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	Utilities Regulatory Commission Bill, 2022. (Bill No. 38 of 2022)	112.00

ELECTRICITY BILL, 2022

(Bill No. 37 of 2022)

OBJECTS AND REASONS

The Bill seeks to make provisions for electricity related activities and for other related matters.

The Bill is divided into 12 parts.

Part I provides for preliminary provisions such as short title and commencement, interpretation of various expressions used in the Bill.

Part II provides for preparation of the integrated electricity plan by the licensees, its approval and effects.

Part III provides for the different activities in the electricity sector such as generation, transmission, distribution and supply of electricity, exclusivity to perform these activities and regulation and deregulation of the activities.

Part IV provides for generation, transmission, distribution and supply of electricity, procurement requirements applicable to licensees in the electricity sector, access and use of transmission and distribution grids, keeping of separate accounts for licensees, compliance with decision of the Commission, inspections by the Commission and authorized persons, public consultation and hearings.

Part V provides for licenses and authorisations, persons already doing electricity activities, application for license, decisions by the Commission, Register of licensees kept by the Commission, legal effects of licenses and authorisations, notification to the Minister about the licenses, restriction on licensees, prohibited conduct by the licensees and authorisation holders, abandonment and expiration of license.

Part VI provides for tariff setting and review and tariff principles.

Part VII provides for the duty of suppliers to consumers, complaints of consumers, payment and suspension of service for non-payment, issue of notice, consumer protection standards, procedure for dealing with

complaints, quality of service standards and targets, obligation of electricity consumers and measures for uninterrupted service on unforeseen events.

Part VIII provides for dispute resolution by the Commission and further appeal to the appellate authority.

Part IX provides for the function of the Utility Regulatory Commission in respect of electricity sector, functions of the Minister and Regulations to be issued under the Act.

Part X provides for access to property, electrical facilities of the licensee, access to land where the licensee has easement and right of licensee to erect enclosures.

Part XI provides for offences for constructing electricity facilities without license, performing any electricity related activity without license, breach of conditions of license, fraudulently obtaining license etc.

Par XII provides for miscellaneous matters like collection of fees and easement right to licensees, consequential amendments to the Public Utilities Corporation Act.

Dated this 28th day of November, 2022.

**FLAVIEN JOUBERT
MINISTER OF AGRICULTURE,
CLIMATE CHANGE AND ENVIRONMENT**

ELECTRICITY BILL, 2022

(Bill No. 37 of 2022)

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ELECTRICITY BILL, 2022

(Bill No. 37 of 2022)



A BILL

FOR

AN ACT TO MAKE PROVISIONS FOR ELECTRICITY RELATED ACTIVITIES AND FOR OTHER CONNECTED OR INCIDENTAL MATTERS.

ENACTED by the President and the National Assembly.

PART I - PRELIMINARY

Short title and commencement

1.(1) This Act may be cited as the Electricity Act, 2022.

(2) This Act shall come into operation on such date as the Minister may, by notice published in the Gazette, appoint.

Interpretation

2. In this Act unless the context otherwise requires —

“authorisation” means the authorisation granted under section 22;

“autogenerator” means a consumer who generates electricity on their own premises for own consumption, whether residential or commercial, and who may sell the electricity generated to the local supplier; and the terms “auto-generate” and “auto-generation” shall be construed accordingly;

“cogeneration” means the combined production of heat and electricity;

“cogenerator” means the person carrying out cogeneration”;

“Commission” means the Commission established under section 3 of the Utility Regulatory Commission Act, 2012;

“consumer” means any person who is supplied with electricity;

“distribution” means convey of electricity at voltage level of below 33 KV, as prescribed; and “distribute” shall be construed accordingly;

“distribution operator” means a person who distributes electricity within an area specified in its licence;

“distributed generation” means the electricity fed into the electric system at a voltage level of below 33 KV from a power producer connected to the distribution grid as may be approved by the Commission from time to time, and generator includes both renewable and conventional sources of electricity generators;

“electricity related activity” means the generation, transmission, distribution or supply of electricity;

“environmental legislation” means —

- (a) the Environment Protection Act, 2016 and Regulations made under that Act; and
- (b) any other written law or regulation ruling environmental matters;

“feed-in-tariff” means the regime that may be established by the Commission pursuant to subsection (5) of section 9 of the Act, which fixes the tariff to be paid to generators or to autogenerators for the sale of the electricity produced by them during the term, the kind of energy sources that may be used for generating electricity and all other conditions of such regime;

“generation” means the production of electricity and the terms “generate” shall be construed accordingly;

“generator” means a person who performs generation of electricity;

“Integrated Electricity Plan” means the planning for the electricity sector prepared and approved pursuant to section 3;

“licence” means the licence issued under section 20;

“licensee” means the holder of a licence and includes an authorisation holder;

“Minister” means the Minister responsible for energy;

“net billing” means a distributed generation regime that allows a person to sell all the electricity produced by him or her at a regulated rate and to purchase the electricity that such person consumes at another regulated rate and as prescribed;

“net metering” means a distributed generation regime that allows a person to sell the excess of electricity at a regulated rate and as prescribed;

“power purchase agreement” means an agreement between a generation licensee and a network licensee for sale of the electricity produced by the generation licensee during the term and under the prices and other conditions established in such power purchase agreement;

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

“procuring entity” means the person or authority which shall be responsible for the tender procedure, which shall be determined by regulations;

“Public Utilities Corporation” means the Corporation established under section 3 of the Public Utilities Corporation Act, (Cap 504);

“renewable energy sources” mean energy from natural non-depleting sources, including wind, solar, biomass, geothermal, hydro, ocean and tidal energy, landfill gas, biogases, biodegradable fraction of municipal and industrial waste and such other sources as prescribed by regulations;

“service area” means the area within which a transmission operator or a distribution operator transmits or distributes electricity, which is specified in the corresponding licence;

“Standards Scale” means the standard scale of fines specified under the Criminal Offences (Standard Scales of Fines) Act, 2021;

“supply” means the sale of electricity to consumers or to another supplier;

“supplier” means a person who performs supply of electricity;

“tariff” means the rate charged to the customer by any person carrying out activities in the electricity sector.

“transmission” means convey of electricity at high voltages, and the grids that interconnects two or more islands, as prescribed; and the term “transmit” shall be construed accordingly;

“transmission operator” means a person performs transmission of electricity;

PART II - ELECTRICITY STRATEGY AND PLANNING

Integrated Electricity Plan

3.(1) The distribution operators shall within twelve months of the coming into operation of this Act, prepare an Integrated Electricity Plan which shall —

- (a) comply with the requirements of this section and those that may be prescribed by regulations;
- (b) include a planning for normal, optimistic, and pessimistic scenarios;
- (c) have a ten-year planning horizon, or any other different horizon that may be required by regulations or by the Minister; and
- (d) contain the analysis, studies, information and projections as prescribed by regulations.

(2) The content of the Integrated Electricity Plan may be prescribed by regulations but shall include at least —

- (a) an assessment of the electricity demand growth;
- (b) the identification of policy commitments related to the energy matrix, taking into account any energy or electricity targets adopted by the Government;
- (c) a projection of the new generation expansion requirements to meet the projected new demand;

- (d) an estimation of generation that may be generated by distributed generation;
 - (e) recommendations related to new generation capacity, including recommended technology and its geographical spread, that will be required to meet new demand or to replace existing generation plants, as necessary to —
 - (i) fulfil international commitments of the Government; and
 - (ii) comply with the requirements of the Energy Policy or any sector strategy;
 - (f) a projection of new generation capacity in conjunction with transmission planning, and investment and operating costs analysis of various electricity generation resources and technology;
 - (g) the reviews to which it will be subject;
 - (h) the identification of the expansion or upgrade in the transmission and distribution grids as necessary to —
 - (i) meet new demand of electricity;
 - (ii) interconnect new areas or consumers;
 - (iii) upgrade quality of service; and
 - (iv) interconnect the recommended new generation capacity projected in accordance with this section and as prescribed.
- (3) The Integrated Electricity Plan shall identify —
- (a) generation capacities that distribution operators intend to develop by themselves; and

- (b) the generation capacities that may be developed by —
 - (i) generators or auto-generators that are not exempted from the obligation of obtaining a licence; or
 - (ii) distributed generation.

(4) The Integrated Electricity Plan shall be reviewed every two years unless a different term is required by regulations or the Minister, adopted pursuant to subsection (3).

Approval and effects of the Integrated Electricity Plan

4.(1) The distribution licensees shall submit the Integrated Electricity Plan to the Minister for approval.

(2) The Minister shall, after consulting with the Commission, in respect of the Integrated Electricity Plan submitted —

- (a) approve it as submitted;
- (b) approve it with the modifications; or
- (c) require the distribution licensees and authorisation holders for distribution of electricity to include additional analysis, information, projections or to make any kind of modifications.

(3) The Minister and the Commission shall exercise their functions in compliance with the Integrated Electricity Plan approved by the Minister.

(4) Compliance with the Integrated Electricity Plan approved by the Minister shall be mandatory for the Minister, the Commission, and for all licensees and authorisation holders performing activities in the electricity sector.

PART III - ACTIVITIES AND ORGANISATION OF THE ELECTRICITY SECTOR

Activities

5.(1) The activities in the electricity sector are generation, transmission,

distribution, supply and sale of electricity that a person may perform pursuant to this Act.

(2) A person who intend to carry out an activity in the electricity sector shall apply for, and obtain, either a licence or an authorisation, as the case may be, in accordance with the requirements established in Part V of this Act.

Exclusivity to perform activities

6.(1) No person shall have exclusivity to generate electricity.

(2) A transmission operator may have exclusivity to transmit electricity within its service area and in accordance with the conditions specified in their licence.

(3) A distribution operator may supply electricity to the consumers located within its area of distribution in accordance with the terms and conditions specified in their licence.

(4) A distribution operator may have temporary exclusivity to supply electricity to consumers located within its area of distribution but such exclusivity shall end or be limited if a decision of total or partial deregulation of the electricity sector is made pursuant to section 7.

(5) If a decision of total or partial deregulation of the electricity sector is made pursuant to section 7, the local distribution operator shall continue to supply electricity all consumers located in its area of distribution until a consumer is allowed to choose a supplier of his or her choice.

(6) The suppliers may be licenced to supply electricity to consumers or to other suppliers provided that a decision of total or partial deregulation of the electricity sector is decided pursuant to section 7.

(7) Auto-generators may be allowed to sale electricity to a supplier provided that they are allowed to do so pursuant to —

- (a) a distributed generation scheme adopted pursuant to this Act; or
- (b) an agreement with a distribution operator or supplier.

(8) The regulations that the Minister may make pursuant to subsection (2) of section 20 and the licences that the Commission may grant, modify or extend, shall be in accordance with the requirements of this section.

Regulation and deregulation of activities in the electricity sector

7.(1) Until the deregulation of the electricity sector is approved by the Minister in consultation with the Commission in accordance with the requirements of sub-sections (2), (3) and (4) —

- (a) auto-generators and generators shall sell electricity to the local distributor at the prices approved by the Commission; and
- (b) generators shall comply with the procurement requirements established under section 10.

(2) The Minister may, in consultation with the Commission determine by regulations —

- (a) a total deregulation of the electricity sector; or
- (b) a partial deregulation of the electricity sector.

(3) If a total deregulation of the electricity sector were determined pursuant to sub-section (2), the supply of electricity shall be freely negotiated between all consumers, suppliers, generators and auto-generators.

(4) If a partial deregulation of the electricity sector were determined pursuant to sub-section (2), the supply of electricity shall be freely negotiated only between certain consumers, suppliers, generators and auto-generators, as specified in the decision adopted pursuant to sub-section (2);

(5) If a total or partial deregulation were determined pursuant to sub-section (2), persons other than distribution operators may be licenced to supply electricity.

(6) Persons may be allowed to perform the activity of charging electricity to electric vehicles provided that such activity is allowed by a specific legislation, in which case they —

- (a) will be treated as suppliers of electricity in what concerns their activity in the electric sector, and
- (b) shall comply with all the requirements established under this Act, regulations made under this Act or other specific laws and regulations governing electrical mobility in Seychelles.

PART IV - ELECTRICITY ACTIVITIES

Generation

8.(1) A generator, an auto-generator or a co-generator may be allowed to generate electricity provided that such person —

- (a) complies with the procurement requirements established in accordance with section 9; and
- (b) obtains the licence as required by Part V of this Act.

(2) In addition to generators, any other person who distributes or supplies electricity may be allowed to generate electricity, provided that such person obtains a licence that allows him or her to carry out the activity of power generation.

(3) An auto-generator exempted from the obligation of obtaining a licence pursuant to section 21 may generate electricity, provided that such person —

- (a) obtains the authorisation required by section 21;

- (b) is allowed to sell the electricity generated in its own premises pursuant to a Net Metering, Net Billing or other distributed generation scheme adopted in accordance with the requirements of this Act; or
- (c) is a co-generator that is currently selling electricity or that has been exempted from the obligation of obtaining a licence,.

(4) The Commission may adopt a Net Metering, a Net Billing or any other distributed generation regime which shall establish related prices and other requirements of such regime.

(5) The Commission may approve a feed-in-tariff.

Procurement of new generation capacity applicable to generation licensees

9.(1) The Commission may not grant a generation licence unless —

- (a) a tender for the procurement of new generation has been launched and concluded in accordance with subsections (2) and (3); and
- (b) a feed-in-tariff scheme has been adopted in accordance with the requirements of subsections (4) and (5), and the applicant for a generation licence complies with the requirements established of the feed-in-tariff scheme.

(2) A tender for procuring new generation capacity may be launched at any time by the procuring entity, provided that the generation capacity procured complies with the requirements and conditions of the Integrated Electricity Plan prepared and approved by the Minister pursuant to sections 3 and 4 of this Act.

(3) The Minister shall, within 6 months of the date of coming into operation of this Act, make regulations establishing the process and requirements for the procurement of new generation capacities detailing at least —

- (a) the institution or authority which shall act as procuring entity;
- (b) the institution or authority which shall prepare and approve procurement documents; and
- (c) all stages of the tender procedure.

(4) The Commission may approve a technology-specific price cap for competitive procurement processes for procuring new generation capacities provided that such scheme complies with the requirements of the Integrated Electricity Plan.

(5) The Commission may approve a feed-in-tariff tariff scheme which shall establish the prices to be paid for the electricity generated, and all other applicable requirements including those related to the type of energy sources used for the generation of electricity, installed capacity, etc.

(6) Sub-sections (1), (2), (3), (4) and (5) shall not apply to persons who, at the date of commencement of this Act, are performing generation, in which case they shall only apply for a licence in accordance with the requirements of Part V.

Procurement of new generation capacity applicable to generation authorisation holders

10.(1) The Commission may grant a generation authorisation without requiring any prior procurement required by section 9, provided that the requirements established in regulations for the grant of authorisations are complied with by the applicant.

(2) All persons who, at the date of coming into operation of this Act, are performing auto-generating electricity shall apply for an authorisation in accordance with the requirements of Part V.

Transmission

11.(1) A person who intends to perform transmission of electricity shall apply for, and obtain, a licence in accordance with the requirements of this Act.

(2) A person who intends to apply for a licence that allows such person to perform transmission activities shall previously comply with the procurement requirements prescribed by this Act and regulations.

(3) For the avoidance of doubt, the procurement requirements established pursuant to subsection (2) shall not apply to persons who, at the date of commencement of this Act, are performing transmission, in which case they are only obliged to apply for, and obtain, a licence or an authorisation in accordance with Part V.

(4) Transmission operators shall —

- (a) allow access and use of the capacity of their transmission grids in accordance with the requirements established in this Act, in the Grid Code and in applicable regulations;
- (b) act as system operators within their area of transmission;
- (c) optimise, boost and expand their transmission system in order to comply with the Integrated Electricity Plan;
- (d) develop, maintain and operate an efficient, coordinated and economical system of electricity that meets the safety and quality standards prescribed for that system in regulations;
- (e) comply with the applicable provisions of this Act, other applicable law and regulations made or approved pursuant to the provisions of this Act;
- (f) comply with other written law and regulations applicable to their activity, which, among others, include —
 - (i) environmental legislation, including the preparation of environmental impact studies if it corresponds; and
 - (ii) Acts and regulations ruling the construction of electricity facilities.

- (g) operate, maintain, develop and, as necessary, upgrade and expand its system to —
 - (i) ensure that all reasonable demands for electricity on the relevant Island are met; and
 - (ii) comply with the expansion required by the Integrated Electricity Plan;
 - (h) promote the safe, secure, reliable and efficient operation of the transmission system with due regard to the environment;
 - (i) manage electricity flows on the grid system to optimise system utilisation and reduce power losses;
 - (j) provide existing and future grid system users with all information necessary for them to secure access to the grid system.
- (5) Transmission operators shall, in respect of the promotion and use of renewable electricity —
- (a) optimise, boost and expand their distribution system in order to guarantee the sale, transmission and distribution of electricity generated from renewable energy sources;
 - (b) provide new or upgraded connections, whether consumption or load, to the grid provided always that such connection does not —
 - (i) violate the operational limits set for voltage, current and frequency set in the National Grid Code; or
 - (ii) endanger the reliability or voltage quality for persons connected to the grid system; and
 - (c) plan and develop its own grid in accordance with a standard not less than that set out in —

- (i) the Grid Code;
 - (ii) the Energy Policy;
 - (iii) the Integrated Electricity Plan or any strategy related to the electricity sector;
- (d) comply with other written laws and regulations applicable to their activity, which, among others, include —
 - (i) environmental legislation;
 - (ii) Acts and regulations ruling the construction of electricity facilities;
 - (iii) the use of land.
- (e) determine in conjunction with the Commission, the safety and technical capability of its electrical grids to interconnect renewable generation facilities of auto-generators and generators;
- (f) inform the Minister and the Commission, and make publicly available a written report by 1st January of each year on —
 - (i) the measures adopted to further increase the safety and technical capability of its electrical grids and to facilitate the interconnection of new generation and autogeneration capacities;
 - (ii) the capacity availability and constrains of their system; and
 - (iii) the compliance of renewable energy targets and renewable electricity targets that may be established pursuant to this Act.

(6) In every year, transmission operators shall provide and make publicly available to all persons performing activities in the electricity sector, persons interested in performing activities in the electricity sector, the Minister, the Commission, consumers and any interested person —

- (a) information related to distribution capacity, for each energy source; and
- (b) the capacity availability and constraints of their system.

Distribution

12.(1) A person who intend to perform distribution shall apply for, and obtain, a licence in accordance with the requirements of this Act.

- (2) The distribution operators shall —
- (a) allow access and use to the capacity of their distribution grids in accordance with the requirements established in this Act, in the Grid Code and in applicable regulations;
 - (b) optimise, boost and expand their distribution system in order to comply with the Integrated Electricity Plan;
 - (c) develop, maintain and operate an efficient, coordinated and economical system of electricity that meets the safety and quality standards prescribed for that system in regulations;
 - (d) comply with the applicable provisions of this Act and other applicable law, and regulations made or approved pursuant to the provisions of this Act;
 - (e) comply with other written laws and regulations applicable to their activity, which, among others, include —
 - (i) environmental laws and regulations; and
 - (ii) laws and regulations governing the construction of electricity facilities;

- (f) operate, maintain, develop and, as necessary, upgrade and expand its system to ensure that all reasonable demands for electricity on the relevant Island are met;
- (g) promote the safe, secure, reliable and efficient operation of the transmission system with due regard to the environment;
- (h) manage electricity flows on the grid system to optimise system utilisation and reduce power losses; and
- (i) provide existing and future grid system users with all information necessary for them to secure access to the grid system.

(3) The distribution operators shall, in respect of the promotion and use of renewable energy —

- (a) optimise, boost and expand its distribution system in order to guarantee the sale, transmission and distribution of electricity generated from renewable energy sources;
- (b) increase the capacity of the grid to connect new small-scale production or production from renewable energy sources in accordance with the objectives stated in the energy policy, or strategy or plan related to the electricity sector, or regulation adopted pursuant to this Act;
- (c) provide new or upgraded connections, whether consumption or load, to the grid provided always that such connection does not —
 - (i) violate the operational limits set for voltage, current and frequency set in the National Grid Code; or
 - (ii) endanger the reliability or voltage quality for persons connected to the grid system; and

- (d) plan and develop its own grid in accordance with a standard not less than that set out in —
 - (i) the Grid Code;
 - (ii) the Energy Policy; and
 - (iii) the Integrated Electricity Plan or any strategy related to the electricity sector;
- (e) comply with other laws and regulations applicable to their activity, which, among others, include —
 - (i) environmental legislation;
 - (ii) laws and regulations governing the construction of electricity facilities;
 - (iii) the use of land;
- (f) determine in conjunction with the Commission, the safety and technical capability of its electrical grids to interconnect renewable generation facilities of auto-generators and generators;
- (g) inform the Minister and the Commission, and make publicly available a written report by 1st January of each year on —
 - (i) the measures adopted to further increase the safety and technical capability of its electrical grids and to facilitate the interconnection of new generation and autogeneration capacities; and
 - (ii) the capacity availability and constraints of their system.

(4) In every year, distribution operators shall provide and make publicly available to all persons performing activities in the electricity

sector, persons interested in performing activities in the electricity sector, the Minister, the Commission, consumers and any interested person —

- (a) information related to distribution capacity;
- (b) the capacity availability and constrains of their system; and
- (c) information related to the capacity added and electricity procured generators or through distributed generation system.

Supply

13.(1) The distribution licensee shall supply electricity to all consumers located within its area of distribution and may have exclusivity to perform such activity until a total or partial deregulation of the electricity sector is determined pursuant to section 7.

(2) If a decision of total or partial deregulation of the electricity sector is made pursuant to section 7, persons other than distribution licensees may be licenced to supply electricity to consumers or to other suppliers.

(3) If a decision of total or partial deregulation of the electricity sector is made pursuant to section 7, the distribution operator shall —

- (a) not have exclusivity to supply electricity to all the consumers located within its area of distribution but may maintain exclusivity to supply to some consumers;
- (b) supply electricity to all consumers located within its area of distribution that are not allowed to choose another supplier or to those that did not choose another supplier and
- (c) apply the tariffs approved by the Commission.

(4) A supplier of last resort is the distribution operator that supplies electricity to every consumer located within its area of distribution, under

the conditions and at the tariffs approved by the Commission, until the moment when a consumer, allowed to choose a different supplier pursuant to subsection (6), decides to be supplied by another supplier or generator.

(5) If a decision of total or partial deregulation of the electricity sector is made pursuant to section 7, some or all consumers may be allowed to freely contract their supply of electricity with generators or suppliers.

(6) The suppliers may be licenced to supply electricity to consumers or to other suppliers if a decision of total or partial deregulation of the electricity sector is made pursuant to section 7, in accordance with the terms of such decision.

(7) For the avoidance of doubt, if a decision of total or partial deregulation of the electricity sector is decided pursuant to section 7 and persons were allowed to charge electricity to electric vehicles by a specific law or regulation, such persons shall be treated as suppliers of electricity in what concerns their activity in the electric sector.

Procurement requirements applicable to transmission, distribution and supply

14.(1) Any person, other than the existing persons carrying on electricity related activity, interested in obtaining a licence that allows them to transmit, distribute and supply electricity, shall not be allowed to apply for, or obtain, a licence or perform such activities unless they previously comply with the procurement requirements.

(2) The procurement requirements applicable to transmission, distribution and supply shall be prescribed by regulations or the Minister.

(3) Sub-sections (1) and (2) shall not apply to persons who at the date of coming into operation of this Act are performing transmission, distribution or supply, in which case they shall apply for and obtain a licence or authorisation as required by Part V and in accordance with regulations.

Access and use of transmission and distribution grids

15.(1) The transmission and distribution operators shall allow access and use of their electricity transmission and distribution system —

- (a) provided that they have capacity available; and
- (b) in accordance with the requirements of the Grid Code or other applicable regulation;
- (c) provided that the applicant —
 - (i) complies with the technical and safety requirements established in the Grid Code and other applicable regulation; and
 - (ii) pays the fees and other charges for the transmission or distribution services as may be determined by the transmission and distribution operator and approved by the Commission.

(2) The transmission or distribution operator shall authorise an applicant to connect and have access to its transmission.

(3) The connection and access to the transmission or distribution networks shall be subject to the conclusion of an interconnection agreement between the transmission or distribution operator and the applicant.

(4) Where an agreement is not concluded within 60 days of an applicant making application for connection and access, either party may apply to the Commission for settlement of the dispute and the Commission shall make a decision within 3 months of the application.

Accounts

16.(1) A licensee involved in more than one type of activity in the electricity sector may be required by a decision of the Commission to keep separate accounts and to separate accounting statements and balance sheet in respect of each one or some of the activities performed.

(2) A licensee shall cause its accounts to be prepared in accordance with the International Accounting Standards.

(3) A licensee performing any business activity in addition to an activity in the electricity sector shall keep separate accounts for those distinct business activities.

Compliance with decisions of the Commission

17.(1) A licensee shall comply with the decisions of the Commission.

(2) A licensee shall provide the Commission all the information and accounts that the Commission may require to exercise its functions.

Inspections by the Commission or authorised persons

18.(1) An inspector or any person authorised by the Commission in writing shall have the right, at all times, to enter upon the premises of a licensee or authorisation holder to —

- (a) inspect or investigate any power plant, machinery, books, accounts, records and other documents found thereat and take copies thereof;
- (b) determine whether any provision of this Act, the Grid Code, regulations, licence or authorisation, direction or decision of the Commission is being or has been complied with;
- (c) examine and test equipment, power plant, grid, or any other material objects or conduct a search where the inspector or a person authorised has reason to believe that an offence under this Act has been or is being or is about to be committed;
- (d) seize records or material objects if the inspector or the person authorised has reasons to believe that it may furnish evidence of the Commission of an offence punishable under this Act.

(2) An inspector or person authorised by the Commission may request a licensee or authorisation holder to submit, periodically or as and

when required, any information, accounts or other documents in such a manner as may be determined by the Commission.

(3) The Commission may require that the accuracy of any documents or particulars be verified.

(4) The Commission may appoint independent persons to assist in the exercise of its powers or duties as it deems necessary.

(5) An inspector or a person authorised by the Commission under subsection (1) shall produce the identity or proof of such authorisation at the request of a licensee or authorisation holder.

Public consultation and hearings

19.(1) In order to promote transparency within the energy sector, any matter that may affect economic, social or environmental interests of sector stakeholders may be submitted to public consultation by —

- (a) holding a public hearing, or
- (b) issuing consultation documents.

(2) Without prejudice to the generality of sub-section (1) —

- (a) the Commission shall submit to consultation by means of a public hearing or a consultation document before setting and reviewing tariffs;
- (b) the Minister and the Commission may, submit to consultation by means of a public hearing or a consultation document, before approving or giving an opinion on the Integrated Electricity Plan.

(3) The Public hearings and consultation documents shall allow the participation of the public in general, including but not limited to person performing activities in the electricity sector, consumers, authorities and any person with an interest in the matter related to the public hearing or consultation document.

(4) Where the Commission or the Minister calls a public hearing or the consultation document it shall —

(a) make publicly available all relevant data, files studies and documents related to the matter subject to public consultation;

(b) attach the draft regulations, if any;

(c) allow the participation of any —

(i) person performing activities in the electricity sector;

(ii) person interested in performing activities in the electricity sector in the future;

(iii) authority;

(iv) consumer;

(v) associations of consumers; or

(vi) interested person and general public;

(d) indicate how opinions on the matter subject to consultation through a public hearing or consultation document may be formally expressed; and

(e) indicate deadlines and any other kind of formal requirements for —

(i) participating in the public hearing; or

(ii) submitting a written opinion on the content of a consultation document.

PART V - LICENCES AND AUTHORISATIONS

Licence

20.(1) A person shall not generate, transmit, distribute, supply or sale electricity without holding the corresponding licence, unless such person —

- (a) is exempted from such obligation by section 21; and
- (b) obtains the authorisation required by section 21.

(2) The Minister may issue Licensing Regulations establishing the requirements and conditions for applying for and being granted with licences and authorisations.

(3) Without prejudice to the generality of sub-section (2), the Licensing Regulations shall establish —

- (a) the type of licences a person who intends to carry out an activity in the electricity sector shall apply for;
- (b) conditions and requirements for carrying out the licenced activity or activities;
- (c) maximum terms of licences and authorisations;
- (d) requirements applicable to persons who may apply for and be granted with a licence or authorisation;
- (e) the requirements and procedure for the grant, modification or extension of licences.

(4) The person performing more than one activity in the electricity sector shall obtain the number and kind of licence or licences required by the Licensing Regulations.

Authorisation

21.(1) A person is exempted from the obligation of obtaining a generation licence if such person —

- (a) possesses electricity generation capacity and such generation it is exclusively for its or his or her own consumption during periods when the distribution is prevented by weather or other circumstances from supplying electricity to such person;

- (b) generates electricity for his or her own consumption and use on any of its premises provided that its generation premises do not exceed 500 KW;
- (c) generates electricity exclusively for his or her own consumption and use and is located in an area not supplied with electricity by a network licensee; or
- (d) generates electricity for his or her own consumption and for the sale of electricity to the network licensee provided that its generation premises do not exceed 500 KW and that such sale has been —
 - (i) authorised by a decision of the Commission establishing a Net Metering, a Net Billing or any other distributed generation regime adopted pursuant to this Act; or
 - (ii) agreed with the network licensee to which its premises are connected.

(2) A person who, due to the reasons specified under sub-section (1) is not obliged to obtain a licence shall apply for and obtain an authorisation in accordance with the requirements and procedures prescribed in regulations.

(3) The Minister may, by regulations exempt any person from the obligation of obtaining a licence.

Persons already performing electricity activities

22. A person, who at the date of commencement of this Act, is performing electricity generation, transmission, distribution or supply may continue carrying out those activities, provided that such person submits the application for obtaining the corresponding licence or authorisation within the terms and under the conditions established in the regulations.

Application

23.(1) An application for a licence shall —

- (a) be made to the Commission in the prescribed form and manner;
- (b) comply with the procurement requirements under this Act and prescribed by regulations.

(2) An application for an authorisation shall be made to the Commission in the prescribed form and manner.

(3) The Commission shall process any application in accordance with the term and requirements established in regulations.

Decision of the Commission

24.(1) The Commission may, in compliance with the conditions, procedures and obligations under this Act and in regulations, —

- (a) grant;
- (b) modify;
- (c) extend;
- (d) suspend; or,
- (e) revoke

a licence or an authorisation.

(2) The decision of the Commission adopted pursuant to subsection (1) shall be subject to the appeal before the Appeal Tribunal established under the Fair Trading Commission Act (Cap 267).

(3) A licence or authorisation may be transferred or sold to another person, provided that such sale or transfer —

- (a) is authorised by the licence or authorisation; and
- (b) is approved by the Commission.

Register

- 25.(1) The Commission shall maintain a register containing —
- (a) every licence granted;
 - (b) every authorisation granted;
 - (c) every licence or authorisation amended or extended;
 - (d) every licence or authorisation suspended or revoked;
 - (e) every decision of the commission made in respect of an application for the grant, modification or extension of a licence or of an authorisation;
 - (f) every decision of the Commission made in respect of the suspension or revocation of a licence or of an authorisation; and
 - (g) every decision of the Commission made in respect of the sale or transfer of —
 - (i) a licence; or
 - (ii) an authorisation.
- (2) The register maintained under subsection (1) shall be —
- (a) publicly available in the website of the Commission; and
 - (b) available for inspection by the public, during such hours and subject to the payment of such fee as may be prescribed by the Commission.
- (3) A person may, on the payment of such fee as may be determined by the Commission, require the Commission to provide a copy of, or extract of, any part of the register, being a copy or extract certified by the Commission considered as a true copy or extract of the register.

Effects of licence

26.(1) A Licence holder is authorised to engage in the licenced activity from the effective date of the licence and during the term indicated in the licence.

(2) A generation licence shall allow its holder to generate electricity and sells the electricity produced in accordance with the terms of —

- (a) the applicable feed-in-tariff, Net Billing or other kind of distributed generation regime; or
- (b) a power purchase agreement, or
- (c) other contract with the network licensee establishing the conditions for the production and sale of the electricity produced by the generator.

(3) A generation licensee may connect to the transmission and distribution systems of the network licensee provided that such licensee —

- (a) has already signed a connection agreement for that purpose with the network licensee, and
- (b) has complied with all the requirements, standards and testing procedures as established in the connection agreement, technical regulations and any applicable regulation.

(4) A licence allowing to transmit, distribute or supply electricity shall allow its holder to —

- (a) transmit, distribute and supply electricity; or
- (b) distribute and supply electricity, within the area and for the term and under the conditions specified in the licence, and in the applicable and regulations.

(5) A supply or a generation licence may allow its holder to sell electricity to any kind of consumers in accordance with the rules, terms and requirements established —

- (a) in this Act; and
- (b) the licence,

provided that a certain deregulation of the electricity sector has been adopted by a decision of the Minister.

(6) In the case of persons who, at the date of operation of this Act are performing generation, transmission, distribution, supply or sale of electricity, the licence may allow them to continue carrying out said activities under the conditions and for the time provided in the license.

Effect of authorisation

27.(1) An authorisation holder is allowed to engage in the authorised activity from the effective date of authorisation and during the term indicated therein.

(2) An authorisation shall allow its holder to generate electricity for own consumption.

(3) An authorisation may also allow its holder to sell the electricity produced to the network licensee provided that the prices, terms and conditions of such sale have been previously established in —

- (a) a Net Metering, a Net Billing or other distributed generation regime; or
- (b) a contract with the network licensee establishing the conditions for the production and sale of the electricity produced by the generator.

(4) An authorisation holder shall be allowed to connect to the transmission and distribution systems of the network licensee provided that:

- (a) the connection agreement for that purpose with the network licensee has been signed, and
- (b) the authorisation holder has complied with all the requirements, standards and testing procedures as established in the connection agreement, technical regulations and any applicable regulation.

(5) In the case of persons who, at the date of commencement of this Act are performing generation and are exempted from the obligation of obtaining a licence, the authorisation will allow them to continue carrying out that activity under the conditions and for the time provided in such authorisation.

Notification to the Minister

28.(1) The Commission shall submit to the Minister, once every six months, a certified copy of —

- (a) all licences issued, refused, transferred, extended, modified, suspended or revoked; and
- (b) authorisations issued, refused, transferred, extended, modified, suspended or revoked.

(2) The Minister may, after consultation with the Commission, publish by notice in the Gazette —

- (a) the list of licensees carrying out the activities of generation, transmission, distribution and supply; and
- (b) the manner in which or the quantity of electricity likely to be generated, transmitted, distributed or supplied.

Restrictions on a licensee

29. A licensee shall not, without the approval of the Commission —

- (a) acquire by purchase or otherwise affiliate with, the operation of any other licensee, merge or consolidate its undertakings with any other licensee;
- (b) assign, transfer or sell all or any part of the facilities necessary for the operation of such licensee;
- (c) associate for the purpose of a joint venture or enter into any similar arrangement with regard to the provision of any electricity service which is not allowed by the licence;
- (d) transfer or otherwise, divest of any powers, rights or obligations conferred or imposed for the purposes of carrying out any activity in the electricity sector under this or any other written law.

Prohibited conduct by licensee or by authorisation holder

30. A licensee or an authorisation holder shall not take any action or enter into any agreement which —

- (a) constitutes an abuse of any dominant position;
- (b) eliminates or substantially damages another licensee or authorisation holder in the electricity sector;
- (c) prevents the entry of any person in the electricity sector.

Abandonment

31.(1) The operators carrying out electricity related activities shall not wholly or partially abandon any electricity facility or discontinue any service without the approval of the Commission.

(2) The Commission shall authorise any such abandonment or discontinuity under subsection (1) only after checking that facilities or services to be discontinued are not required for the service in the present or foreseeable future.

Expiration of licence

32. Where a licence expires and has not been renewed or transferred, the Commission may order the licensee to dismantle and remove all plant, equipment and facilities used in the activities of the licensee and reinstate the land to the satisfaction of the Commission within two years from the date of the expiration of the licence.

PART VI - TARIFFS

Tariff setting and review

33.(1) The Commission shall set and periodically review —

- (a) tariffs for the sale of electricity to consumers in accordance with the requirements and application prescribed by regulations;
- (b) the charges for connection to, and the use of any transmission and distribution networks;
- (c) prices applicable to a distributed generation scheme.

(2) The prices and charges in respect of electricity provided by licensee determined by the Commission shall be subject to —

- (a) tariff regulations; and
- (b) prices that may be established in regulations establishing a distributed generation scheme.

Tariff principles

34.(1) The tariffs for each service shall be set to ensure the economic and financial sustainability of the operator, acting efficiently, and reflect the following principles —

- (a) allow for efficient costs of generation to be passed through in full in distribution tariffs;

- (b) incorporate any related subsidies decided or implemented by the Government in respect of the electricity sector or a specific operator;
 - (c) allow for the provider of transmission and distribution services to recover full costs of supply, including —
 - (i) the expansion, operation, maintenance and replacement of their system;
 - (ii) the recovery of the costs of financing the activities of the operator; and
 - (iii) any other expenses, taxes and duties levied on the operator.
 - (d) provide incentives for the improvement of technical, economic efficiency and quality of service;
 - (e) support the development of efficient renewable energy sources developed by, or on behalf of customers;
 - (f) restrict departures from the cost-reflective principle to cases necessary for the implementation of social policy, which includes the setting of an affordable tariff for low-income residential customers.
 - (g) provide incentives for promoting the economy and efficiency in the use of electricity; and
 - (h) support price stability.
- (2) The tariff structures shall define —
- (a) the category of users; and
 - (b) charges which shall be determined on a cost-reflective basis considering the cost of service for each type of user in order to promote efficient price signals for all customers.

PART VII - CONSUMER RIGHTS AND PROTECTION

Duty of suppliers to consumers

35.(1) The suppliers of electricity to consumers shall provide consumers with detailed information on the services offered.

(2) Without prejudice to the generality of subsection (1), suppliers shall provide information on —

- (a) the source of energy used to generate electricity;
- (b) efficiency in the use of electricity by consumers;
- (c) consumption and applicable tariffs;
- (d) major rights of consumers pursuant to this Act;
- (e) quality of service obligations of the supplier;
- (f) rights, means and requirements to submit complaints against the supplier; and
- (g) rights of consumers and requirements to participate in a distributed generation scheme.

(3) The Commission may give orders to the supplier in respect of the means to provide the information required by subsections (1) and (2).

(4) Suppliers shall —

- (a) install a meter as per specifications to be approved by the Commission for the purposes of recording the consumption of consumers; and
- (b) make timely billing and allow the consumer a period of 14 days from the date of the bill to make payment.

Complaints of consumers

36.(1) Consumers may submit any kind of complaint related to any aspect of the service received, to their supplier and the supplier shall give a reply to such complaint within 14 days of the date of reception of the complaint.

(2) If the consumer is dissatisfied with the response under subsection (1) or if the supplier fails to give a reply within 14 days of the date of reception of the complaint, the consumer may submit a complaint to the Commission.

(3) The Commission shall resolve the complaint made pursuant to subsection (2) within 30 days of the reception of the complaint.

(4) If the supplier or the consumer is dissatisfied with the resolution made pursuant to subsection (3) he or she may appeal the decision before the Appeal Tribunal established under the Fair Trading Commission Act (Cap 267).

Payment and suspension of service

37.(1) The supplier of electricity shall be responsible for collecting payments from the consumer in accordance with the metering, billing and collection procedures as authorised by the Commission.

(2) The supplier of electricity may suspend or disconnect the supply of electricity to a consumer where —

- (a) a consumer fails to pay any tariff or charge for the service within the prescribed period;
- (b) a consumer has obtained the supply of electricity by misrepresentation or fraudulent means; or
- (c) the service is likely to endanger the safety of persons or property.

Suspension or disconnection notice

38.(1) Where the suspension or disconnection under section 37 is due to the failure to pay the prescribed tariff, the supplier shall give notice of warning to the consumer or the network user indicating the remedy for the irregularity prior to proceeding with the suspension or disconnection.

(2) The Minister shall make regulations establishing technical and commercial quality of service that suppliers shall comply with.

(3) Without prejudice to the generality of subsection (2) regulations setting commercial quality of service standards shall specify all aspects of disconnection and reconnection of consumers related to unpaid bills including —

- (a) duly formalised prior notice;
- (b) deadlines for reconnection from regularisation;
- (c) penalties to be applied to distributor in cases of wrong disconnection;
- (d) switch to prepayment of customers with poor payment records.

Consumer protection standards

39.(1) The Commission may require the suppliers of electricity to develop and submit to the Commission, for its approval, procedures, quality of service standards applicable to the provision of services to consumers.

(2) The Commission may require the suppliers of electricity to develop and submit to the Commission, for its approval, quality of service provided to autogenerators and Generators connected to their systems.

(3) Any standards and procedures approved by the Commission under subsections (1) and (2) shall be published —

- (a) in a daily newspaper or by a public notice;
- (b) on the website of the supplier; and
- (c) in the gazette in such a manner as the Commission may direct.

Procedure for dealing with complaints

40. The Commission shall establish prescribed procedures that transmission, distribution and supply licensees shall comply with for dealing with complaints related to any aspect of —

- (a) electricity supply,
- (b) distributed generation schemes; and
- (c) interconnection and use of distribution networks.

Quality of service standards and targets

41.(1) The Minister may, after consultation with the Commission, prescribe standards in respect of commercial and technical quality of service, reliability, efficiency and economy of the electricity supplied by the suppliers.

(2) The Minister may, after consultation with the Commission, prescribe the percentage of electricity produced from renewable energy sources that the suppliers shall supply to consumers.

Obligations of electricity consumers

42. Consumers of electricity are obliged to use electricity pursuant to the conditions, manner and purpose prescribed by regulations.

Unforeseen events

43. The Minister may, after consultation with the Commission, take such measures to restore and maintain continuous and interrupted service

where there has been prolonged interruption of the electricity service as a result of —

- (a) force majeure;
- (b) any accident, sabotage or terrorist act affecting electricity services;
- (c) unavailability of capacity to provide any electricity services; or
- (d) such other circumstances as may be deemed by the Commission to be an emergency situation.

PART VIII - DISPUTE RESOLUTION

Dispute resolution

44.(1) Any dispute between the suppliers shall be initially referred to the Commission for determination.

(2) The Commission shall prescribe its proceedings for determination in such manner as it thinks it fits which —

- (a) shall respect the right of defence of the parties to the dispute; and
- (b) shall publish such procedure in the Gazette and in its website;

(3) A party aggrieved by any decision of the Commission pursuant to subsection (1) may appeal such decision before Appeal Tribunal established under the Fair Trading Commission Act (Cap 267).

PART IX - AUTHORITIES

Functions of the Commission

45.(1) The Commission shall exercise the functions under this Act and in the accordance with the Utilities Regulatory Commission Act, 2022.

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

- (a) advise the Minister on the formulation of the national policy on matters relating to any regulated sector;
- (b) advice and give an opinion to the Minister on the Integrated Electricity Plan;
- (c) exercise its functions in compliance with the Integrated Electricity Plan;
- (d) promote the efficient and economic development of the electricity sector;
- (e) monitor compliance with Government's international and regional obligations relating to the international obligations relating to the services in the electricity sector;
- (f) be responsible for the technical and economic regulation of the electricity sector;
- (g) receive, evaluate, approve or refuse applications for licences and authorisations in accordance with this Act and with applicable regulations;
- (h) issue, modify or extend licences and authorisations related to the performance of activities in the energy, water and sewerage sectors in accordance with the requirements established in any Regulatory Act;
- (i) authorise the sale or transfer of a licence or authorisation;
- (j) periodically approve, monitor compliance and review tariff schemes and tariffs;
- (k) set and review the tariffs that transmission, distribution and supply licensees may charge for their services;

- (l) set and review the tariffs that shall be paid to auto-generators;
- (m) set and review the prices that shall be paid to co-generators;
- (n) monitor, enforce and ensure compliance by licensees or authorisation holders carrying out activities in the electricity sector of the obligations and conditions established in —
 - (i) this Act,
 - (ii) licences or authorisations;
 - (iii) regulations issued pursuant to this Act;
 - (iv) approved quality of service standards; and
 - (v) health, safety and security standards;
- (p) ensure the protection of the interests of consumers in accordance with the requirements of this Act;
- (q) receive and settle any kind of disputes in the electricity sector;
- (r) promote competition in the exercise of its functions, to the extent where competition is feasible in any regulated sector, and in accordance with the corresponding regulatory laws;
- (s) maintain a register containing records of licensees and authorisations holders carrying out activities in a regulated sector, as required by this Act and in the prescribed form;
- (t) promote the sustainable development of regulated sectors including the efficiency in the use of regulated services;

- (u) undertake inspections;
 - (v) require payments of and collect fees payable under this Act and the Regulatory Acts;
 - (w) instruct the suppliers on the collection of fees due under this Act or under the Utilities Regulatory Commission Act, 2022; and
 - (x) perform such other functions specified in this Act and in the Utilities Regulatory Commission Act, 2022.
- (2) The Commission may —
- (a) set and review the requirements and tariffs that shall be paid to generators under a Feed-in-Tariff;
 - (b) approve the requirements and tariffs to be paid under any kind of distribution generation scheme, including a Net Metering or Net Billing;
 - (c) propose tax and other incentives for the promotion of electricity from renewable energy sources, including the creation of funds.

Functions of the Minister

46.(1) Without prejudice to other functions of the Minister specified in this Act, the Minister may —

- (a) formulate the energy policy and submit it to the Cabinet for approval;
- (b) evaluate and approves the Integrated Electricity Plan;
- (c) propose targets related to the modification of the energy matrix;
- (d) propose and approve targets of electricity produced from renewable energy sources;

- (e) propose new techniques related to the extraction, production, transmission, distribution, supply and use of energy;
- (f) undertake research and make recommendation on tax incentives;
- (g) create and manages funds for promotion of renewable energy;
- (h) approve environmental, health safety standards applicable to the electricity sector;
- (i) approve by regulations the quality-of-service standards for the electricity sector.
- (j) collect and maintain energy data on the energy sector, on the electricity subsector and on other sectors consumers of energy;
- (k) produce energy statistics which shall be publicly available to any interested person and on the internet; and
- (l) develop and maintain national information public awareness and consumers' education campaigns and programmes, which inter alia may include —
 - (i) information on the promotion and use of renewable energy sources;
 - (ii) requirements for auto-generating electricity from renewable energy sources, including technical requirements and financial advantages; and
 - (iii) public awareness related to the efficient use of electricity; and
 - (iv) financial, economic, social, environmental information about the electricity sector, including subsidies and funds.

Regulations

47.(1) The Minister may make regulations for carrying into effect the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), regulations made under subsection (1) may provide for —

- (a) any matter which in terms of this Act is required or permitted to be prescribed;
- (b) any manner and form to be prescribed;
- (c) rules applicable to the setting and review of tariffs payable for the services performed by persons performing activities in the electricity sector;
- (d) fees and charges, fines or penalties payable;
- (e) annual amount of electricity that an auto-generator or cogenerator may sell;
- (f) conditions and requirements of licence;
- (g) requirements applicable to any distributed generation scheme to be adopted by the Commission;
- (h) the preparation and approval of the Integrated Electricity Plan;
- (i) the expansion of generation capacities and related procurement requirements;
- (j) rights, duties and obligations of consumers;
- (k) electrical installations;
- (l) requirements applicable to wiremen, electrician and installers of photovoltaic panels;

- (m) technical requirements applicable to the transmission and distribution of electricity;
- (n) safety, security, health and environmental standards related to electricity operations and activities;
- (o) technical, safety and security conditions of access to transmission and distribution networks;
- (p) tariffs;
- (q) commercial and technical quality of service standards that transmission, distribution and supply licensees shall comply with, including the penalties applicable in case of noncompliance with those standards;
- (r) requirements relating to service obligations;
- (s) system operation.
- (t) the process and requirements for the procurement of new generation capacities; and
- (u) rules stating the requirements and procedures applicable to the grant, modification or extension of —
 - (i) licences; and
 - (ii) authorisations.

(3) The regulations under clauses (t) and (u) of subsection (2) may be issued within six months of the coming into operation of this Act.

(4) The Public Utility Corporation shall, with in twelve months of the coming into operation of this Act, prepare a draft Grid Code and submit to the Minister for approval.

PART X - ACCESS TO ELECTRICAL FACILITIES

Access to property

48. A licensee may, upon issuance of a written notice to the owner or occupier of a property and to the Commission, and upon the approval of the Commission, enter a property for matters related to electrical facilities as prescribed by regulations.

Electrical facilities of licensee

49. Any electrical transmission or distribution networks, meters, fittings, works or apparatus belonging to a licensee and lawfully placed or installed in or on any premises whether or not it is fixed to any part of such premises shall —

- (a) remain the property of, and may be removed by licensee;
- (b) not be the subject of execution arising from any process of law or legal proceedings in insolvency or liquidation against the owner or occupier of such premises.

Access to land

50.(1) An owner or occupier of a land on which an easement has been legally constituted in favour of a licensee shall, at all reasonable times, grant access to such licensee for the purpose of maintaining, repairing or attending those electrical facilities as prescribed.

(2) An occupier of land under subsection (1) shall not be liable for any damage caused to an operator's lines located on or under such land where such damage occurs.

Enclosures

51.(1) A transmission or distribution licensee may erect enclosures on any public road as may be necessary for purposes in connection with the distribution and supply of electricity.

(2) An enclosure shall not be erected above ground except with the consent of the Commission and the appropriate relevant authorities.

(3) An enclosure referred to in subsection (1) shall be under the sole control and for the exclusive use by the transmission or distribution licensee.

(4) An enclosure shall be construed and maintained by the transmission or distribution licensee in such a manner as not to constitute a source of danger to the public, and in compliance with all applicable environmental, health, safety and security standards.

(5) The Commission may, after consultation with the relevant local authority, determine the hours during which an operator shall have access to the enclosure.

(6) A licensee shall not remove or displace the upper surface or covering of any enclosure without the consent of the Commission.

(7) Where a licensee removes or displaces the upper surface or covering of any enclosure during any hours not so determined without the consent of the Commission, commits an offence and on conviction be liable to a fine not exceeding SCR25,000 and the Court may impose a fine not exceeding SCR1,000 for each day during which the default continues.

(8) An operator does not commit an offence under subsection (7) where it satisfies to the Court that there was an emergency and the operator had taken all reasonable precaution under the circumstances to avoid the commission of the offence.

PART XI - OFFENCES

Constructing electricity facilities without licence or authorisation

52. A person who —

- (a) initiates the construction of an electricity generation planter or of electricity networks and facilities without having obtained a licence or authorisation for performing an activity; or

- (b) after the expiration of the licence has not dismantled and removed the plant, equipment and facilities used in the performance of the electricity activity within the term specified in the licence, and reinstated the land to its original state,

commits an offence and on conviction shall be liable to a fine not exceeding level 2 of the Standard Scale or imprisonment not exceeding 2 years or both.

Performing an activity without licence or authorisation

53.(1) A person who carries on any activity in the electricity sector without having obtained one or more licence, or an authorisation, in accordance with the requirements of this Act, commits an offence and on conviction shall be liable to a fine not exceeding level 2 of the Standard Scale or imprisonment not exceeding one year or both.

(2) A person does not commit an offence under subsection (1) where such person is, at the date of operation of this Act, already performing electricity generation, transmission, distribution or supply, and —

- (a) regulations ruling the grant of licences or authorisations have not been approved; or
- (b) the term specified in regulations ruling the grant of licences or authorisations has not expired.

Breach of conditions of licence

54. A person who breaches any conditions of the licence or authorisation under this Act commits an offence and on conviction shall be liable to a fine not exceeding level 4 of the Standard Scale or imprisonment not exceeding one year or both.

Fraudulently obtaining service

55. A person who —

- (a) fraudulently obtains or makes use of any service related to an activity in the electricity sector with the intent to avoid

payment of any applicable tariff or charge by means of any apparatus or device connected to any electrical facilities or power plant maintained or operated by a licensee or authorisation holder;

- (b) defrauds the licensee or authorisation holder of any fee or charge properly payable for any activity in the electricity sector; or
- (c) fraudulently installs or causes to be installed an access to any electrical facilities or plant of the licensee or authorisation holder,

commits an offence and on a conviction shall be liable to a fine not exceeding level 4 of the Standard Scale or imprisonment not exceeding one year or to both.

Violation of prescribed tariffs

56. A person who applies tariffs other than the prescribed tariffs or charges approved by its licence or authorisation commits an offence and is liable on a conviction to a fine not exceeding level 3 of the Standard Scale.

False or misleading statements

57. A person who —

- (a) makes any statement which he or she knows it to be false or misleading or does not have reasonable grounds to believe to be true before the Commission or relevant authority;
- (b) knowingly fails or refuses to furnish any documents or supply information in the manner and in the time prescribed, or as required by the Commission, or furnishes a false or incomplete document or supplies false or incomplete information;
- (c) knowingly fails to furnish any information or answer

questions put to him or her at a hearing before the Commission or required by any mean by the Commission;

- (d) knowingly give false evidence or information; or
- (e) wilfully fails to answer questions put to him or her by the Commission;

commits an offence and on conviction shall be liable to a fine not exceeding level 2 of the Standard Scale.

Obstructing an inspector

58. Any person who —

- (a) obstructs an inspector or person authorised by the Commission in the exercise of the powers and duties conferred or imposed upon him or her under this act;
- (b) fails or refuses without reasonable cause to give information to an inspector or an authorised person when required to do so in terms of section 18;
- (c) discloses information obtained upon an inspection or investigation other than the information in the public domain for the purposes of carrying out his or her duties;

commits an offence and on conviction shall be liable to a fine not exceeding level 3 of the Standard Scale .

Fails to give access to transmission or distribution networks

59.(1) A person who unreasonably fails to give access to its transmission or distribution network to third parties as required by this Act commits an offence and on conviction shall be liable to a fine not exceeding level 2 of the Standard Scale.

(2) The Commission may revoke the licence of the transmission or distribution licensee that repeatedly fails to comply with subsection (1).

Fails to give written warnings

60. A person who fails to give written warning to a consumer in contravention of section 38 commits an offence and is liable on conviction to a fine not exceeding level 2 of the Standard Scale.

Destroying or tampering documents

61. A person destroying, tampering or concealing any information, book, account or other documents without reasonable excuse commits an offence and on conviction shall be liable to a fine not exceeding level 3 of the Standard Scale.

PART XII - MISCELLANEOUS**Collection of fees**

62. The supply licensees and authorisation holders supplying electricity shall apply and collect the supervision fee created by section 27 of the Utilities Regulatory Commission Act, 2022 as required by the Commission.

Easements

63.(1) The transmission and distribution licensees shall have an easement right over the properties of any person where the use of such property is essential for the activities of the licensee.

(2) The Transmission and distribution licensees may request the constitution of easements under subsection (1) to the Commission.

(3) The Commission shall take decision on the request and if it decides in favour of the licensee, the Commission shall also decide the amount of compensation payable to the owners of the lands subject to easement.

Consequential amendment

64. The Public Utilities Corporation Act (Cap 196) is amended by repealing paragraph (a) of subsection (2) of section 17.

Transitional provision

65. The Regulations issued under section 17 of the Public Utilities Act, (Cap 196) which relates to electricity shall remain in force until new regulations are made under this Act.

UTILITIES REGULATORY COMMISSION BILL, 2022

(Bill No. 38 of 2022)

OBJECTS AND REASONS

The object of this Bill is to make provisions for the establishment of a Commission for regulating the electricity sector, water and sewerage sector and for other connected or incidental matters. The Bill is divided into 4 parts.

Part I provides for preliminary provisions such as short title and commencement, interpretation of various expressions used in the Bill.

Part II provides for establishment of the Utilities Regulatory Commission, explain the objects of the Commission, functions of the Commission, general powers of the Commission and other powers of the Commission, appointment of the Commissioners, terms of mandate of the Commissioners, termination of the mandate of the Commissioners, prohibition and conflict of interest of the Commissioners, functions and duties of the Commission, Chairperson of the Commission, decisions of the Commission, review of the decisions of the Commission and appeal against the decision, meetings of the Commission, staff and organization of the Commission, appointment of the Chief Executive officer, appointment of experts, advisory committees, delegation of powers, annual report, requirement of transparency.

Part III provides for the transfer of funds of the existing Energy Commission, funds of the Commission, levy of fees by the Commission, financial year of the Commission, accounts and audit.

Part IV provides for miscellaneous matters like noncompliance with the decision of the Commission, willful default by the service providers, budget of the Commission, repeal of the Energy Act, 2012, savings and transitional provisions.

Schedule describes the utility services.

Dated this 28th day of November, 2022.

**FLAVIEN JOUBERT
MINISTER OF AGRICULTURE,
CLIMATE CHANGE AND ENVIRONMENT**

UTILITIES REGULATORY COMMISSION BILL

(Bill No. 38 of 2022)

ARRANGEMENT OF SECTIONS

SECTIONS

PART I - PRELIMINARY

1. Short title and commencement
2. Interpretation

PART II - THE COMMISSION

3. Establishment of the Commission
4. Objects of the Commission
5. Functions of the Commission
6. General powers of the Commission
7. Other powers of the Commission
8. Appointment of Commissioners
9. Terms of mandate of the Commissioners
10. Termination of mandates of Commissioners
11. Ineligibility
12. Prohibitions and conflict of interest
13. Special functions and duties of the Commission
14. Chairperson
15. Decisions
16. Review of decisions and appeals
17. Meetings
18. Staff and organisation
19. Chief Executive Officer
20. Experts
21. Advisory committees
22. Delegation
23. Annual report
24. Transparency and confidentiality

PART III - FUNDS OF THE COMMISSION

25. Transfer of funds
26. Funds

27. Fees
28. Budget
29. Financial year
30. Accounts and audit

PART IV - MISCELLANEOUS

31. Non-compliance with decision or order of the Commission
32. Willful default by service provider in furnishing information
33. Repeal and savings
34. Transitional
35. Transfer of assets

SCHEDULE

UTILITIES REGULATORY COMMISSION BILL, 2022

(Bill No. 38 of 2022)



A BILL

FOR

AN ACT TO ESTABLISH THE UTILITIES REGULATORY COMMISSION FOR REGULATING THE ELECTRICITY SECTOR, WATER AND SEWERAGE SECTOR AND FOR OTHER CONNECTED OR INCIDENTAL MATTERS.

ENACTED by the President and the National Assembly.

PART I - PRELIMINARY

Short title and commencement

1.(1) This Act may be cited as the Utilities Regulatory Commission Act, 2022.

(2) This Act shall come into operation on such date as the Minister may, by notice published in the *Gazette*, appoint.

Interpretation

2. In this Act unless the context otherwise requires —

“Chairperson” means the Chairperson chosen pursuant to section 3;

“Chief Executive Officer” means the Chief Executive Officer appointed pursuant to section 19;

“Commission” means the Utilities Regulatory Commission established pursuant to section 3;

“Commissioner” means the commissioner appointed pursuant to section 8;

“consumer” means any person who uses any service provided by a service provider;

“energy efficiency standards” mean a set of rules that prescribe the minimum level of energy performance for the commercial, household, industrial, transport and public sectors, and energy-using products including but not limited to lighting, appliances, transport vehicles, lighting and machinery;

“licensee” means any person who holds a licence, or who currently carries out an activity in any regulated sector;

“Minister” means the Minister responsible for Environment;

“regulatory laws” means the laws in respect of which the Commission has regulatory functions and powers;

“regulated sector” means any sector in respect of which the Commission has regulatory functions and powers, in accordance with the corresponding Regulatory Acts;

“service provider” means any person which provides a utility service;

“tariff” means the rate charged to the customer by any person carrying out activities in any regulated sector.

“utility service” means a service specified in the any regulated sector, as detailed in the Schedule.

PART II - ESTABLISHMENT OF THE COMMISSION

Establishment of the Commission

3.(1) There is established a Commission known as the Utilities Regulatory Commission.

(2) The Commission is a body corporate.

(3) The Commission shall consists of five Commissioners, from whom one Chairperson and one Deputy Chairperson shall be chosen.

(4) The Commissioners shall be employed on a part-time basis and selected with the requirements of section 8.

Objects of the Commission

4.(1) The objects of the Commission are to regulate the activities of regulated sectors for adequate, reliable, cost effective and affordable services while protecting and conserving the environment.

(2) In pursuing the objects, the Commission shall carry out its functions in such a manner as to —

- (a) maintain an efficient structure for the regulated sectors so as to ensure its economic feasibility;
- (b) encourage investments and infrastructure development in the regulated sectors;
- (c) promote efficiency and competitiveness among service providers;

- (d) improve the standards of service and quality of services supplied by service providers;
- (e) comply with the policies and strategies adopted by the Government in relation to any regulated sector; and
- (f) promote the use of renewable energy, and of water and energy efficiency.

Functions of the Commission

5.(1) The functions of the Commission are to —

- (a) advise the Minister on the formulation of the national policy on matters relating to any regulated sector;
- (b) promote the efficient and economic development of any regulated sector;
- (c) monitor compliance with Government's international and regional obligations relating to the services in the regulated sectors;
- (d) be responsible for the technical regulations of the regulated sectors;
- (e) determine the standards of service applicable to service providers in any regulated sector;
- (f) receive and evaluate applications for licences and authorisations in accordance with the corresponding regulatory laws;
- (g) issue, modify or extend licences and authorisations related to the performance of activities in the energy, water and sewerage sectors in accordance with the requirements established in any regulatory laws;

- (h) periodically approve, monitor compliance and review tariff schemes and tariffs in accordance with any regulatory laws;
- (i) monitor, enforce and ensure compliance by licensees or authorisation holders carrying out activities in any regulated sectors of the obligations and conditions established in —
 - (i) regulatory laws,
 - (ii) licences or authorisations to carry out an activity in a regulated sector;
 - (iii) regulations adopted pursuant to the Regulatory Acts; and
 - (iv) approved standards of service standards;
- (j) ensure the protection of the interests of consumers in relation with the provision of a service in any regulated sector;
- (k) receive and settle disputes in regulated sectors in accordance with regulatory laws;
- (l) propose energy efficiency standards;
- (m) promote competition in the exercise of its functions, to the extent where competition is feasible in any regulated sector, and in accordance with the corresponding regulatory laws;
- (n) maintain a register containing records of licensees and authorisations holders carrying out activities in a regulated sector, in the prescribed form;
- (o) promote the sustainable development of regulated sectors including the efficiency in the use of regulated services;

- (p) undertake inspections;
- (q) require payments of and collect fees payable under this Act and the regulatory laws; and
- (r) perform such other functions specified in this Act.

(2) In addition to the functions specified in subsection (1), the Commission shall have such other functions that has been granted to it by any regulatory laws and regulations.

(3) The Commission shall have the power to do all things necessary or convenient to be done for or in connection with the performance of its functions.

General powers of the Commission

6.(1) Subject to this and any other applicable written law, the Commission shall have all the necessary powers as are necessary and convenient for carrying out its functions.

(2) Without prejudice to the generality of the powers conferred by subsection (1), the Commission may —

- (a) require from service providers and licensees any such documents and data as may be necessary to monitor compliance with this Act, regulatory laws and regulations and licences;
- (b) apply to service providers and licensees the penalties established in this Act, regulatory laws and regulations and licences;
- (c) enter into contracts;
- (d) acquire by lease, sublease, easement, or as otherwise allowed by law, any improved or unimproved land or interest in land, for its purposes under this Act;

- (e) erect any building or structure required by the purposes of this act on land belonging to or administered by the Commission;
- (f) alter or reconstruct any building or property belonging to or administered by the Commission;
- (g) dispose of by sale, lease, sublease, or easement, any building or interest therein;
- (h) dispose of by lease, sublease, or easement any land or interest therein;
- (i) acquire by purchase, lease, or sublease any personal property or license which the Commission considers necessary or convenient for carrying out its purposes;
- (j) dispose of by sale, or any other manner allowed by law, any personal property or license of the Commission;
- (k) borrow money and accept advance, contributions, gifts, or other forms of assistance;
- (l) invest or reinvest its funds from time to time;
- (m) take and hold any property as security for the payment of funds loaned or invested;
- (n) insure or provide for the insurance of any property, project, or operation against any or all risks;
- (o) appoint agents, attorneys or accountants in the islands or abroad for the purposes of the Commission;
- (p) set the rules on selection of consultants and inspectors, and on selection, promotion, remuneration and other matters related to its staff;

- (q) approve its financial, administrative and, operational procedures.
- (r) regulate the internal procedure for the imposition of sanctions in the event of statutory, regulatory or contractual infringements, and ensuring due process;
- (s) require data and information from any other authority, organisation or person as necessary to perform its functions and powers;
- (t) perform any other function that may be imposed to it by the regulations, licences and any other legislation to be adopted pursuant to this Act; and
- (u) do any such other act as may be conducive to the best attainment of its functions and objectives of this Act.

Other powers of the Commission

7. The Commission shall determine and approve —

- (a) its internal organisation and organogramme; and
- (b) its own procedures that are necessary to exercise the powers granted by this Act and by any other written law.

Appointment of Commissioners

8.(1) The President shall appoint the Commissioners and cause their names to be published in the *Gazette*.

(2) A person is eligible and qualified to be appointed as a Commissioner if he or she —

- (a) can demonstrate technical, financial, legal, economic or other professional experience and expertise relevant to the field of competence of the Commission; and

(b) are not disqualified or otherwise ineligible in terms of section 12 or 13.

(3) Notwithstanding the generality of subsection (2), the composition of the Commission shall ensure that at least —

(a) one Commissioner has technical, financial, legal, economic or other professional experience and expertise in the electricity sector; and

(b) one Commissioner has technical, financial, legal, economic or other professional experience and expertise in the water sector,

Terms of mandate of the Commissioners

9.(1) In order to promote the continuity of discharge of the Commission's statutory mandate, the terms of the Commissioners of the first Commission appointed pursuant to this Act shall be staggered as follows —

(a) two Commissioners shall be appointed for five years;

(b) two Commissioners shall be appointed for four years;

(c) one Commissioner shall be appointed for three years;

(2) The mandate of each Commissioner may be renewed once and for an additional term of five years.

(3) A Commissioner shall continue in office after the expiry of his or her term until he or she has been re-appointed, or his or her successor has been appointed, provided that a Commissioner shall not hold office pursuant to this paragraph for a period longer than twelve months.

(4) Where the post of any of the Commissioners becomes vacant before the expiration of his or her term for any reason whatsoever —

(a) the Chairperson of the Commission, or the Deputy

Chairperson if the Chairperson is absent, shall immediately notify the President;

- (b) a replacement Commissioner shall be appointed in accordance with the provisions of section 8 for the remaining term of office of that Commissioner, within three months from the date the vacancy arose; and
- (c) the new Commissioner shall be appointed for the same length of term as the Commissioner whose vacancy is being filled up.

Termination of mandates of Commissioner

10.(1) The President may terminate the appointment of a Commissioner in any of the following circumstances —

- (a) fails to comply with the prohibitions, obligations or has a conflict of interest, in terms of section 12;
- (b) is absent from office for three consecutive meetings of the Commission without leave of the Chairperson;
- (c) has been declared bankrupt;
- (d) is incapacitated by physical or mental illness, or when it is documented through a committee report prepared by a recognised medical facility that the Commissioner cannot continue his or her duties for the remaining term of his or her mandate;
- (e) has been convicted of criminal offence involving dishonesty, fraud or moral turpitude;
- (f) is guilty of misconduct; or
- (g) becomes ineligible for any of the reasons specified in section 11 and 12.

Ineligibility

11.(1) A person shall be ineligible to hold office as a Commissioner if such person —

- (a) holds public office;
- (b) does not comply with the eligibility requirements indicated in subsection (2) of section 8;
- (c) is an office bearer of any political party;
- (d) is a member of the Cabinet;
- (e) holds any position, paid or unpaid, in a service provider in any regulated sector; or
- (f) has been the subject of a court order of foreclosure.

Prohibitions and conflict of interest

12.(1) The Commissioner shall not acquire, hold or maintain directly or indirectly any kind of personal, property or pecuniary interest in any service provider or licensee in any regulated sector.

(2) The Commissioner has a conflict of interest in a subject matter before the Commission if the subject matter relates in any way to property or pecuniary interest owned, directly or indirectly, in any service provider or licensee in any regulated sector by a relative of that Commissioner.

(3) If such an interest mentioned in subsections (1) or (2) arises by way of succession or testamentary disposition or for any other reason, the Commissioner shall —

- (a) immediately notify the Commission in writing ; and

divest from such interest within a period of three months of such interest being acquired; or

(b) resign from the Commission.

(4) The Commissioners shall not hold any other office or directorship or perform consultancy or advisory services, either for remuneration or otherwise, throughout their term of appointment.

(5) At the time of his or her appointment, each Commissioner shall submit a statement in writing to the effect that he or she does not have any interest mentioned in subsections (1), (2), (3) or (4).

(6) The Commissioners shall not accept employment or enter into a contract of service with a service provider of a regulated sector —

(a) throughout their term of appointment; or

(b) within two years of the date of ceasing to be a Commissioner.

Special functions and duties of the Commission

13.(1) The Commission shall —

(a) conduct the mandates and powers conferred upon it under this Act, or in any regulatory laws and regulations;

(b) approve the annual budget and calculate expenditure and fund availability;

(c) enforce and supervise compliance with laws and regulations governing the activities of the Commission;

(d) prepare the annual report of the Commission.

(2) The Commission shall approve —

(a) its organisation and organogramme;

(b) the internal procedures which are necessary to exercise the powers granted by this Act and by other regulatory laws;

- (c) its budget; and
- (d) its own Code of Conduct and Ethics, which shall be respected by the Commissioners and by the staff of the Commission.

Chairperson

14.(1) The Chairperson shall be the principal representative of the Commission, and the Deputy Chairperson shall act for the Chairperson in the event of his or her temporary disability or absence.

- (2) The Chairperson shall —
 - (a) determine the agenda, date and time of the Commission meetings and administer the meetings;
 - (b) represents the Commission at official and public organisations and events; and
 - (c) sign contracts and agreements as authorised by the Commission.

Decisions

15.(1) All decisions of the Commission shall be taken by a simple majority of the members present and voting.

(2) In the event of a tie in votes cast, the Chairperson or his or her replacement shall have a casting vote.

(3) A majority of the Commissioners shall constitute a quorum.

(4) If a meeting fails to convene a quorum, the Chairperson shall adjourn the meeting to another date no earlier than five working days and shall notify the members accordingly.

Review of decisions and appeals

16.(1) The Commission may review its decisions and revoke them, at

its own initiative or upon the request of any of the parties affected by the decision.

(2) The final decisions of the Commission may be challenged before the Appeals Tribunal established under the Fair Trading Commission Act (Cap 267).

(3) An appeal shall not of itself stay or suspend the operation of any decision or order of the Commission but the Tribunal may by order, stay or suspend, in whole or part, the operation of the decision or order of the Commission pending the appeal.

Meetings

17.(1) The Commission shall meet as often as it deems necessary but not less than twice every month, upon an invitation from the Chairperson or his or her replacement.

(2) The Chairperson shall notify all Commissioners of the date and venue of the meeting, at least three working days before the date of the meeting.

(3) Two Commissioners may apply in writing or by electronic means to the Chairperson to convene a meeting of the Commission to discuss specified matters;

(4) The Chairperson shall, on receiving a request under subsection (3) convene a meeting within a period that shall not exceed four days from the date of receiving the request.

Staff and organisation

18.(1) The Commission may —

- (a) employ technical, professional, ancillary and such other staff as necessary to carry out the functions of the Commission;
- (b) appoint external consultants or inspectors as it deems necessary to assist in the exercise of its powers and duties;

- (c) set its internal organisation and operational procedures;
- (d) approve its own rules on —
 - (i) selection of consultants and inspectors;
 - (ii) selection, promotion, remuneration and other matters related to its staff;
 - (iii) the criteria of selection which in all cases shall comply with the principles of transparency, objectivity and non-discrimination, and shall be based on professional qualifications and merit.

Chief Executive Officer

19.(1) The Commission shall appoint a person as the Chief Executive Officer to manage the day-to-day affairs of the Commission on such terms and conditions as the Commission determines.

(2) Notwithstanding the generality of subsection (1), the Chief Executive Officer shall —

- (a) be responsible for the supervision of the work and staff of the Commission;
- (b) follow up the financial and administrative affairs and co-operating with any other authority;
- (c) prepare the annual budget and definite accounting of the Commission and present it to the Commission for approval;
- (d) prepare the annual report of the Commission and present it to the Commission for approval;
- (e) perform the functions entrusted to him or her under this Act, any regulatory law or the Commission;

- (f) attend the meetings of the Commission when that is required by the Chairperson or his or her replacement, but shall have not voting rights in the meeting.

Experts

20.(1) The Commission may appoint or engage persons having technical or other special knowledge to assist the Commission in performing its functions.

(2) The Commission shall determine the remuneration of persons engaged under subsection (1).

Advisory committees

21.(1) The Commission may appoint advisory committees to give advice on matters related to the functions of the Commission for the period determined by the Commission.

(2) The Commission shall determine the terms of reference and the remuneration for the members of the advisory committees.

(3) The persons who are members of an advisory committee established under subsection (1) shall not be considered as staff of the Commission.

(4) The opinions or recommendations made by an advisory committee appointed under subsections (1) are not binding on the Commission but may be considered by the Commission in making decisions related to its functions.

Delegation

22. The Commission may delegate, in writing, to one or more Commissioners or to the Chief Executive Officer the power to carry out on behalf of the Commission, such functions as the Commission may determine except the functions specified under section 5 (1) (e), (f), (g), and (h).

Annual report

23. The Commission shall, once every calendar year, prepare in such form and within such time as may be prescribed, an annual report giving full account of its activities during the previous year, and shall submit it together with the audited statement of accounts to the Minister and the Minister shall cause them to be tabled before the National Assembly.

Transparency and confidentiality

24.(1) The Commission shall foster transparency while exercising its powers and discharging its duties and adopting decisions, and shall make the relevant data and information available.

(2) The Commission shall —

- (a) justify its decisions; and
- (b) publish its decisions.

(3) The Commission shall —

- (a) make publicly available all relevant information, files, records and data related to any regulated sector, except those containing confidential information;
- (b) publish a balance sheet and a summary of its budget at the end of each financial year.

(4) The confidentiality of decisions or of any kind of documents or information referred to in subsection (3) shall —

- (a) not be presumed; and
- (b) need to be explicitly determined and justified by the Commission.

(5) The Commission shall develop a website making available relevant information and legislation, including —

- (a) laws, and regulations related to the regulated sectors or applicable to the them;
- (b) its own decisions;
- (c) its annual reports,
- (d) consultation documents and information related to public hearings;
- (e) its internal organisation and procedures; and
- (f) any other relevant information concerning the regulated sectors.

(6) The Commission may hold public hearings and issue consultation documents when it considers that necessary, to inform and to seek opinion from persons carrying out activities in any regulated sector, to consumers or to any interested person in respect of a matter that is relevant for or has a significant impact on —

- (a) the rights, obligations or interests of licensees, authorisation holders or consumers, or
- (b) the regulation and development of any regulated sector.

(7) Without prejudice to the generality of subsection (6), the Commission shall hold a public hearing or shall issue consultation documents where it is required by a regulatory law or before setting or reviewing tariffs.

PART III - FUNDS OF THE COMMISSION

Transfer of funds

25.(1) The Commission shall have its own funds, and all the funds transferred from the Seychelles Energy Commission constituted under the Energy Act, 2012 shall be credited to the Commission Fund.

(2) All payments made by the Commission and all expenses incurred by the Commission shall be made from the Fund.

Funds

26.(1) The funds of the Commission shall consist of —

- (a) the fees that may be levied on a service provider pursuant to section 27;
- (b) the funds transferred from the Seychelles Energy Commission in accordance with section 25;
- (c) moneys received by the Commission by way of donations or grants for the purposes of the Commission;
- (d) moneys approved by an Appropriation Act;
- (e) other funds, assets or resources as may be assigned under the applicable laws and regulation;
- (f) the interests and profits from the management of its own fund.

Fees

27.(1) Every year, service providers carrying out an activity in any regulated sector shall pay to the Commission a yearly supervision fee payable pursuant to the amount fixed by the Commission in its budget.

(2) The fee referred to under subsection (1) shall be fixed by the Commission for each individual service provider and for each licensee in accordance with the internal financial procedures set by the Commission;

(3) The Commission shall, no later than sixty days before the beginning of the financial year, determine with respect to each licensee, subject to this Act, an annual assessment pursuant to subsection (1) and (2), and notify each licensee of the annual assessment to which it is subject.

(4) Each licensee shall pay to the Commission the annual assessment made pursuant to subsections (1), (2) and (3) in two equal

installments on the fifteenth day of January and the fifteenth day of July in each year.

(5) The Commission shall prepare, on or before the 1st day of April in each year, an accountability of the funds received pursuant to subsections (1), (2), (3) and (4) and submit it to the Minister.

(6) Where a service provider fails to pay the supervision fee under subsection (1) and (2), the Commission may recover such fee in such manner as may be prescribed.

(7) Every service provider shall in addition pay licence fees, application fees, and any other fee that may be established and required by other regulatory laws and regulations.

(8) The maximum amount which may be levied on a service provider pursuant to subsections (1) and (2) is two percent of the gross sales of the service provider.

Budget

28.(1) The Commission shall prepare and determine its annual budget by calculating reasonable expenses and investments for the following fiscal year.

(2) Each year and no later than the 15th day of November, the Commission shall prepare and approve estimates of the income and expenditure of the Commission for the following year, including its capital budget for the financial year.

(3) If the estimated budget resources for the year resulted to be insufficient due to unforeseeable occurrences at the time of budget preparation, the Commission shall be entitled to a complementary charge subject to the approval of the Cabinet until the budget needs are met.

(4) If the estimated budget resources for the year exceeded the actual expenses of that year, the surpluses shall be accrued as incomes for the subsequent financial year.

Financial year

29.(1) Subject to subsection (2), the financial year of the Commission shall be a period of 12 months ending on 31st December of each year.

(2) The first financial year of the Commission shall end on 31st December next following the date on which this Act comes into operation.

Accounts and audit

30.(1) The Commission shall keep proper accounts and other relevant records of accounts, and prepare in respect of each financial year, a statement in such form and manner as may be prescribed by regulations.

(2) The accounts of the Commission shall be audited by the Auditor General in accordance with Article 158 of the Constitution.

PART IV - MISCELLANEOUS

Non-Compliance with decision or order of the Commission

31. A service provider or licensee that refuses or fails to comply with a decision or order of the Commission adopted pursuant to this Act or to a regulatory law is liable to a maximum fine of SCR1,000,000 and the amount of fine shall be calculated in such manner as may be prescribed.

Willful default by service provider in furnishing information

32. Where the Commission serves a notice to any service provider or licensee requiring information to comply with its functions under this Act or any regulatory law, the Director, Chief Executive Officer or officer who refused or failed to comply with the order of the Commission is liable to a fine of SCR5,000, and in the case of a continuing refusal or failure, a further fine of SCR1,000 for each day during which the refusal or failure continues.

Repeal and savings

33.(1) The Energy Act, 2012 is repealed.

(2) Any regulations and directions issued and notifications made

under the repealed Act shall continue in effect until they are repealed or amended under this Act.

Transitional

34. Upon the coming into operation of this Act —

- (a) all acts done or commenced by or under the repealed Act prior to the date of operation of this Act, and where such act is within the powers of the Commission, shall be carried on and completed by or under this Act;
- (b) all acts done, decisions taken, licences, or authorisations granted by the Minister, or by the Commission, the Chief Executive Officer, officers or employees of the Commission under the repealed Act which were validly done, taken or granted under any written laws or under and pursuant to the repealed Act shall continue to have effect in accordance with the terms or until amended, annulled or withdrawn in accordance with this Act;
- (c) all agreements, deeds, bonds or arrangements which fall within the scope of the objects and functions of the Commission under the repealed Act, to which the that Commission is a party, subsisting immediately before the date of coming into operation of this Act, shall continue in force and shall be enforceable by or against the Commission as if the Commission had been a party to such deeds, bonds, agreements or arrangements;
- (d) all debts, obligations and liabilities incurred, all contracts entered into and all matters engaged to be done by or for the Government immediately before such day for or in connection with the objects of the Commission under the repealed Act shall be incurred by the Commission and the Commission shall have all powers necessary to take possession of, recover and deal with such asset, and discharge such liabilities;

- (e) all suits and legal proceedings pending or which could have been instituted by or against the Government immediately before such day for any matter in relation to the Commission under the repealed Act, shall be continued or instituted as if the Commission was a party to them;
- (f) all officers and other employees of the Commission under the repealed Act, shall be deemed to be officers and employees of the Commission on condition not less favourable than those subsisting immediately prior to the said date of repeal.

Transfer of assets

35.(1) The Board established under the repealed Act may vest in or transfer to the Commission immediately before the coming into operation of this Act —

- (a) movable and immovable properties vested in the Commission constituted under the repealed Act ;
- (b) assets, rights, interests, privileges, liabilities and obligations of the Commission constituted under the repealed Act .

(2) Where a question arises as to whether a particular movable or immovable property, asset, right, interest, privilege, liability or obligation has been transferred to or vested in the Commission under subsection (1), a certificate under the hand of the Minister shall be conclusive evidence that the movable or immovable property, asset, right, interest, privilege, liability or obligations were or were not so transferred or vested.

SCHEDULE

(Section 2)

Utility services

1. Generation, distribution or supply of electricity
2. Distribution or supply of water;
3. Supply of sewerage services.