

PARLIAMENT OF THE DEMOCRATIC

SOCIALIST REPUBLIC OF

SRI LANKA

SRI LANKA ELECTRICITY

ACT, No. 20 OF 2009

[Certified on 8th April, 2009]

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[Certified on 8th April, 2009]

L. D.—O 57/2006.

AN ACT TO PROVIDE FOR THE REGULATIONS OF THE GENERATION,

TRANSMISSION, DISTRIBUTION, SUPPLY AND USE OF ELECTRICITY IN

SRI LANKA ; TO REPEAL THE ELECTRICITY REFORM ACT, NO. 28

OF 2002 AND THE ELECTRICITY ACT (CHAPTER 205) ; AND FOR

MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO

WHEREAS a national policy on electricity had been Preamble.

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, supply and use of electricity in Sri Lanka and

by providing for certain related matters:

NOW THEREFORE, be it enacted by the Parliament

of the Democratic Socialist Republic of Sri Lanka as

follows:–

1. This Act may be cited as the Sri Lanka Electricity Act, Short title.

No. 20 of 2009.

CHAPTER I

PRELIMINARY

2. (1) The administration of the provisions of this Act Administration

shall vest in the Public Utilities Commission (hereinafter of the Act.

referred to as the “Commission”) established 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.

2—PL 002872–4,250 (03/2009)

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(2) The exercise, performance and discharge by the

Commission of the powers , duties, and functions conferred

on or assigned to it under this Act, shall be in addition and

not in derogation to the exercise, performance and discharge

of the powers, duties and functions that the Commission is

given or conferred with by the Public Utilities Commission

of Sri Lanka Act, No. 35 of 2002.

CHAPTER II

FUNCTIONS OF THE COMMISSION

Functions of the 3. (1) The functions of the Commission shall be to act as

Commission. 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, to regulate the

implementation codes of practice and other

requirements imposed by or 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, in order

to ensure that the most economical and efficient

service possible is provided to consumers;

(e) after consultation with transmission and distribution

licensees, to publish a statement setting out the

rights and obligations of consumers arising under

sections 23 to 29 and Schedules I and II to this Act;

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(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

force of this Act 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 it 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.

(2) The Commission in the discharge of its licensing

functions entrusted to it by paragraph (b) of subsection (1),

shall ensure that a co-ordinated, efficient and economical

system of electricity supply is provided for and maintained

throughout Sri Lanka, at all times.

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Objectives. 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—

(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 all 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 ;

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(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

general policy guidelines in respect of the electricity industry guidelines to be

issued by the

Minister.

(2) The Minister shall in formulating the general policy

guidelines referred to in subsection (1), take into

consideration, among other matters, the following:-

(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

generations;

(c) the priorities and objectives in meeting the needs

set out in paragraph (a);

(d) pricing policy in respect of the supply of electricity

to facilitate the sustainable economic growth;

(e) the measures being taken by the Government with

respect to these matters.

(3) The Minister shall forward the general policy

guidelines formulated under subsection (1) to the Cabinet of

Ministers for its approval. All amendments sought to be made

to the guidelines approved by the Cabinet of Ministers,

shall also be required to be approved by the Cabinet of

Ministers.

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Electrical 6. (1) The Commission may appoint electrical inspectors

inspectors. for the purposes of this Act.

(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 to the use of electrical plant and other

facilities;

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(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) prescribing the circumstances in which a licensee

may be relieved from its obligation to supply

electricity ; 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 inspector under this

section, shall be credited to the Fund of the Commission

CHAPTER III

PART I

LICENSING

7. (1) A person shall not - Prohibition on

unlicensed

supply &c. of

(a) generate electricity;

electricity.

(b) transmit electricity; or

(c) distribute and supply or 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 obtaining a licence under

section 10.

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(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 ten million rupees and where the offence is

continued to be committed after such conviction, be liable to

an additional fine equal to the amount imposed as the fine on

conviction, in respect of each day during which the offence

is continued to be so committed.

(3) Where a person is prosecuted for an offence under

subsection (2), the court shall in addition to the punishment

imposed under that subsection, further order the person

convicted to refrain with immediate effect from carrying on

the activity which he is prohibited from carrying on under

subsection (1), until he has obtained a licence for the same as

required by that subsection.

(4) No proceedings shall be instituted in respect of an

offence under this section except with the written sanction of

the Commission.

Participating in a 8. Any person may participate in a bidding process for

bidding process the generation of electricity provided that such person shall

for the

be required to conform to the requirement specified in

generation of

electricity. paragraph (c) of subsection (1) of section 9, in order to be

eligeble to obtain a generation licence under subsection (1)

of that section.

Eligibility to 9. (1) No person other than any one of the following

apply for a

shall be eligible to apply for the issue of a generation licence,

licence under

section 11. to generate electricity over and above the generation capacity

of 25 MW:—

(a) the Ceylon Electricity Board, established by the

Ceylon Electricity Board Act, No. 17 of 1969;

(b) a local authority;

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(c) a company incorporated under the Companies Act,

No. 7 of 2007, in which the government, a public

corporation, a company in which the government

holds more than fifty per centum of the shares or a

subsidiary of such a company, holds such number

of shares as may be determined by the Secretary to

the Treasury, with the concurrence of the Minister

in charge of the subject of Finance.

(2) No person other than the Ceylon Electricity Board,

established by the Ceylon Electricity Board Act, No. 17 of

1969 shall be eligible to apply for the issue of a transmission

licence.

(3) No persons other than any one of the following shall

be eligible to apply for the issue of a distribution licence:—

(a) the Ceylon Electricity Board, established by the

Ceylon Electricity Board Act, No. 17 of 1969;

(b) a local authority;

(c) a company incorporated under the Companies Act,

No. 7 of 2007, in which the Government holds more

than fifty per centum of its shares; or

(d) a society registered under the Co-operative Societies

Law, No. 5 of 1972.

10. (1) The Commission may on an application made Exemptions.

for an exemption 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.

(2) Every such exemption granted under subsection (1)

shall be to such extent, be subject to such conditions and be

for such period, as may be specified in the Order.

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Applications for 11. Subject to the provisions of section 9, an application

licences.

for a licence to generate, transmit or distribute electricity or

for an extension of 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 12. (1) Upon receipt of an application under section 11

to grant of and where the Commission intends to grant the licence or

licences.

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 13. (1) The Commission may –

licences.

(a) after considering any representations made to it in

response to the notice published under section 12;

(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

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(c) with the concurrence of 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

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(b) a distribution licence.

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

and a distribution licence.

Form of licence. 14. (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 of an extension of

such licence, the Commission shall send a copy thereof—

(a) to the Minister for his or her information; and

(b) to any other licensee who may be likely to be

affected by the grant or extension, as the case may

be, of such licence.

General 15. (1) A generation, transmission or distribution licence

conditions of may include—

licences.

(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 of this Act;

(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;.

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(c) in addition to the provisions in sections 31 and 32

of this Act, conditions with provision for such

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;

(d) conditions relating to the prohibition of abuse of

monopoly position or other anti-competitive

behaviour; and

(e) conditions relating to the optimum utilization of

funds and assets of the licensee, in order to ensure

that a most economical and efficient service is

provided to its customers.

(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;

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(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 16. Without prejudice to the generality of section 15, a

conditions of licence issued to a generation licensee shall include

generation

licences. 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

licensees;

(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.

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17. Without prejudice to the generality of section 15, a Special

conditions of

transmission licence issued to a licensee shall include

transmission

conditions— licences.

(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 and in a most transparent

manner;

(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 distribution 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;

(h) requiring the licensee to develop and operate a

transparent generation dispatch model; and

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(i) requiring the licensee to publish for the benefit of

the public, all relevant information relating to its

generation procurement,

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 18. Without prejudice to the generality of section 15, a

conditions of distribution licence issued to a licensee may include,

distribution

licences. 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 provision of this Act;

(b) requiring the licensee to publish and conform to

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 maximum time period required for

providing a new connection of electricity or

for the restoration of supply after being

informed of a fault, as the case may be;

(ii) the payment of compensation for any loss

incurred by a customer, due to the failure of

the licensee to comply with any requirement

referred to in sub-paragraph (i);

(iii) the payment of bills by consumers;

(iv) the disconnection of supplies to consumers;

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(v) the provision of services to the elderly and

disabled;

(vi) the efficient use of electricity by consumers;

(vii) the handling of consumer complaints;

(viii) the monitoring of compliance by the licensee,

with maximum charges for the resale of

electricity set by the Commission;

(ix) the providing of services to geographical

areas and prospective, hitherto consumers not

being served with electricity; and

(x) providing life-line tariffs to disadvantaged

groups of consumers.

(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.

19. (1) A licence shall be capable of being assigned either Assignment of

in whole or in part, if it includes a condition authorizing licences.

such assignment.

(2) A licence shall not be capable of being assigned except

with the consent of the Commission and of the Minister.

(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.

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(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 and the Minister consider necessary,

for the purpose of protecting the interests of

consumers; and

(b) such incidental or consequential modification of

conditions as the Commission and the Minister

consider necessary.

(5) A licence may include conditions authorizing

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).

(7) The Minister shall in exercising his powers under

subsections (2) and (4) of this section, act in accordance with

such criteria as shall be prescribed for each such purpose.

Revocation of 20. (1) The Commission may after considering any

licences.

representation made to it in response to a notice published

under subsection (2) and with the concurrence of the Minister,

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.

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(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.

21. (1) Every application for an exemption under section Application for

exemption.

10, 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 12

shall, mutatis mutandis, apply to and in relation to an

application made 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 10.

22. (1) The Commission may after considering any Revocation and

representation made to it in response to a notice published withdrawal of

exemptions.

under subsection (2) and with the concurrence of the Minister,

by Order published in the Gazette :—

(a) revoke an exemption granted to a person or a

category of persons under section 10; or

(b) withdraw an exemption granted to a person out of

any category of persons to whom an exemption was

granted under section 10,

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.

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(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, 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

Provisions of this 23. The provisions of this Part shall be in addition to

Part to be in

and not in derogation of, the conditions of a generation,

addition to

conditions. transmission or distribution licence.

Duties of 24. (1) A transmission licensee shall-

transmission

licensees.

(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, 25, 26, 27, 28, 29, 40, 41, 42, 54 and 56

and Schedules I, II and III 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 25. (1) A distribution licensee shall on any request by

distribution the owner or occupier of any premises within the Authorized

licensees.

Area of the licensee-

(a) connect, supply and maintain the supply of

electricity to those premises; and

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(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 under section 54, and the Electricity Supply

Code (as set out in Schedule II 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 within 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 subsection (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 for a

supply from and shall inform the distribution licensee of -

(a) the premises at which the supply is required;

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(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;

(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;

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(c) specify any payment which that person may be

required to make under sections 27 and 28; 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, any 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.

26. Nothing in this Act shall be deemed to require a Exemption from

duty to connect

distribution licensee to connect and give a supply of

and supply.

electricity to any premises under section 25, if and to the

extent that the connection and giving of the supply would

result in the distribution licensee being in breach of

regulations made under this Part or under section 54 or the

Electricity Supply Code, (as set out in Schedule II to

this Act), and the licensee has taken all such steps as are

reasonable to prevent the circumstances that may arise as a

result of such breach.

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Power to recover 27. (1) Where any electric line or electrical plant is

expenditure.

provided by the distribution licensee to a person requiring a

supply of electricity under section 25, 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.

(2) The Commission may direct a person requiring a supply

of electricity under section 25 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 who

had previously contributed to such expenses.

(4) Any reference in this section to “any expenses

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.

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28. (1) Subject to the following provisions of this Power to require

section, a distribution licensee may require by notice in security.

writing any person who requires a connection and supply of

electricity under section 26, 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 such 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 the

person to provide within seven days after the service

of the notice, reasonable security for the payment

of all monies 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 in which it remains

in the hands of the licensee.

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Additional 29. A distribution licensee may require any person who

terms. requires a supply of electricity under section 25, to accept in

respect of the supply—

(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 any regulations made under this Part

or under section 54 or the electricity supply code

(as set out in Schedule II to this Act); and

(c) any terms restricting 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.

Tariffs. 30. (1) This section shall apply to—

(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 of electricity (herein

after 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;

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(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 in accordance with

the policy guidelne approved by the Cabinet of

Ministers under section 5; and

(d) be published in such manner as may be required by

the Commission, in order to ensure public

knowledge.

(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 procedure for review.

(4) Notwithstanding any other provision of this Act, the

Commission may—

(a) upon being satisfied of the adequacy of funds being

provided by the Treasury to bear the cost of any

subsidy approved by the Government to subsidize

consumers; and

(b) considering any cross subsidy recoverable from such

categories of consumers as determined by the

Commission,

set tariffs and charges to be levied by the licensee, which

reflect such subsidies.

(5) In this section, “relevant licensee” means a

transmission licensee in respect of transmission and bulk

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sale tariffs and a distribution licensee in respect of distribution

and supply tariffs.

Provisions of 31. The provisions contained in—

Schedules to

apply to licences. (a) Schedule I to this Act (Other Powers of Licensees);

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

(c) Schedule III to this Act (Use of Electricity Meters);

and

(d) Schedule IV to this Act (Preservation),

shall apply to and in relation to , the respective licences and

licensees referred to in those Schedules.

PART III

MODIFICATION AND ENFORCEMENT OF LICENCES

Modification by 32. (1) Subject to the following provisions of this

agreement. section, the Commission may modify the conditions of a

generation, transmission or distribution licence, if the licensee

consents to the modifications.

(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

Sri Lanka Electricity Act, No. 20 of 2009 29

the proposed modifications and the reasons for the

proposed modifications; and

(b) state the period (not later than twenty eight days

commencing on 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.

33. (1) Subject to the following provisions of this Modification

section, the Commission may modify the conditions of a without

agreement.

generation, transmission or distribution licence, where 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

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to advise the Commission whether or not to give effect to the

proposed modifications.

(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.

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(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 a 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 and in respect of all matters

connected with the filing, hearing and disposal of an appeal

preferred under this section.

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Enforcement 34. (1) If the Commission is satisfied that a generation,

orders. 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.

(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 maybe 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.

Procedure for 35. (1) Before making an enforcement order under

making section 34, the Commission shall—

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;

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(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 34,

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;

(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.

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(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 of 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.

Effect of 36. (1) It shall be the duty of a licensee to whom an

enforcement enforcement order relates—

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.

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(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.

37. (1) If a licensee to whom an enforcement order Offences.

applies fails to comply with such enforcement order in whole

or in 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 less than one million

rupees and not exceeding ten million rupees, and to a further

fine of five hundred thousand rupees for each day during

which such contravention continues after conviction.

(2) The Commission shall in making an enforcement order

under this Part of this Act, 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 non compliance 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.

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Power of 38. (1) Where the Commission is satisfied that a licensee

Commission to

who is –

vest management

and control of

undertaking of (a) subject to an enforcement order made by the

licensee in Commission; or

another authority

or person.

(b) subject to an insolvency event,

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 is

likely to be given in an efficient, secure and a safe manner,

the Commission may with the concurrence of 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:

Provided however where the licensee is subject to an

enforcement order and is a person established by law and the

provisions of that law does not pemit compliance with the

said enforcement order, the Commission shall instead of

exercising its powers under this subsection, make such

recommendations as to it may deem appropriate to the

Minister to whom the activities of such person is assigned, in

order to secure compliance with such enforcement order.

(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 Company Act, No. 7 of 2007, 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.

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(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 his 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;

(b) a licensee entering into a compromise with the

licensee’s creditors;

(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.

39. (1) The following disputes arising in connection with The resolution of

the supply or use of electricity shall be referred to the disputes.

Commission by any party to the dispute:-

(a) a dispute between a licensee and a tariff customer

arising under sections 25 to 30 or Schedules I, II or

III to this Act;

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(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 courts or through 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 and this Act.

(4) Where any dispute arising under section 27 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

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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

40. (1) Regulations may be made under this Act Standard of

prescribing the standards of performance to be attained by performance for

supply of

distribution licensees in connection with the supply of electricity.

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 proposed 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

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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 39.

Standards of 41. (1) The Commission may, after consultation with

overall

distribution licensees and with persons or bodies appearing

performance and

efficient use of to the Commission to be representative of persons likely to

electricity. be affected, from time to time –

(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.

Information with 42. (1) The Commission shall from time to time collect

respect to levels

information with respect to—

of performance.

(a) the compensation paid by distribution licensees

under regulation made under section 40 (if any);

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(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 40, 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

41, such information with respect to the level of

performance attained by the licensee as may be

required by the Commission.

(3) A distribution licencee 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 one million rupees and to an additional fine

of fifty thousand rupees for each day during which such offence

is continued to be committed after such conviction, which

shall be paid into the Fund of the Commission.

(4) Subject to the provisions of section 59, 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 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.

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CHAPTER V

NEW GENERATIONPLANT AND OVERHEAD LINES

Provision of new

43. (1) Subject to section 8, no person shall operate or

generation plant

and extension of provide any new generation plant or extend any existing

existing plant. generation plant, except as authorized by the Commission

under this section.

(2) Subject to the approval of the Commission, 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 licencee shall with the consent of the

Commission, select a person to provide at least cost, 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 technically

acceptable tenders in response to such notice.

Consent required 44. (1) Subject to the provisions of subsection (2), no

for overhead and

person shall –

underground

electric lines.

(a) install ; or

(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 underground cable which has a

nominal voltage upto and of thirty three kilovolts

or any other higher voltage as may be deemed fit, to

be decided by the Commission;

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(b) in relation to so much of an electric line as is or will

be, within premises in the 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.

45. The Commission may direct that an electric line be High voltage

designated as a “high voltage line” for the purposes of this lines.

Act.

CHAPTER VI

FINANCE

46. (1) There shall be levied and recovered from every Annual Levy.

licencee an annual levy of such amount as may be determined

by the Commission, by Order published in the Gazette.

(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 sub section (1) on a licensee

for any year shall be paid by the licensee to the Commission

before the thirtieth day of June of that year.

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(4) Where the licencee fails to pay the levy imposed under

subsection (1) for any year before the thirtieth day of June of

that year, the levy shall be deemed to be in default and the

Chairman shall certify the amount of the levy due from the

licencee.

(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 licencee referred

to in the certificate is being 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 licencee, necessary for the recovery of

the amount specified in the certificate and the provisions of

section 226 to section 297 of the Civil Procedure Code shall,

mutatis mutandis, apply to the execution of such seizure and

sale.

(6) Where the Chairman issues a certificate under

subsection (4), he or she shall notify in writing to the licencee

specified in the certificate, that the amount specified in the

certificate is payable by the licencee, 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.

Moneys to be 47. All monies collected on any payment made to the

credited to the

Commission by any licencee under this Act, shall be credited

Fund of the

Commission. to the Fund of the Commission.

CHAPTER VII

OFFENCES AND REGULATIONS

General Penalty 48. (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

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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 less than one million rupees and in any case

where such offence is continued after conviction, to a further

fine not exceeding five hundred thousand rupees, for

each day on which such offence is being continued to be

committed 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.

49 (1) Every person who takes, uses or extracts any Extraction of

electricity— 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 of not less than ten thousand rupees

and not exceeding fifty thousand rupees, to a fine in a sum of

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money being the value of the loss or damage caused to the

licencee as a result of the act or default constituting such

offence, and any sum recovered as such additional fine shall

be paid to the licencee on application made to Court by such

licencee.

(2) Any person who aids or abets in 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 the electricity supplied to any

consumer in accordance with any method of charging

provided for in the licence.

Improper use of 50. (1) Without prejudice to the provisions of Schedule

electricity to be II to this Act, every person who—

an offence.

(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 of not less than ten thousand rupees

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and not exceeding fifty thousand rupees, to a fine in a sum of

money being the value of the loss or damage caused to the

lincensee 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 is

being continued to be committed after conviction.

(5) Notwithstanding anything to the contrary in the Code

of Criminal Procedure Act, No.15 of 1979 , an offence under

section 49 or this section shall be a cognizable offence and a

non-bailable offence, within the meaning and for the

purposes of that Act.

51. Where an offence under this Act is committed by a Offences by

body of persons, then – bodies of

person.

(a) if that body of persons is a body corporate, every

director and officer of that body corporate; or

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(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 a 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.

Acquisition of 52. (1) Where the President on a recommendation made

property for by the Minister is of the opinion that any immovable property

Power

is required for a power generation project or a transmission

Generation

project. project and that such project would serve for the general

welfare and benefit of the public, the President may by Order

published in the Gazette, declare that such immovable

property is required for such purpose, and the property may

accordingly be acquired under the Land Acquisition Act and

be transferred to the person or persons proposing to carry out

such project.

(2) The provisions of section 3 to section 8 (both inclusive)

of the Urban Development Projects (Special Provisions) Act,

No. 2 of 1980, shall mutatis mutandis apply to and in relation

to an acquisition of property under subsection (1).

(3) Any sum payable for the acquisition of any immovable

property under subsection (1) , shall be paid by the person or

persons to whom the property is transferred.

Rules. 53. (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.

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54. (1) The Minister may on the recommendation of the Regulations.

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.

55. (1) If any difficulty arises in giving effect to the Removal of

difficulties.

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.

56. (1) Regulations may be made for the purpose of- Purposes for

which

Regulations are

(a) allowing and securing appropriate electricity trading

made.

arrangements between licensees;

(b) securing that supplies of electricity are regular and

efficient;

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(c) protecting the public from dangers arising from the

generation, transmission, distribution, supply or use

of any electric line or electrical plant; and

(d) without prejudice to the generality of paragraph (c),

eliminating or reducing the risk of personal injury

or damage to property or interference with its use,

arising any of the activities referred to in that

paragraph.

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

regulations may be made to:—

(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 and plans

and as to their production for inspection or

copying;

(d) make provision for relieving persons authorized by

a licence to supply electricity, from an obligation

to supply in certain instances;

(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;

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(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 VIII

GENERAL

57. The Minister shall in giving his concurrence as Minister to act in

required under subsection (1) of section 13, subsection (1) of accordance with

the criteria

section 20, subsection (1) of section 22 and subsection (1) of

prescribed.

section 38, of this Act, act in accordance with such criteria as

shall be prescribed for each such purpose.

58. (1) The Commission shall maintain a register at its Register.

office in such form, as it may determine.

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

register—

(a) particulars relating to every licence issued 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 34;

and

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(e) 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 made available for

inspection by the public during such hours and subject to

the payment of such fees, as may be prescribed by regulation.

Returns and 59. (1) The Commission may for the purposes of

information. 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

(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) Every person who acts in contravention of the

provisions of subsection (2) shall be guilty of an offence and

be liable on conviction after summary trial before a Magistrate

to a fine not exceeding one million rupees and to an

additional fine of fifty thousand rupees for each day during

which such offence is continued to be committed after such

conviction.

(4) 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.

(5) The disclosure by the Commission of any information

referred to in subsection (4) without the consent of the person

furnishing such information-

(a) to a court of law, when required to do so by such

court ;

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(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).

60. (1) The Consumer Affairs Authority established by Consumer

the Consumer Affairs Authority Act, No. 9 of 2003, shall not Affairs Authority

Act not to apply.

exercise any powers, duties or functions, conferred on that

Authority by that Act, in relation to the exercise, discharge or

performance of the powers, duties and functions conferred

on the Commission by this Act or the Public Utilities

Commission of Sri Lanka Act, No. 35 of 2002.

(2) The Commission shall, wherever the need to do so

arises and in the absence of specific provisions in the Public

Utilities Commission of Sri Lanka Act, No. 35 of 2002 relating

to the protection of the rights of consumers, exercise, perform

and discharge such of the powers, duties and functions

conferred on the Consumer Affairs Authority established by

the Consumer Affairs Authority Act, No. 9 of 2003 as are

relevant thereto, and the provisions of that Act shall, mutatis

mutandis, apply to and in regard to the exercise, performance

and discharge of such powers, duties and functions by the

Commission.

CHAPTER IX

INTERPRETATION

61. In this Act, unless the context otherwise requires— Interpretation.

“authorized” means authorized by a licence issued or an

exemption granted under this Act;

“Authorized Area” in relation to a person authorized by a

licence to transmit or to distribute and supply or

distribute or supply electricity, means the area

designated in the licence;

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“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;

“Central Environmental Authority” means the Central

Environmental Authority established by the

National Environmental Act, No. 47 of 1980 ;

“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;

“disadvantaged group of consumers” means consumers

belonging to any group of consumers whose

individual house hold income is less than such

amount as may be prescribed by regulation;

“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;

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“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;

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“electricity supply code” means the provisions of

Schedule II to this Act ;

“electricity undertaking” means any person engaged in

the generation, transmission, distribution or supply

of electricity, including any person who is exempted

from obtaing a licence under this Act;

“enforcement order” means an enforcement order made

by the Commission under section 34 ;

“exemption” means an exemption granted under

section 10;

“financial year” means the calendar year ;

“Fund” means the Fund of the Commission established

under section 31 of the Public Utilities Commission

of Sri Lanka Act, No.35 of 2002;

“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 of not more than 33 kilovolts or such other

voltage as the Commission may direct in accordance

with section 45 and the expression “low voltage

line” shall be construed accordingly;

“licence” means a licence granted under section 11 and

“licensee” or “licensees” shall be construed

accordingly;

“life line tariff” means a concessionary electricity tariff

made available to the section of the population who

are unable financially to afford to pay for the basic

electricity needs, at a rate representing the true cost

of supply;

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“line” means any wire, cable, pipe, conductor or other

similar thing (including its casing or coating) which

is designed or adapted for transporting 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;

“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 XVII A of the

Constitution;

“register” means the register maintained under section 58;

“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;

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“relevant licencee” has the meaning as given in subsection

(5) of section 30;

“relevant undertaker” has the meaning as given in

paragraph 2 of Schedule I 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 25 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.

Sinhala text to 62. In the event of any inconsistency between the

prevail in case of Sinhala and Tamil texts of this Act, the Sinhala text shall

inconsistency.

prevail.

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CHAPTER X

REPEALS AND TRANSITIONAL PROVISIONS

63. (1) Electricity Reform Act, No 28 of 2002 is hereby Repeals and

repealed. transitional

provisions.

(2) The Electricity Act (Chapter 205) is hereby repealed.

(3) Notwithstanding the repeal of the Electricity Act

(Chapter 205) -

(a) all licences issued under that Act and in force on

the day preceding the date of this Act, shall, insofar

as such licences authorize any one of the following

activities, namely, the generation, transmission,

distribution or supply, of electricity, continue to be

valid and in force for a period of six months from

the date of coming into force of this Act and shall

be subject to the provisions of this Act.

(b) all regulations made under section 60 of that Act

and in force on the day preceding the date of the

Act, shall in so far as such regulations are not

inconsistent with any provision of this Act continue

in force after that date.

64. Notwithstanding the provisions of the Ceylon Provisions of

Electricity Board Act, No.17 of 1969, where there is a conflict this Act and

regulations to

between any regulation made under section 56 of that Act prevail over

and any provisions of this Act or any regulations made regulations made

thereunder, the provisions of this Act and the regulations under section 56

of the Ceylon

made thereunder, shall prevail. Electricity Board

Act.

65. (1) Notwithstanding the provisions of this Act or Ceylon

any provision in the Ceylon Electricity Board Act, No 17 of Electricity

Board to be

1969, the Ceylon Electricity Board shall, with effect from

issued with

the date on which this Act comes into operation, be issued provisional

with appropriate provisional licenses by the Commission licence and

under this Act, so as to enable the Ceylon Electricity Board licences.

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to carry on activities relating to the generation, transmission,

and bulk procurement of electricity and for the distribution

and supply of electricity. All provisional licenses issued under

this section shall be valid for a period of six months from the

date on which this Act comes into operation and shall be

subject to such conditions as may be determined by the

Commission.

(2) Not less than three months prior to the expiry of the

period of six months referred to in subsection (1), the Ceylon

Electricity Board to which such provisional licences were

issued shall be required to make an application to the

Commission under this Act for the issue of a licence under

section 7 of this Act to generate, transmit and for bulk

procurement of electricity or distribution and supply of

electricity, as the case may be. The Board shall along with its

applicaton also submit a plan specifying the geographical

areas on which it is operating its activities as on the date of

the making of the aplication and an expansion plan indicating

the geographical areas in which it proposes, during a period

of fifteen years from such date, to expand its activities relating

to the generation, transmission and for bulk procurement of

electricity and distribution and supply of electricity prepared

in accordance with the guidelines approved by the Cabinet

of Ministers under section 5 of this Act.

(3) On receipt of the application and the required plans

under subsection (2), the Commission shall, prior to the

expiry of the six months period referred to in subsection (1)

and notwithstanding anything to the contrary in any other

provisions of this Act, issue the required licences to the

Ceylon Electricity Board for a period of fifteen years. Every

licence so issued shall be subject to the terms and conditions

attached to such licence, and may be extended from time to

time, for further periods of fifteen years each, on application

being made for that purpose prior to the expiry of the period

of validity of the licence issued, along with the required

plans prepared in accordance with policy guidelines approved

by the Cabinet of Ministers under section 5.

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66. (1) The Ceylon Electricity Board Act, No. 17 of 1969 Amendment to

the

(in this section referred to as “the Act”), as last amended by

Ceylon

Act, No. 32 of 1988, is hereby further amended as follows:— Electricity Board

Act, No.17 of

(a) in section 11 of that Act— 1969.

(i) by the repeal of subsection (1) of that section

and the substitution therefore of the following

subsection:—

“(1) It shall be the duty of the Board to

develop and maintain an efficient, co-

ordinated and economical system of

electricity supply in accordance with any

appropriate licence issued by the Public

Utilities Commission of Sri Lanka.”;

(ii) by the insertion, immediately after subsection

(2) of that section, of the following new

subsection:—

“(2A) Notwithstanding the provisions of

subsection (2), in the performance of the duties

specified therein, the Board shall not act in

contravention of any condition of a licence

issued to it by the Public Utilities Commission

of Sri Lanka.”;

(b) in section 12 of that Act—

(i) by the renumbering of that section as

subsection (1) of that section;

(ii) by the substitution in the renumbered

subsection (1) of that section for the words

“The Board may exercise”, of the words

“Subject to the provisions of subsection (2),

the Board may exercise”;

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(iii) by the addition, immediately after the

renumbered subsection (1) of that section of

the following new subsection:—

“(2) The powers referred to in paragraphs

(a), (d), (h), (l) and (n) of subsection (1) shall

be exercised by the Board, in accordance with

the terms and conditions of any appropriate

licenses issued to the Board by the Public

Utilities Commission of Sri Lanka.”;

(c) by the repeal of sections 14, 15 and 16 of that Act;

(d) by the repeal of Part II and Part V of that Act; and

(e) in section 66 of the Act—

(1) by the insertion, immediately before the

definition of the expression “Local

Government Service”, of the following new

definition:—

“ “licence” means a licence issued by the

Public Utilities Commission of Sri

Lanka Under the Sri Lanka Electricity

Act, No. 20 of 2009”; and

(2) by the insertion, immediately after the

definition of the expression “public officer”,

of the following new definition:—

“ “Public Utilities Commission of Sri Lanka”

means the Public Utilities Commission

of Sri Lanka established by section 2 of

the Public Utilities Commission of Sri

Lanka Act, No. 35 of 2002.”

(2) Notwithstanding the repeal of Part V of the Act, all

tariffs fixed by the Ceylon Electricity Board under section

52 of that Act for the supply of electrical energy by such

Board and in force on the day preceding the date on which

this Act comes into operation, shall continue to be in

force, untill such tariffs are varied or replaced by or under

any written law.

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SCHEDULE I [Section 31]

OTHER POWERS OF LICENSEES

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 sub paragraph (a), including for the

following purposes:-

(i) opening or breaking up any street or any sewers,

drains or tunnels within or under any street;

(ii) tunneling or boring under any street; 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.

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(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 by 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

licenced under the Sri Lanka Telecommunications Act 25 of

1991;

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(d) any telecommunication apparatus used for the purposes 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 undertaker intends himself or herself to make any

alteration made necessary or expedient by the works proposed

to be executed by the licensee; or

(b) that he or she requires the licensee to make any such alteration

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 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

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(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 his or her 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 by a Magistrate, to a fine not less than five thousand

rupees and not exceeding twenty five thousand rupees.

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3. (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.

(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) requiring it to remove the

electric line.

(3) Where paragraphs (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;

(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, recommend 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 required

for a public purpose and maybe acquired under the Land Acquisition

Act, and transferred to the licensee.

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(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 in 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 in 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).

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(4) The Commission shall communicate any decision under

paragraph (3) to the licensee and to any person who has 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 (1) or (2) 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 the 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 two 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, or 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 (1) or (2) shall pay that

amount to that person within such period as may be determined by the

Commission. Where that 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;

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(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 item 3;

(b) makes an application for the grant of the necessary wayleave

under item 3 and that application is refused by the

Commission;

(c) fails to obtain an order authorizing the compulsory purchase

of the land under item 7 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.

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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 lop 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 lopped 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

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cause the tree to be felled or lopped or its roots to be cut back

so as to prevent it from having the effect mentioned in

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 lopped or their roots to be cut

back in accordance with good arboricultural practice and so

as to do as little damage as possible to trees, fences, hedges

and growing crops;

(b) cause the felled trees, lopped boughs or root cuttings to be

removed in accordance with the directions of the owner or

occupier; and

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

(8) In this item, “tree” includes any shrub, and references to “felling”

and “lopping” 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 licence, 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.

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(3) Any sum payable for the acquisition of any immovable property

under the Land Acquisition Act, for a licensee shall be payable by that

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, to whom it belongs for the purpose

of an installation necessary for carrying on of the activities which the

licensee is authorized by its licence 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 II [Section 31]

ELECTRICITY SUPPLY CODE

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 accrued 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 provision

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

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(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 period, 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

customer, 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.

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(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 (4) 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 in 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 by a Magistrate to a fine not exceeding

twenty five thousand rupees and the distribution licencee 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;

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(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 by 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 in a consumer’s

property.

(3) Where an offence has been committed under subparagraph

(1)(a), in respect of the electrical 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 reinstalling any electricity meter or

installing any substitute meter or associated equipment.

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(2) The powers conferred by subparagraph (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 4(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, electrical 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

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(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 moveable property, any

person interested in the land or moveable property may recover

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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 moveable 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.

10. (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 no less

secure by reason of the entry; and

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(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 entering 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 by a Magistrate to a fine not exceeding ten thousand

rupees.

11. 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 as 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 III [Section 31]

USE OF ELECTRICITY METERS

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 meter 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.

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(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 this Act, the supply of energy by

a licensee to a consumer shall be deemed to commence, unless otherwise

agreed between them, at the out going 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 36 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 item may

apply either in the case of meters of particular descriptions or in particular

cases.

(8) 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 constriction and is installed in an

approved manner; and

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(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 subparagraph (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

(b) 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.

(2) 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.

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(3) 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.

(4) No proceedings shall be instituted 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;

(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;

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(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 proceedings 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 agreed 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.

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(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 by 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.

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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 IV [Section 31]

PRESERVATION

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 license 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,

water ways 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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