” means energy which is generated, transmitted, supplied or used for any purpose other than the transmission of a message ;

“National Environmental Act” means the National Environmental Act, No. 47 of 1980 ;

Interpretation.

“Nuisances Ordinance” means the Nuisances Ordinance (Chapter 230) ;

“Penal Code” means the Penal Code (Chapter 19) ;

“person” includes any body of persons, corporate or unincorporate ;

“petroleum” means petroleum and includes any product, or by-product which may be derived, purchased, prepared, developed, compounded, made, or manufactured, from hydro-carbons or hydro-carbon compounds, and any inorganic and natural or synthetic organic compound or mixture which has been used or is being used or is intended to be used as agricultural chemicals of whatever description for the purpose of destroying, inhibiting or controlling the action of plant or animal pest and fungus growth and to increase the productivity and quality of plant life ;

“petroleum product” means petrol, kerosene, auto diesel, heavy diesel, furnace oil, liquid petroleum gas or aviation turbine fuel ;

“Petroleum Products (Regulation and Control of Supplies) Act” means Petroleum Products (Regulation and Control of Supplies) Act, No. 34 of 1979.

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

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