



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

**SRI LANKA ELECTRICITY
ACT, No. 36 OF 2024**

[Certified on 27th of June, 2024]

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Sri Lanka Electricity Act, No. 36 of 2024

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L.D.—O. 1/2023

AN ACT TO PROVIDE FOR THE IMPLEMENTATION OF REFORMS TO THE ELECTRICITY INDUSTRY; TO PROVIDE FOR THE ESTABLISHMENT OF THE NATIONAL ELECTRICITY ADVISORY COUNCIL; TO PROVIDE FOR THE PUBLIC UTILITIES COMMISSION OF SRI LANKA, ESTABLISHED UNDER THE PUBLIC UTILITIES COMMISSION OF SRI LANKA ACT, NO. 35 OF 2002 TO BE THE REGULATOR FOR THE ELECTRICITY INDUSTRY IN TERMS OF THIS ACT; TO PROVIDE LEGISLATIVE MEASURES APPLICABLE TO THE INCORPORATION OF CORPORATE ENTITIES UNDER THE COMPANIES ACT, NO.07 OF 2007 IN WHOM ALL ACTIVITIES CONNECTED TO THE GENERATION, TRANSMISSION, DISTRIBUTION, TRADE, SUPPLY AND PROCUREMENT OF ELECTRICITY SHALL VEST; TO SPECIFY THE PROCESSES TO BE APPLICABLE TO ALL RELATED ACTIVITIES; TO REPEAL THE CEYLON ELECTRICITY BOARD ACT, NO. 17 OF 1969 AND THE SRI LANKA ELECTRICITY ACT, NO. 20 OF 2009 AND TO PROVIDE FOR ALL MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

WHEREAS the need for reforms to the existing institutional framework of the Electricity Industry which duly recognises the need, and is designed to attract new investment into the Electricity Industry supported by segregation and separation of the activities of the Electricity Industry currently vested in a single Government owned entity by the incorporation of independent corporate entities in whom shall be vested all activities connected with the generation, transmission, distribution, trade, supply and procurement of electricity and who shall be responsible for the efficient management of these activities and for the creation of market competition in these activities:

Preamble

AND WHEREAS a process commencing with the preparation of a scheme for the transition and reorganisation of the Electricity Industry and the implementation of identified reforms based on timely and essential legal, structural, oversight and market based changes; the reforms seek to ensure financial self-sufficiency of the corporate entities to

be established under this Act, through a transparent system of tariffs, transparent financial, investment and resource management and improved accountability and oversight measures, to facilitate private sector investment in every activity of the Electricity Industry using stock market listing and public private partnership modalities:

AND WHEREAS it is also necessary to recognise the Government of Sri Lanka's commitment to the evolution of the Electricity Industry through the implementation of its decarbonisation goals, climate change policies and the enhancement of the contribution of renewable energy to the generation of electricity facilitated by modern technology and processes to optimise generation of energy from domestic renewable energy sources to minimize the dependence on imported fossil fuel sources and adaptation of emerging technologies in energy conversion, storage and management to facilitate the integration of renewable energy and to promote competition amongst alternate processes of generation of electricity in an efficient and transparent manner:

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

Short title and
dates of
operation

1. (1) This Act may be cited as the Sri Lanka Electricity Act, No. 36 of 2024.

(2) The provisions of this Act other than the provisions of this section, section 2, section 3, section 4, section 9, subsection (1) of section 10, paragraph (b) of subsection (2) of section 10, subsection (3) of section 10, subsection (5) of section 10, section 14, section 15, section 17, section 18, section 38, section 39 and the sections specified in subsection (4) of this section shall come into operation on such date as shall be appointed by the Minister by Order published in the *Gazette* (hereinafter referred to as the "appointed date"):

Provided that, prior to making such Order, the Minister shall be satisfied that the Preliminary Transfer Plan, the National Electricity Policy, including the National Tariff Policy, the Annual Power Procurement Plan and the Long Term Power System Development Plan have been prepared, approved and are in place in accordance with the provisions of this Act:

Provided further, if no appointed date is published in the *Gazette* as required by this subsection even though the Minister is satisfied that the requirements in the first proviso have been met, the provisions of this Act, other than the provisions of this section, section 2, section 3, section 4, section 9, subsection (1) of section 10, paragraph (b) of subsection (2) of section 10, subsection (3) of section 10, subsection (5) of section 10, section 14, section 15, section 17, section 18, section 38, section 39 and the sections specified in subsection (4) of this section shall come into operation immediately upon the expiry of twelve months from the date on which the Bill becomes an Act of Parliament.

(3) The provisions of this section, section 2, section 3, section 4, section 9, subsection (1) of section 10, paragraph (b) of subsection (2) of section 10, subsection (3) of section 10, subsection (5) of section 10, section 14, section 15, section 17, section 18, section 38 and section 39 shall come into operation on the date on which the Bill becomes an Act of Parliament.

(4) The Minister may, taking into consideration the special circumstances required by this Act to be created or fulfilled for the implementation of the provisions specified in paragraphs (a) and (b) of this subsection, appoint by Order published in the *Gazette*, different dates for the coming into operation of each of such sections as follows:-

(a) the date from which the provisions of section 13 relating to open access shall come into operation; and

(b) the date from which the provisions of Part IX relating to the Wholesale Electricity Market shall come into operation.

(5) Every Order made in terms of subsection (4), shall within ninety days from the date of publication of the relevant Order in the *Gazette* be placed before Parliament:

Provided that, the Orders required to be made in terms of subsection (4) shall be made before the expiry of a period of five years from the date on which the Bill becomes an Act of Parliament. If no Order has been made within this period of five years, the provisions of the sections referred to in subsection (4) shall be deemed to come into operation on the date on which the said period of five years expires:

Provided further, the Minister may, at any time within three months prior to the expiration of the said five years, with the approval of the Cabinet of Ministers extend such period, by Order published in the *Gazette* for another period of one year at a time so however, the aggregate period of such extensions shall not exceed five years.

PART I

OBJECTS OF THE ACT

Objects of the Act

2. The objects of this Act, in relation to the generation, transmission, distribution, trade, supply and procurement of electricity shall be -

(a) to ensure improved Electricity Industry performance through independent and

accountable corporate entities responsible for the provision and maintenance, of a well-coordinated, efficient and economical system of electricity supply throughout Sri Lanka at all times, through transparent policies;

- (b) to facilitate the establishment of independent and accountable corporate entities for the efficient supply of electricity throughout the country and to protect the interests of the consumers;
- (c) to promote and facilitate the establishment and functioning of the Wholesale Electricity Market;
- (d) to promote competition in the Electricity Industry by eliminating preferential treatment and barriers to entry, allowing open competitive procurement of new generation capacity including renewable energy, implementing transparent, merit order dispatch of generation capacity and providing non-discriminatory access to the transmission network for all types of generation technologies and consumers;
- (e) to ensure that entities to whom licences have been granted under this Act (hereinafter referred to as “licensees”) will act efficiently in carrying out the activities authorised or required by the respective licences issued to them;
- (f) to ensure that all reasonable demands for electricity, including future requirements for electricity are met, whilst ensuring efficient use of electricity supplied to all premises;

- (g) to protect the public from dangers arising from the generation, transmission, distribution, trade, supply and procurement of electricity by improved safety standards, reliability and quality of services;
- (h) to identify the tariff principles to ensure affordability of electricity to all consumers and financial viability of licensees; and
- (i) to provide for the decarbonization of the Sri Lankan Electricity Industry and the promotion of renewable energy and energy integration in accordance with Sri Lanka's national policies and its international obligations whilst ensuring optimal use of natural resources.

PART II

NATIONAL ELECTRICITY ADVISORY COUNCIL, THE NATIONAL ELECTRICITY POLICY AND THE ISSUE OF POLICY GUIDELINES

Establishment of
the National
Electricity
Advisory
Council

3. (1) There shall be established for the purposes of this Act, a Council which shall be called and known as the "National Electricity Advisory Council" (hereinafter referred to as the "Council").

(2) The Council shall by the name assigned to it by subsection (1), be a body corporate and shall have perpetual succession and a common seal and may sue and be sued by such name.

(3) (a) The Council shall be charged with the responsibility of advising the Minister in formulating the national electricity policy in respect of -

- (i) matters relating to the Electricity Industry and formulation of the national electricity policy in terms of section 4 of this Act;
- (ii) matters relating to the implementation of the Electricity Industry reforms in accordance with the provisions of this Act, relating to the generation, transmission, distribution, trade, supply and procurement of electricity in Sri Lanka;
- (iii) on the modalities relating to the formulation of proposals and plans for the development of the Electricity Industry including the establishment of competitive electricity markets including interconnections with regional markets through the reform process in order to ensure its successful implementation;
- (iv) optimal utilisation of indigenous energy resources, including renewable energy, modern technologies and energy efficiency to meet the electricity demand at lowest economic cost;
- (v) matters related to the preparation of the Long Term Power System Development Plan in terms of the national electricity policy under the provisions of this Act;
- (vi) matters relating to the formulation of the national tariff policy, in consultation with the Ministry of Finance and the Regulator, to ensure consumer affordability, financial sustainability and reasonable return on the investments of the regulated entities; and
- (vii) any other matter connected with or arising out of the national electricity policy.

(b) The Council may, in discharging its responsibilities under this subsection, consult the relevant stakeholders and shall act in good faith and in the best interests of the country and the consumers.

(4) The Council shall consist of following seven members appointed by the Minister, with the approval of the Cabinet of Ministers, one of whom shall be appointed by the Minister as the Chairperson of the Council: -

- (a) Secretary to the Ministry of the Minister;
- (b) Director General of the Department of National Planning;
- (c) Director General of Sri Lanka Sustainable Energy Authority;
- (d) a person who has expertise, reached eminence and has at least twenty years of experience in the field of energy policy making;
- (e) a person who has expertise, reached eminence and has at least twenty years of experience in economics;
- (f) a person who has expertise, reached eminence and has at least twenty years of experience in the field of power system planning and operation; and
- (g) a person who has expertise, reached eminence and has at least twenty years of experience in the field of renewable energy, energy transition and finance.

(5) (a) Every member of the Council, before assuming office shall submit to the Minister, a general disclosure of his interests as at the date of appointment.

(b) Any member of the Council who is directly or indirectly interested in any matter that is to be taken up before the Council shall disclose the nature of such interest to the Council and shall not take part in any deliberation or decision of the Council with regard to that matter.

(6) (a) The Council shall, with the approval of the Minister, appoint a Director General who has expertise, reached eminence and has at least twenty years of experience in electrical engineering and administration.

(b) The Director General shall be responsible for the administration of the affairs of the Council and carry out the tasks assigned to him, from time to time, by the Council. The Director General shall act under the administrative supervision of the Secretary to the Ministry of the Minister.

(7) The members of the Council shall hold office for a period of three years and shall exercise, perform and discharge the powers, duties and functions assigned to the Council in accordance with the provisions of this Act and terms of reference set out in their letters of appointment.

(8) (a) The Minister may co-opt persons with specific qualifications and expertise to be present at meetings of the Council, where the relevant expertise is required for any particular issue before the Council.

(b) Such persons shall participate in and assist at any meeting at which the issue requiring their expertise is being discussed so however, shall not be entitled to vote on any matter so discussed.

(9) (a) A person shall be disqualified from being appointed or continued to be a member of the Council, if such person -

- (i) is not or ceases to be a citizen of Sri Lanka;
- (ii) is or has been within three years prior to being appointed, a Member of Parliament, a Provincial Council or a Local Authority;
- (iii) is a connected person having any financial or other interest amounting to a conflict of interest directly or indirectly in any entity in the Electricity Industry or any matter performed by such person;
- (iv) is under any written law in force in Sri Lanka found or declared to be of unsound mind;
- (v) is a person who has been declared an insolvent or bankrupt under any written law in Sri Lanka or in any other country, is undischarged insolvent or bankrupt;
- (vi) has been convicted of any criminal offence by any court in Sri Lanka or in any other country; or
- (vii) is subject to any mental or physical disability which precludes such person from discharging the responsibilities assigned to such person as a member of the Council.

(b) The Minister shall, after informing the Cabinet of Ministers in writing the reasons therefor, remove any member of the Council if such member is subject to any disqualification specified in paragraph (a).

(10) (a) The Council shall employ such number of persons to function as the staff of the Council who shall assist the Council in the discharge of its responsibilities in terms of the provisions of paragraph (a) of subsection (3) including the matters concerning the responsibilities of the Council.

(b) The Council shall, make rules specifying the organisational structure of the staff and the duties assigned to each member of the staff and the manner in which the day-to-day business of the Council to be managed.

(c) The manner and the rates of the remuneration payable to the members and the staff of the Council shall be determined by the Secretary to the Ministry of the Minister in consultation with the Secretary to the Treasury.

(11) The Council shall make rules to regulate the manner in which the business of the Council is to be transacted and the procedure to be followed in the conduct of meetings of the Council.

(12) The Minister shall, from time to time, issue to the Council such directions and guidelines on matters connected to the national electricity policy including the overall planning and coordination as may be required for the efficient performance and discharge of the duties and functions of the Council. Such directions and guidelines shall be consistent with the objects of this Act and the national electricity policy.

4. (1) The national electricity policy shall reflect the objects of the Act specified in section 2, and the policy of the Government for the development of the Electricity Industry in a manner consistent with the national policy on energy specified in paragraph (a) of section 5 of the Sri Lanka Sustainable Energy Authority Act, No. 35 of 2007.

Formulation of the national electricity policy and issue of policy guidelines

(2) Upon the coming into operation of this Act, the Minister shall, with a view to enabling Sri Lanka to meet the increasing future demands for electricity, after consultation with the Regulator, National System Operator, licensees, consumer organisations and other relevant stakeholders and in compliance with all relevant national policies and policy guidelines of the Minister, direct the Council to formulate the draft national electricity policy.

(3) The Council shall in compliance with the direction of the Minister under subsection (2), proceed to formulate the draft national electricity policy which shall include an outline of the Government's policy on-

- (a) developing the power system to meet the estimated demand while ensuring affordability, energy security and aligning with the Government's international commitments for decarbonisation and enhancing consumer satisfaction through competitive tariffs and reliability in electricity supply;
- (b) technologies to be used in connection with the generation of electricity and demand side technologies to promote energy efficiency;
- (c) incentivize investments in energy technologies such as renewable energy, energy storage and energy efficiency which increase national energy security and reduce the dependence on imported fossil fuel sources;
- (d) ensuring financial viability of the Electricity Industry and the need to attract private sector investments to the Electricity Industry including the development of renewable energy-based electricity generation, transmission, energy storage and end user energy efficiency;
- (e) introducing competition in the procurement of new generation, transmission and energy storage capacity and specifying the preconditions and milestones for the establishment of the Wholesale Electricity Market;
- (f) mobilizing investment needed for sustainable growth of the Electricity Industry to achieve Government's electricity policy objectives;

- (g) national tariff policy formulated in consultation with the Ministry of Finance and the Ministry of Policy Implementation;
- (h) including national policy on energy which shall be revised, from time to time; and
- (i) identifying priorities and measures towards meeting the objects of the Act.

(4) (a) Upon the completion of the formulation of the draft national electricity policy by the Council in terms of subsection (3) and after adequate public stakeholder consultation, the Minister shall, upon being satisfied that such draft national electricity policy is consistent with the provisions of this Act and the national policy on energy, forward such draft policy to the Cabinet of Ministers for its approval.

(b) The Cabinet of Ministers may review the policy forwarded to the Cabinet of Ministers under paragraph (a) and may suggest amendments thereto prior to granting approval to such policy.

(5) Upon receiving the approval of the Cabinet of Ministers, the Minister shall cause the national electricity policy to be published in the *Gazette* within one month from the date of receipt of such approval.

(6) The national electricity policy once approved and published in the *Gazette* in terms of this section shall have the effect of superseding all previous policy documents on generation, transmission, distribution, trade, supply and procurement of electricity, without prejudice to anything done thereunder.

(7) Upon the receipt of the approval of the Cabinet of Ministers as required by subsection (4), the Regulator shall ensure the implementation of the national electricity policy through the issuance of directions to the licensees.

(8) The Minister may once in every five years on the advice of the Council and after consultations with the stakeholders cause a review of the national electricity policy to be conducted:

Provided that, if prior to the completion of the aforesaid period of five years, an urgent need to update the national electricity policy arises, the Minister may direct the Council to cause a review of the national electricity policy to be conducted.

(9) The Minister shall ensure that the procedure specified in subsections (1) to (7) be complied with in relation to updating the national electricity policy.

(10) The Minister may, in consultation with the Minister assigned the subject of Policy and Planning Implementation and with the approval of the Cabinet of Ministers, from time to time, issue in writing policy guidelines relating to the implementation of the principles of the national electricity policy including national strategies and national targets of such policy. Such guidelines shall -

- (a) provide guidance with respect to the following: -
 - (i) facilitating Electricity Industry reform;
 - (ii) ensuring the implementation of the national electricity policy to meet the projected demand growth in accordance with other

policy objectives and targets with respect to energy security and environmental sustainability;

- (iii) estimating the requirement for electricity in Sri Lanka in order to attain national targets for sustainable development of the Electricity Industry and the oversight mechanisms relating to licensing, regulatory and inspection activities as required by this Act;
- (iv) identifying incentives to be adopted for achieving national targets for increasing the renewable energy and enhancing energy security of the country in an affordable and sustainable manner;
- (v) facilitating the implementation of the national tariff policy specified in section 29;
- (vi) identifying the principles and policies to be followed in initiating electricity market reforms for the introduction of competition and consumer choice;
- (vii) ensuring at all times, the availability of a reliable and affordable supply of electricity to the consumers which would be adequate to ensure adequate cashflows to cover the operating expenses, debt service and reasonable return on equity of licensees; and
- (viii) guiding on the nature of Electricity Industry performance reports to be published; and

(b) provide guidance, in consultation with the Regulator and relevant stakeholders, to the National System Operator with respect to the following: —

- (i) market-based incentives to promote the renewable energy in terms of the national electricity policy;
- (ii) incentive policies for energy storage and other economical energy sources to ensure reliability and energy security;
- (iii) measures required for the introduction of competition through open access and establishment of wholesale electricity market; and
- (iv) to prepare the Long Term Power System Development Plan to enable the supply of electricity at the least economic cost and with specified reliability to meet the national targets and international obligations required for sustainable economic growth.

(11) (a) Subject to any relevant written law, the Regulator and the National System Operator shall forthwith give effect to any written policy guidelines issued in terms of subsection (10).

(b) The Regulator and the National System Operator may notify the Minister of any difficulties which may arise in giving effect to the policy guidelines. The Minister shall, in consultation with the Regulator and the National System

Operator determine, within the framework of the Act and the principles relating to the relevant policy guidelines, the measures to be adopted in addressing such difficulties and shall notify the Regulator and the National System Operator of the same.

(12) The Minister may, with the approval of the Cabinet of Ministers, issue general or special directions in writing to the National System Operator under Part IV of the Act as to the exercise of powers and performance of duties of the National System Operator, and the National System Operator shall forthwith give effect to such directions.

PART III

REGULATOR FOR THE ELECTRICITY INDUSTRY

5. (1) The Public Utilities Commission of Sri Lanka (in this Act referred to as the “Regulator”) established under the Public Utilities Commission of Sri Lanka Act, No. 35 of 2002 (hereinafter referred to as the “Public Utilities Commission of Sri Lanka Act”) shall, with effect from the date on which the Bill becomes an Act of Parliament, be deemed to be the Regulator for the Electricity Industry.

Public Utilities
Commission of
Sri Lanka to be
the Regulator of
the Electricity
Industry

(2) In the exercise, performance and discharge of its powers, duties and functions in relation to the Electricity Industry, the Regulator shall at all times, act reasonably, with fairness, impartiality and independence and in a manner that is timely, transparent, objective and consistent with the principles and provisions in this Act:

Provided that, the Regulator may, in the event only that no provision has been made in this Act, in respect of any particular matter, have recourse to, and apply the relevant provisions of the Public Utilities Commission of Sri Lanka Act to the determination of the same:

Provided further, in the event of a conflict between the provisions of this Act and the provisions of the Public Utilities Commission of Sri Lanka Act in its application to the Electricity Industry, the provisions of this Act shall prevail.

- (3) The Regulator shall have the power to –
- (a) grant licences to persons authorised to engage in generation, transmission including the National Transmission Network Service Provider, the National System Operator and distribution of electricity;
 - (b) determine the conditions of licences and modify such conditions and revoke the licences for non-compliance with or contravention of such conditions;
 - (c) monitor the performance of licensees including the compliance with consumer service standards;
 - (d) make enforcement orders to secure compliance with conditions or requirements in the licences;
 - (e) assist the Minister in terms of sections 13 and 30 to formulate relevant regulations to introduce and operationalize open access and the Wholesale Electricity Market;
 - (f) inquire into and take necessary actions to prevent anticompetitive market practices, mergers and acquisitions and abuse of dominant positions;
 - (g) resolve disputes specified in subsection (1) of section 46;

- (h) ensure the safe operation of the electricity supply network by issuing safety guidelines and directions to be followed by licensees and electricity consumers and enforce such guidelines and directions;
- (i) promote efficiency improvement in electricity supply value chain and promote demand side energy efficiency improvement;
- (j) periodically set the feed in tariff, the power purchase tariff from the generation licensees, the bulk sale tariff of the National System Operator to the distribution licensees, the transmission tariff and open access charges payable to transmission and distribution licensees, the end user consumer tariff consisting of distribution tariff (i.e. for network costs of distribution licensees) and supply tariff (i.e. for power purchase tariff of distribution licensees) and the allowed revenue to be recovered by transmission and distribution licensees;
- (k) make recommendations to the National System Operator to formulate the Long Term Power System Development Plan after conducting stakeholder consultations;
- (l) ensure cost reduction in power purchase cost of the National System Operator and distribution licensees is achieved through adoption of open competitive procurement of new generation capacity in accordance with the Long Term Power System Development Plan and least cost economic dispatch of available generation capacity by the National System Operator;

- (m) undertake the dispatch audit of generator dispatch undertaken by the National System Operator;
- (n) review and approve the commercial terms of new generation, transmission and energy storage capacity undertaken by the National System Operator; and
- (o) approve the annual power procurement plan submitted by the National System Operator and monitor any deviations from the approved annual power procurement plan.

Register to be maintained by the Regulator

6. (1) The Regulator shall for the purpose of discharging its functions under this Act, maintain at its office, a register in such form as shall be prescribed.

(2) The Regulator shall cause to be entered in such register the following matters: -

- (a) particulars relating to every licence issued under this Act;
- (b) particulars relating to the modification of the conditions of any such licence granted or the revocation of any such licence;
- (c) every decision of the Regulator, including every order, direction or determination;
- (d) every enforcement order made in terms of this Act;
- (e) particulars relating to any other instrument or document to which the Regulator's seal has been affixed; and
- (f) the minutes of the proceedings of any public hearing held in terms of this Act.

(3) The content of the register shall be made available for inspection by the public, during the reasonable hours of the day. Certified copies of any information contained in the register may on application be provided to the applicant on payment for a prescribed fee. The information contained in the register may also be published on the website of the Regulator.

7. (1) The Regulator may for the purpose of discharging and performing its functions and duties under this Act, by notice in writing, require every licensee and any other persons to furnish to the Regulator or any person authorised in that behalf by the Regulator within such period as may be specified in such notice, all such information or documents as may be specified in such notice which are in the custody of such licensee or the person, as the case may be.

Powers of the
Regulator to call
for information

(2) It shall be the duty of every licensee or person who is required by a notice under subsection (1) to furnish any information or document to comply with such notice within the period specified in such notice, unless such person is prohibited in terms of any written law for the time being in force, from furnishing the document or information so required.

(3) No information or document furnished under subsection (1) shall be published or disclosed by the Regulator to any other person except with the consent of the licensee or the person furnishing such information or document.

(4) The disclosure by the Regulator of any information or document furnished in terms of subsection (1) without the consent of the licensee or the person furnishing such information or documents -

- (a) to a court of law when required to do so by such court; or
- (b) for the purpose of discharging any function assigned to the Regulator by this Act; or
- (c) for the purpose of enabling compliance with a condition of a licence granted under this Act requiring any information to be furnished; or
- (d) in compliance with the provisions of the Right to Information Act, No.12 of 2016,

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

Electrical
Inspectors

8. (1) The Regulator shall appoint, such number of duly qualified persons, as Electrical Inspectors, as may be required for the purposes of this Act.

(2) It shall be the duty of an Electrical Inspector appointed under subsection (1) to discharge the functions assigned to him in terms of this section or any other provisions of this Act, including the following: -

- (a) to inspect and test electricity lines and electricity plants belonging to persons authorised by a licence, or exempted from the requirement of obtaining a licence, to generate, transmit, trade including bulk purchases and bulk sales, distribute or supply of electricity;
- (b) to inspect and test, if and when requested to do so by any consumer, any electricity line and electricity plant on such consumer's premises, for the purpose of ascertaining whether any requirement relating to such electricity line or plant or the supply of electricity through or by such lines or plants, imposed in terms of this Act or any regulation or rule made thereunder, has been complied with; and

- (c) to carry out such other ancillary functions related to the functions specified in paragraph (a) or (b) as may be determined by the Regulator.

(3) (a) The Electrical Inspectors shall discharge the functions relating to an inspection or test assigned to them in terms of this section, under the supervision of the Regulator. Upon completion of an inspection or test carried out in terms of this section, the Electrical Inspectors shall submit to the Regulator a report of the findings of such Inspector in relation to every inspection or test of any electricity line or electricity plant carried out by such Inspectors.

(b) The Regulator may upon review of any report so submitted, agree or disagree with the findings of an Electrical Inspector. In the event of a disagreement, the Regulator may require the relevant Electrical Inspector to make necessary changes to the report prior to implementation.

(4) The Regulator may make rules for the purposes of this section in respect of all or any of the following matters:-

- (a) qualifications of persons to be appointed as Electrical Inspectors;
- (b) setting out the manner in which, and the times at which, any duties imposed on the Electrical Inspectors are to be performed;
- (c) requiring persons authorized by a licence or exempted from the requirement of obtaining a licence, to generate, transmit, trade, distribute or supply of electricity –
 - (i) to furnish Electrical Inspectors with records or other relevant information; and
 - (ii) to allow such Electrical Inspectors to access premises and to use electricity plants and other facilities;

- (d) specifying the sum payable as fees, if any, which are payable to such Electrical Inspectors and the persons by whom such sums are payable;
- (e) identifying the circumstances in which a licensee may be relieved from its obligation to supply electricity; and
- (f) setting out the procedure to be followed in the event of a disagreement between an Electrical Inspector and a consumer or a licensee in relation to the inspection and testing of electricity lines and electricity plants as provided for in paragraph (a) or (b) of subsection (2).

(5) Any fee received by the Electrical Inspector under this section shall be credited to the Fund of the Regulator established under section 31 of the Public Utilities Commission of Sri Lanka Act.

PART IV

ESTABLISHMENT OF THE NATIONAL SYSTEM OPERATOR

Eligibility for issue of the national system operator licence

9. A limited company incorporated in terms of the Companies Act, No. 07 of 2007 in which the Government of Sri Lanka holds one hundred *per centum* of its shares shall be eligible to apply in terms of this Act for the issuance of the national system operator licence.

Issue of licence to the National System Operator, the Board of Directors and functions

10. (1) (a) A Company referred to in section 9 shall be the “National System Operator” (hereinafter referred to as the “National System Operator”) and a national system operator licence shall be issued to such company by the Regulator.

(b) The administration and management of the affairs of the National System Operator shall be vested in a Board of Directors appointed by the Minister which shall consist of –

- (i) a representative from the Ministry of the Minister holding a position not less than an additional secretary;
- (ii) a Deputy Secretary to the Treasury;
- (iii) an electrical engineer who has at least fifteen years of experience in power system operation and planning;
- (iv) a person who has at least fifteen years of experience in project finance and procurement; and
- (v) a person who has expertise, reached eminence and has at least fifteen years of experience in commercial law,

and one of whom shall be appointed as the Chairperson by the Minister.

(c) The Chief Executive Officer of the National System Operator shall be a person who has expertise, reached eminence and has at least twenty years of experience in electrical engineering and administration who shall be appointed by the Board with the approval of the Minister.

(d) The Board of Directors and the Chief Executive Officer of the National System Operator shall submit to the Minister, a general disclosure of their interests as at the date of their appointment before assuming office as a Director of the Board of Directors or the Chief Executive Officer, as the case may be.

(e) Any Director or the Chief Executive Officer who is directly or indirectly interested in any matter that is to be taken up before the Board shall disclose the nature of such interest to the Board and shall not take part in any deliberation or decision of the Board with regard to that matter.

(2) The National System Operator shall be responsible for—

- (a) operating and maintaining the System Control Centre for the real time operation of the power system of Sri Lanka;
- (b) submitting the annual power procurement plan based on the least economic cost on or before the thirtieth day of September of every year to the Regulator setting out the manner in which the National System Operator intends to meet the projected demand for the succeeding year for electricity from the available generation capacity including new generation capacity expected to be commissioned in the succeeding year;
- (c) ensuring that the integrated operation of the power system of the country be based on the projections in the annual power procurement plan, and the monitoring and reporting at the end of every calendar month, of any variations from the annual power procurement plan to the Regulator with reasons therefor;
- (d) the coordinated operation of the power system to ensure in real time the balance between electricity supply and demand and for this purpose, shall ensure-
 - (i) compliance with principles, guidelines and methodologies in respect of optimal generation scheduling and dispatch, as shall be prescribed;
 - (ii) optimal generation scheduling and dispatch of electricity from the generating plants in

accordance with the power purchase agreements or standardized power purchase agreements which have been entered into or have been transferred to the National System Operator, on the most economical and advantageous terms and in a transparent and accountable manner to meet the total demand for electricity at any given time. The procedures to be followed and the formats of the agreements to be used shall be as prescribed;

- (iii) carrying out real time operations for grid control and daily power dispatch through the secure and economic operation of the National Grid of Sri Lanka in accordance with the grid code, monitor the grid operations and provide the information and data required for conducting the dispatch audit to the Regulator in such manner, as shall be prescribed;
- (e) ensuring the non-discriminatory transmission congestion management in a timely and effective manner;
- (f) the establishment of a bulk supply transactions account and monthly public disclosure of the details of such account to record all financial transactions relating to the purchase of bulk electricity from a generation licensee through power purchase agreements or standardized power purchase agreements and selling to the distribution licensees through power sales

agreements, or with the prior approval of the Regulator to any other consumers, or in the case of electricity trading with the regional market, including monitoring the import and export of electricity. The procedures to be followed and the formats of the bulk supply transactions account and the agreements to be used shall be as prescribed;

- (g) maintaining records of the quantity and quality of electricity, transmitted through the National Grid of Sri Lanka;
- (h) exercising supervision and control over the overall operation of the National Grid of Sri Lanka; and
- (i) subject to the provisions of section 11, procuring energy storage and ancillary services as determined, from time to time, to manage the intermittent nature of output from renewable energy plants, in accordance with the procedures approved by the Regulator:

Provided that, the National System Operator shall not engage in any commercial activity other than in the manner and subject to such conditions, as shall be prescribed.

(3) The Minister shall prescribe the procedure, format and manner in which the matters specified in subsection (2) are to be implemented by the National System Operator.

(4) For the avoidance of doubt, it is hereby stated that, from and after the appointed date the transfer of functions of the Ceylon Electricity Board as specified in section 18 connected with -

- (a) generation scheduling, commitment, and merit order economic dispatch of generating plants;
- (b) optimised planning of future power system to meet the electricity demand taking into consideration cost, economic value and decarbonisation objects;
- (c) operation and maintenance of the System Control Centre; and
- (d) procurement of electricity in bulk form, from the generation licensees and sale of such procured electricity in bulk form to distribution licensees and to any other consumers trading in the domestic, regional or international market,

shall be done consequent to the vesting of the aforesaid functions of the Ceylon Electricity Board in the National System Operator.

(5) The National System Operator shall, in every two years prepare the Long Term Power System Development Plan which shall include both generation and transmission capacity, energy storage and ancillary service additions covering a period of ten years and an indicative plan for further period of ten years in accordance with the approved national electricity policy and policy guidelines issued in terms of section 4.

(6) The National System Operator shall, in preparing the said Long Term Power System Development Plan, take into consideration, the principle of least economic cost, the availability of the most economically advantageous electricity generation capacity and other feasible alternative scenarios and submit the same to the Regulator.

(7) (a) The Regulator shall, after consultation with the relevant stakeholders including the licensees, provide recommendations to the National System Operator within two months of receipt of the Plan.

(b) The National System Operator shall finalise the plan taking into consideration, the recommendations received under paragraph (a) and submit the same to the Minister within one month of receipt of such recommendations including the reasons for not accepting any recommendation made by the Regulator. The Minister shall, in consultation with the Regulator and the Council, review the plan and having satisfied with its consistency of the national electricity policy, submit the same to the Cabinet of Ministers before the end of the year for approval. The Cabinet of Ministers shall, having stated the reasons, either approve or disapprove the plan within three months of receipt of the Plan.

(8) The National System Operator shall be held accountable for the implementation of the approved Long Term Power System Development Plan.

(9) The Minister and the Regulator shall forthwith be notified of any deviations made by the National System Operator from the approved Plan.

(10) The National System Operator shall annually forward a Report specifying the deviations made from the Long Term Power System Development Plan and the reasons for such deviations and the economic considerations if any, which arise out of such deviations, to the Minister and the Regulator.

(11) The Long Term Power System Development Plan shall –

- (a) include plans to ensure that there is sufficient capacity from generation plants to meet the reasonable estimated demand for electricity, for both generation expansion and transmission network development, inclusive of evaluation of least economic cost generation technologies, energy conversion and storage technologies, and other demand side technologies;
- (b) identify the power generation capacity additions needed to meet the expected demand for electricity based on the priorities outlined in the national electricity policy;
- (c) identify new transmission capacity and transmission assets to augment the National Grid of Sri Lanka specified in section 15 and to provide connectivity to new power plants or to provide connectivity to the regional markets in accordance with the approved Long Term Power Development Plan subject to such terms and conditions as approved by the Regulator.

(12) The National System Operator shall be required to enter into transmission service agreements with the National Transmission Network Service Provider and persons who are issued with additional transmission licences in terms subsection (2) of section 14 granting the National System Operator with operating authority over transmission and network facilities owned by the National Transmission Network Service Provider and additional transmission licensees.

(13) (a) The National System Operator shall have the exclusive right of trading electricity with other countries under the authority of a National System Operator licence issued under this Act.

(b) The terms and conditions of trading which is intended to be done under paragraph (a) shall be approved by the Cabinet of Ministers.

(c) No generation licensee shall be authorised to directly sell electricity to any country and no consumer or distribution licensee shall be authorised to purchase electricity from any country.

(14) The National System Operator shall enter into—

- (a) power purchase agreements with generation licensees and transmission service agreements with transmission licensees as specified in subsection (12):

Provided that, all power purchase agreements and standardized power purchase agreements which had been entered into by the Ceylon Electricity Board, and which are valid and are in operation on the day immediately preceding the appointed date shall be assigned to the National System Operator under the same terms and conditions for the remaining period of such power purchase agreements or standardized power purchase agreements and continue to be valid and effective as if entered into in terms of this Act. The generation licensees with whom such power purchase agreements and standardized power purchase agreements have been entered into shall be obliged to sell electricity to the National System Operator until the expiration of such agreements;

- (b) power purchase agreements with generation licensees incorporated under the preliminary transfer plan specified in paragraph (a) of subsection (2) of section 18;
- (c) power sales agreements with distribution licensees incorporated under the preliminary transfer plan specified in paragraph (a) of subsection (2) of section 18;
- (d) a transmission service agreement with the National Transmission Network Service Provider incorporated under the preliminary transfer plan specified in paragraph (a) of subsection (2) of section 18 and subsection (12) of this section.

11. (1) The National System Operator shall, in accordance with the Long Term Power System Development Plan, procure-

Procurement

- (a) electricity, generation capacity and energy storage capacity by calling for tenders based on the following procedure:-

The National System Operator shall call for proposals to proceed with the procuring of any new generation plant or for the expansion of the generation capacity of an existing plant in excess of the threshold capacity mentioned in subsection (3), energy storage capacity and any other form of ancillary service capacity, and the procurement including procedures adopted for public private partnership shall be undertaken in a transparent and competitive manner. Electricity Industry specific procedures for such procurement and the formats required therefore shall be prepared in consultation with the National Procurement Commission established in terms of Article 156B (1) of the Constitution and shall be as prescribed:

Provided that, -

- (i) if the capacity of the generation plant is below or equal to the threshold value as specified under subsection (3), and the final approval has been granted to generate electricity through renewable energy resources by the Sri Lanka Sustainable Energy Authority under section 18 of the Sri Lanka Sustainable Energy Authority Act, No. 35 of 2007;
- (ii) where on the day preceding the date of the coming into operation of this Act an approval of the Cabinet of Ministers has been obtained to develop a new generation plant or to expand the generation capacity of an existing generation plant; or
- (iii) where on the day preceding the appointed date a valid letter of award has been issued by the Ceylon Electricity Board in accordance with the provisions of the Sri Lanka Electricity Act, No. 20 of 2009,

the National System Operator shall not be required to comply with the provisions of this subsection:

Provided that, the selection of the party to whom approval has been granted or the letter of award has been issued has been selected pursuant to a competitive and transparent procurement process:

Provided further, the requirement to submit a tender shall not be applicable in respect of any new generation plant or to the expansion of any existing generation plant that is being developed to meet any emergency situation as determined by the Cabinet of Ministers during a national calamity or a long term forced outage of a major generation plant, where protracted

bid inviting process outweighs the potential benefit or procuring emergency capacity required to be provided by any person at least cost;

(b) transmission capacity based on the following procedure:-

(i) The Minister, with the approval of the Cabinet of Ministers may, inform the National System Operator to assign certain transmission assets to be built by the National Transmission Network Service Provider in the interest of the national economy.

(ii) The Minister, with the approval of the Cabinet of Ministers may, assign certain transmission assets to be procured using public private partnership modality. The National System Operator shall call for proposals for procuring of such transmission assets in a transparent and competitive manner. Specific procedures for such procurement and the formats required therefore shall be prepared in consultation with the National Procurement Commission established in terms of Article 156B (1) of the Constitution and shall be as prescribed.

(iii) The National System Operator shall issue a letter of award to the selected party.

(2) The Regulator shall be required, on receipt of any recommendations of the National System Operator, to grant its approval at its earliest convenience, where the Regulator is satisfied that the recommended price for the purchase of

electricity or electricity generating capacity is consistent with the requirements of the Long Term Power System Development Plan and that the terms and conditions of such purchase is within the accepted technical and economical parameters.

(3) The Minister may on the advice of the Council, by Order published in the *Gazette*, specify the maximum capacity of any renewable energy technology-based power plants which may be permitted to enter into standardized power purchase agreements with the National System Operator:

Provided that, the maximum capacity of such renewable energy plants to be procured from a contiguous location using standard power purchase agreements on cumulative basis shall not exceed 10 MW, which shall be further reduced by an order made by the Minister published in the *Gazette*, once the regulations prescribing the procedures for competitive procurement of new capacity are in place:

Provided further, any electricity project located within the territory of Sri Lanka and the Sri Lanka Waters which may involve electricity exports shall be undertaken only with the approval of the Cabinet of Ministers.

captive
generating
plants and
dedicated
transmission
lines

12. (1) Notwithstanding anything to the contrary contained in this Part, any person may construct, maintain or operate a captive generating plant and dedicated transmission lines:

Provided that -

- (a) the supply of electricity from a captive generating plant through the National Grid of Sri Lanka shall be regulated in the same manner as the generating station of a generation licensee;
- (b) the safety regulations issued by the Regulator for power generation and transmission shall apply in relation to all captive generating plants. Where any captive generating plant exceeds the threshold capacity prescribed for the purposes of section 28, such plants shall be required to obtain a generating licence;
- (c) if such captive generating plant and dedicated transmission lines are connected to the National Grid of Sri Lanka, such captive generating plants shall obtain a captive generation or transmission licence, as the case may be. Such captive generating plants which are connected to the National Grid of Sri Lanka shall be required to comply with the grid code and other technical parameters and safety measures stipulated by the Regulator and the National Transmission Network Service Provider.

(2) Every person who has constructed a captive generating plant and maintains and operates such plant, shall enjoy the right to open access for the purpose of carrying electricity from such plant to the destination of use in accordance with the guidelines as shall be prescribed relating to open access and payment of the charges specified in respect thereof:

Provided that, such open access shall be subject to availability of adequate transmission and distribution capacity which shall be determined by the National Transmission Network Service Provider and the relevant distribution licensee.

(3) Any dispute regarding the availability of transmission and distribution capacity shall be resolved by the Regulator.

Open access

13. (1) The Minister, in consultation with the Regulator, the National Transmission Network Service Provider and the distribution licensee, shall operationalize the applicability of open access from such date as is determined by Order published in the *Gazette* in terms of section 1 of this Act. Such open access shall be made operational in a phased manner and the extent of open access in successive phases shall take place in such manner as shall be prescribed and be subject to such conditions including payment of cross subsidies and other operational limitations as may be prescribed. Open access charges and any surcharge to be paid thereon shall be payable in such sum as determined by the Regulator in terms of the provisions of Part VIII.

(2) The surcharge received in terms of subsection (1) shall be utilized to meet the cross subsidy within the area of supply of the distribution licensee:

Provided that –

- (a) such surcharge and cross subsidies shall be progressively reduced in the manner specified in the national tariff policy; and
- (b) such surcharge shall not be levied if open access is provided to a person who has established a captive generating electricity plant for carrying the electricity to a destination for his own use.

PART V

NATIONAL TRANSMISSION NETWORK SERVICE PROVIDER

14. (1) No person other than a company incorporated in terms of the Companies Act, No. 07 of 2007 in which the Government of Sri Lanka holds more than fifty *per centum* of its shares shall be eligible to apply in terms of this Act for the issue of the national transmission network service provider licence.

Eligibility to apply for national transmission network service provider licence

(2) Any person who has been issued with a letter of award by the National System Operator for constructing a transmission line in accordance with paragraph (b) of subsection (1) of section 11 shall apply to the Regulator for an additional transmission licence and for approval to proceed with the construction in accordance with the applicable grid code and other technical standards and parameters. Such additional transmission licensees shall be authorised to keep the ownership of such transmission assets built by them and required to provide non-discriminatory transmission connectivity to any generating station or consumer in accordance with the grid code and subject to the availability of surplus transmission capacity as determined by the National System Operator. The operation of such transmission assets shall be undertaken by the National System Operator in terms of the transmission service agreement entered into with the National System Operator in accordance with the provisions of subsection (12) of section 10.

(3) For the avoidance of doubt, it is stated that the qualification specified in subsection (1) shall not apply to a person who has been issued with an additional transmission licence under subsection (2).

Responsibilities
of the National
Transmission
Network Service
Provider
& c.

15. (1) A Company referred to in subsection (1) of section 14 (in this Act referred to as the “National Transmission Network Service Provider”) shall be responsible for the ownership and maintenance of the transmission assets owned by the Ceylon Electricity Board as of the appointed date.

(2) The National Transmission Network Service Provider and additional transmission licensees under subsection (2) of section 14 shall be responsible for the implementation of the functions of the Ceylon Electricity Board connected with the development, expansion and maintenance of the physical infrastructure of the National Grid of Sri Lanka and for the transmission of bulk electricity to distribution licensees, and other eligible entities in the domestic, regional or international market:

Provided that, the National Transmission Network Service Provider shall not enter into any contract or otherwise engage in the generation, distribution, supply or trading of electricity.

(3) Transfer of functions discharged by the Ceylon Electricity Board in terms of section 18 on the day immediately preceding the appointed date connected with—

- (a) the development, expansion and maintenance of the physical infrastructure of the National Grid of Sri Lanka and ensure an efficient, coordinated, reliable and economical integrated transmission system throughout Sri Lanka subject to subsection (2) of section 14;

- (b) the connection and transmission of electricity in bulk form to distribution licensees and high voltage consumers who are connected to the transmission system,

shall be done, consequent to the vesting of the functions of the Ceylon Electricity Board specified in paragraphs (a) and (b) in the National Transmission Network Service Provider and after obtaining the required National transmission network service provider licence in the manner provided for in this section.

(4) The National Transmission Network Service Provider shall –

- (a) commence the transmission of electricity under the instructions of the National System Operator in accordance with the terms of the National transmission network service provider licence and the provisions of this Act and Transmission Service Agreement entered into with the National System Operator;
- (b) provide inputs to the National System Operator to identify the transmission capacity requirements and to facilitate the preparation of the Long Term Power System Development Plan;
- (c) invest in transmission assets, and where it is in the interests of the national economy, facilitate the National System Operator in procuring private sector investment for new transmission capacity and the procurement shall be undertaken in accordance with the provisions of subsection (2) of section 14;
- (d) undertake, in consultation with the National System Operator to physically witness the commissioning tests of such transmission assets

built by the private investors and thereafter, issue a Compliance Certificate which certifies that the grid code and all other applicable technical standards or parameters have been complied with. Upon the issuance of the Compliance Certificate, the National Transmission Network Service Provider shall enable interconnection by such transmission assets built by private investors to the National Grid of Sri Lanka on a non-discriminatory basis;

- (e) develop, expand and maintain an efficient, coordinated, reliable and economical integrated transmission system throughout the entire country;
- (f) connect and transmit electricity in bulk form, with the approval of the Regulator, in such manner as shall be prescribed, from generation licensees to distribution licensees and other eligible consumers and to connect the National Grid of Sri Lanka to the transmission network of regional markets and recover transmission charges or any other charges as shall be prescribed;
- (g) provide open access of transmission services to all eligible consumers of the National Grid of Sri Lanka upon compliance with the pre-conditions for the grant of open access as shall be prescribed subject to the payment of open access charges as determined by the Regulator and the approval for such open access shall not be unreasonably withheld;
- (h) liaise with the National System Operator to draft, implement and maintain the grid code and other technical and operational codes and standards in relation to the National Grid of Sri Lanka:

Provided that, the grid code shall be updated in a regular manner and be approved by the Regulator;

- (i) facilitate whenever the need to do so arises, in consultation with the Regulator, the expansion of network in terms of the grid code and the duly approved Long Term Power System Development Plan;
- (j) submit, from time to time, to the Regulator, proposals relating to the levying of transmission tariffs and other charges; and
- (k) maintain separate accounts for the transmission business carried on in terms of the transmission licence.

16. Subject to the provisions of subsection (2) of section 14, the National Transmission Network Service Provider shall have the power to construct transmission lines, grid substations and other associated transmission plants and equipment within the territory of Sri Lanka and the Sri Lanka Waters in terms of the duly approved Long Term Power System Development Plan. In the event of any interconnection of the National Grid of Sri Lanka with the transmission network of regional markets, such transmission interconnection shall be constructed only after obtaining the prior approval of the Cabinet of Ministers.

Transmission lines and grid substations

PART VI

INCORPORATION OF LIMITED COMPANIES UNDER THE COMPANIES ACT, No. 07 OF 2007

17. (1) There shall be incorporated in terms of the Companies Act, No.07 of 2007, such number of limited companies as may be required, in terms of the structure of the Electricity Industry described in Schedule I:

Incorporation of Limited Companies under the Companies Act, No. 07 of 2007 and the vesting therein of the restructured activities of the Ceylon Electricity Board

Provided that, the Articles of Association of each of such limited companies shall be prepared in accordance with the provisions of this Act. Subject to the provisions of the Companies Act No. 07 of 2007, the Articles of Association of each of such limited companies so incorporated shall also specify in detail the activities to be vested by operation of law, in each of such limited companies.

(2) (a) On the appointed date, by virtue of the operation of the provisions of this section, the restructured activities of the Ceylon Electricity Board relating to the generation, transmission, distribution and supply of electricity, and all assets and liabilities of the Ceylon Electricity Board pertaining to generation, transmission, distribution and supply of electricity along with their respective duties and functions shall vest in the limited companies incorporated in terms of subsection (1), in accordance with the scheme set out in the transfer plan specified in section 18.

(b) The Secretary to the Treasury shall be initially allotted hundred *per centem* of the shares in the successor companies incorporated under this section other than the companies referred to in items (a), (f) and (h) (ii) of Schedule I in which the Secretary to the Treasury shall be permanently allotted hundred *per centem* of the shares.

(3) If after the requirements of subsections (1) and (2) have been completed it is apparent that one or more residual companies are required to be incorporated for the transfer plan to be fully implemented, such required number of residual companies shall be incorporated in the manner provided for in the Companies Act, No.07 of 2007, and the provisions of subsections (1) and (2) of this section shall, *mutatis mutandis*, be applicable in relation to such residual companies.

18. (1) The Minister shall, in consultation with the Minister assigned the subject of Finance and the Secretary to the Treasury, and where it is deemed necessary, with the relevant stakeholders, require the Power Sector Reform Secretariat established under section 38, to prepare a Transfer Plan for the transition, transfer and reorganization of the Electricity Industry in Sri Lanka (hereinafter referred to as the “transfer plan”). The transfer plan as provided for in this section and Schedule I relating to the structure of the Electricity Industry shall contain detailed plans, proposals and strategies for the unbundling of the activities of the Ceylon Electricity Board relating to the generation, transmission, distribution and supply of electricity.

Preparation of
the transfer plan

(2) The Power Sector Reform Secretariat shall, subject to the policy directions of the Minister prepare the transfer plan which shall comprise -

- (a) a preliminary transfer plan, which shall be approved by the Cabinet of Ministers and thereafter to be published in the *Gazette* on the day immediately succeeding the appointed date and shall contain all details of the vesting of the activities relating to the restructuring of the generation, transmission, distribution and supply of electricity as well as a financial plan for the vesting of assets and liabilities which shall be initially required for the successor companies to commence operations;
- (b) a final transfer plan which shall be prepared not later than two years from the appointed date and shall be approved by the Cabinet of Ministers and immediately thereafter, be published in the *Gazette*. The final transfer plan shall after Gazetting be deemed to comprise the process of implementation of all remaining matters required to complete the restructuring of the Electricity Industry; and

- (c) The Secretary to the Treasury may, with the prior approval of the Cabinet of Ministers, and having followed a transparent and competitive bidding process as stipulated by law dispose of any shares issued or allotted to him in any successor company other than the companies referred to in items (a), (f) and (h) (ii) of Schedule I or of any rights over such shares only after the publication of the final transfer plan in the *Gazette* in terms of paragraph (b):

Provided that, the Secretary to the Treasury shall, in disposing any shares as specified in paragraph (c) ensure that the Government holds more than fifty *per centum* of the shares of the company referred to in item (e) of Schedule I.

- (3) The transfer plan prepared under subsection (1) shall—

- (a) identify the duties and functions discharged by the Ceylon Electricity Board immediately prior to the appointed date;
- (b) in connection with the existing financial liabilities of the Ceylon Electricity Board, specify that a portion of the said liabilities which shall include supplier liabilities be allocated to the successor company to whom the hydro power generation assets of the Ceylon Electricity Board will be assigned and which shall be a company of which one hundred *per centum* of the shares are held by the Government of Sri Lanka and the balance portion of the said liabilities will be allocated amongst the other successor companies, in such proportions as shall be specified in the transfer plan;
- (c) separate such duties and functions of the Ceylon Electricity Board into the following categories to

enable the allocation and subsequent vesting of the following duties and functions and its employees to the successor companies referred to in section 17 -

- (i) electricity generation based on hydro, thermal and renewable energy sources;
 - (ii) electricity transmission services and maintenance of the National Grid of Sri Lanka;
 - (iii) electricity demand forecasting and planning, procurement of electricity and sale in bulk form, economic dispatch of electricity, the management, including operation and maintenance of the System Control Centre and National Grid of Sri Lanka operation including transmission network expansion planning; and
 - (iv) electricity distribution or supply;
- (d) identify such duties, functions and activities of the Ceylon Electricity Board which are not connected directly to the duties and functions specified in paragraph (c), including but not limited to the management of employees' pensions and employees' Provident Fund, support services, and the distribution of existing human resources, which shall be vested in and be discharged by residual companies referred to in section 17;
- (e) allocate to a company or companies referred to in section 17 whose sole shareholder shall be the Government of Sri Lanka –
- (i) all unassigned residual assets, liabilities, duties and functions and the remaining staff of the Ceylon Electricity Board:

Provided that, the Regulator may determine the rate of levy from the other successor companies to be paid to the residual companies to recover the administrative expenses of the residual companies and the procedure for the collection of such levy shall be as prescribed;

- (ii) the functions of the Provident Fund and Pension Fund of the Ceylon Electricity Board as the custodian and trustee and to manage such Provident Fund and Pension Fund and the monies required to meet the Provident Fund obligations of the employees of the Ceylon Electricity Board:

Provided that, both the Provident Fund and the Pension Fund shall be transferred to a separate company established for such purpose and the benefits of the said Provident Fund and the Pension Fund shall only apply to the employees on the day preceding the appointed date and former employees of the Ceylon Electricity Board:

Provided further, the governance structure for the company assigned to manage such funds shall be as prescribed and shall include representatives from employees on the day preceding the appointed date and former employees of the Ceylon Electricity Board who shall be consulted regarding the investment decisions of such funds;

- (f) ensure that all officers and servants of the Ceylon Electricity Board holding office in the Ceylon Electricity Board on the day preceding the appointed date shall be-

- (i) duly identified by the Ceylon Electricity Board;
- (ii) be notified by the Ceylon Electricity Board of their proposed assignation to the respective successor companies within four months of this section comes into operation; and
- (iii) be required to notify the Ceylon Electricity Board within two months of the receipt of the notice referred to in subparagraph (ii), whether they opt to be assigned to such respective successor companies or not,

and shall with effect from the date succeeding the appointed date shall be assigned to such successor companies under the preliminary transfer plan on terms and conditions not less favourable than those enjoyed by them on the day preceding the appointed date under their contract of employment with the Ceylon Electricity Board. Where an employee does not opt to be assigned to a successor company, such employee shall be entitled to a voluntary retirement scheme and the terms and conditions of such scheme shall be & prescribed within four months of this section comes into operation; and

- (g) identify the share capital, the management structure and the source of funds for the entities to be established under subsection (1) of section 17.

(4) In the event an officer or servant of the Ceylon Electricity Board on the day preceding the appointed date opts to be assigned to a successor company referred to in section 17, such officer or servant shall-

- (a) for the purpose only of calculating the pension entitlement and other retirement benefits, be deemed to have continued in office in the Ceylon Electricity Board as from the date on which such officer or servant was employed by the Ceylon Electricity Board until the termination of his period of service in the successor companies referred to in section 17, and shall if the period of service of any such officer or servant in a successor company when added to his previous period of service in the Ceylon Electricity Board, amounts to twenty years or more, be eligible at the end of his period of service in a successor company for the grant of pension and retirement benefits which may be applicable to such officers and servants in accordance with the rules of the Pension Fund of the Ceylon Electricity Board;
- (b) continue to make such contributions to the Provident Fund together with such successor company as they are required to make in terms of the rules or regulations of the Ceylon Electricity Board Provident Fund:

Provided that, any obligatory service bonds signed by any employee shall be transferred to the successor company to which such employee is assigned.

(5) (a) An officer or servant of the Ceylon Electricity Board who opts for voluntary retirement from the date on which such officer or servant was notified of the proposed assignation to the respective successor company and if such officer or servant has completed eighteen years of service in the Ceylon Electricity Board, be entitled to pension and other retirement benefits which may be applicable to such officer or servant in accordance with the rules of the Pension Fund of the Ceylon Electricity Board.

(b) (i) Officers and servants of the Ceylon Electricity Board who opt to join the service of any successor company shall continue to be members of the Ceylon Electricity Board Provident Fund and Pension Fund and shall be entitled to all the benefits thereunder.

(ii) The successor companies and the officers and servants of the Ceylon Electricity Board who have become the employees of the successor companies on the date succeeding the appointed date shall make such contributions to the Provident Fund and Pension Fund as they are required to make by rules or regulations of the Provident Fund and Pension Fund, as the case may be, and the successor companies shall make all other statutory payments including gratuity to the employees of the Ceylon Electricity Board who have become the employees of the successor companies. The period that an employee served with the Ceylon Electricity Board shall be taken into consideration when calculating the statutory payments that are payable to such employees.

PART VII

LICENSING

19. (1) A person shall not -

- (a) generate electricity;
- (b) transmit electricity in bulk form, from a generation licensee to any distribution licensee or to any other eligible consumer connected to the transmission network or to and from any entity in the domestic, regional or international market;
- (c) perform the duties of the National System Operator as specified in section 10;

Unlicensed generation and distribution of electricity to be an offence

- (d) distribute and supply or distribute electricity for the purpose of giving an electricity connection to any premises or to any consumer or trader,

unless such person is authorised to do so in terms of a licence granted to him in terms of this Act, or the supply of electricity is exclusively for private use of a licensee, or a person who is exempted from the requirement of obtaining a licence in terms of the provisions of section 28.

(2) A person who -

- (a) generates, transmits or distributes electricity for the purpose of giving an electricity connection to any consumer or premises; or
- (b) exports or imports electricity,

otherwise than under the authority of a licence issued for such purpose under this Act, or an exemption granted under this Act, commits an offence under this Act and shall on conviction after a summary trial before a Magistrate be liable to a fine not less than three hundred thousand rupees or to imprisonment of either description for a term not less than six months and not exceeding one year, or to both such fine and imprisonment.

(3) Where a person is prosecuted for an offence under subsection (2), the Court shall, in addition to the punishment imposed under that subsection, further order the person convicted to refrain with immediate effect from carrying on the activity which such person is convicted of under subsection (1) until such person obtains a licence for such activity as required by that subsection.

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

20. (1) Any person shall be eligible to apply for the issue of a generation licence. Eligibility to apply for a licence

(2) The following shall be eligible to apply for the issue of a distribution licence:-

(a) a company incorporated under the Conversion of Public Corporations or Government owned Business Undertakings into Public Companies Act, No.23 of 1987 or the Companies Act, No. 07 of 2007, as the case may be;

(b) a society registered under the Co-operative Societies Law No. 05 of 1972.

(3) Only a limited company incorporated under the Companies Act, No.07 of 2007 in which the Government of Sri Lanka holds -

(a) one hundred *per centum* of its shares shall be eligible to apply for the issue of the national system operator licence;

(b) more than fifty *per centum* of its shares shall be eligible to apply for the issue of the national transmission network service provider licence.

(4) All functions of the Ceylon Electricity Board, relating to -

(a) the generation scheduling, commitment and economic dispatch of generating plants, planning for meeting future electricity demands, operation and maintenance of the System Control Centre, procurement of electricity in bulk form from the generation licensees and sale of such procured electricity in bulk form to the distribution licensees shall be vested, with effect from the appointed date in the National System Operator; and

- (b) the maintenance of the physical infrastructure that comprises the National Grid of Sri Lanka and for the transmission of electricity in bulk form to the distribution licensees shall be vested, with effect from the appointed date in the National Transmission Network Service Provider subject to the provisions of subsection (2) of section 14.

(5) Additional transmission licences may be granted to any person, which acquires subject to the limitation specified in paragraph (b) of subsection (4), the right to build a transmission asset pursuant to paragraph (c) of subsection (11) of section 10 and subsection (2) of section 14.

(6) A person who holds more than fifteen *per centum* of shares of a single company, directly or indirectly, shall not be granted a combination of any two of the following licences: –

- (a) the national transmission network service provider licence and a generation licence;
- (b) the national transmission network service provider licence and a distribution licence;
- (c) the national transmission network service provider licence and national system operator licence;
- (d) the national system operator licence and a distribution licence;
- (e) the national system operator licence and a generation licence;
- (f) a generation licence and a distribution licence; or
- (g) more than one distribution licence.

21. (1) An application for the grant of a licence for generation, transmission, distribution or supply of electricity or for an extension of any one of such licences, shall be made in writing to the Regulator in such form as shall be prescribed, and shall be accompanied by such information and documents, and such fee, as shall be prescribed.

Application for
a licence and
grant of licence

(2) On receipt of the application, the Regulator shall, if the Regulator is of the opinion that on the basis of the information disclosed with the respective application, there appears to be no impediment to the issue of a licence to the applicant, proceed to take all necessary steps for the granting of such licence or the extension applied for, including publishing a notice on the official website of the Regulator, or in the *Gazette* or a local newspaper in the Sinhala, Tamil and English languages of its intention to grant the licence or the extension applied for, with the details of the intended project in order to inform persons who are likely to be affected by the issue of the licence or extension of the same.

(3) Every notice under subsection (2), shall state—

- (a) that the Regulator proposes to grant the licence or extension to the applicant and the purpose for which the licence is applied for;
- (b) the reasons for intending to grant such licence or extension; and
- (c) the period which shall not be less than twenty-eight days from the date of publication of the notice within which representations in writing may be made to the Regulator stating the concerns of persons in relation to activities of such project or the situation of such intended project and objecting to the grant of such licence.

(4) On receipt of a written representation against granting the particular licence, the Regulator shall appoint an adjudicating panel consisting of two members having eminence and experience not less than ten years in the fields of law and engineering to inquire into the matter. After permitting the concerned persons referred to in paragraph (c) of subsection (3) to make their representation and making such inquiries and visiting the site, the adjudicating panel shall notify the Regulator in writing of its recommendation.

(5) The Regulator shall, in keeping with the recommendation made by the adjudicating panel under subsection (4), make its determination in respect thereof which shall be informed to the applicant within ninety days from the date of receipt of the recommendation.

(6) (a) If the determination of the Regulator is to dismiss the representation, the Regulator shall thereafter proceed to grant the licence applied for and such licence shall be in the respective form as shall be prescribed in respect of each respective category of licence.

(b) The terms and conditions applicable to each category of licences shall be as prescribed and the licence issued to the applicant shall also include a schedule specifying the terms and conditions applicable to the relevant licence being granted.

(7) Every licence issued in terms of this Part shall be subject to –

(a) conditions of licences;

(b) powers and duties of the respective categories of licences;

- (c) the provisions relating to obtaining of permits and clearances for carrying out construction and maintenance activities undertaken by licensees as specified in Schedule II;
- (d) the standards and procedures applicable to the supply of electricity which the distribution licensees are required to be complied with as specified in Schedule III; and
- (e) the procedure applicable to metering of electricity consumption as specified in Schedule IV,

as shall be prescribed and shall be applicable to each such licensee.

22. (1) Subject to the provisions of subsection (2), a licence shall be capable of being assigned either with or without any condition authorizing such assignment.

Assignment of
licences

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

(3) In deciding whether to approve the application made under subsection (1) of section 21, the Regulator shall apply the same criteria as it would apply if it were deciding whether to grant a corresponding licence or part of a corresponding licence to the assignee.

(4) The approval in terms of subsection (3) may be given subject to the assignee agreeing to –

- (a) such modification of the conditions of the licence or the imposition of such further conditions as the Regulator considers necessary, for the purpose of protecting the interests of consumers; and

- (b) such incidental or consequential modifications of the conditions as the Regulator considers necessary.

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

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

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

Modification or revocation of licences, and enforcement orders

23. (1) The Regulator may, if it appears to be necessary to modify any licence in the national interest, proceed to modify the conditions of the specific licence being granted with the agreement of the licensee, or without the agreement of the licensee, in the circumstances of general application as shall be prescribed and, in the manner and form as shall be prescribed in relation to the different categories of licences.

(2) The Regulator may, after considering any representation made to it in response to a notice published as specified in subsection (3), revoke by Order published in the *Gazette*, a generation licence or distribution licence or national transmission network service provider licence in accordance with the terms as to revocation of such licences.

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

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

(b) An enforcement order—

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

(5) (a) Before making an enforcement order under subsection (4), the Regulator shall—

- (i) publish a notice in such manner as shall be prescribed for bringing the matter to the attention of persons likely to be affected by such enforcement order, stating that the Regulator is proposing to make such order; and
- (ii) serve on the licensee a copy of the notice and a copy of the proposed order.

(b) A notice referred to in paragraph (a) shall set out –

- (i) the relevant conditions of the licence or statutory requirements with which the proposed order is intended to secure compliance;
- (ii) the acts or omissions which in the opinion of the Regulator constitute a contravention of that condition or requirement;
- (iii) any other facts which in the opinion of the Regulator justify the making of the proposed order;
- (iv) the effects of the proposed order; and
- (v) the period, not being less than twenty-eight days from the date of the notice, within which the licensee may make representations or objections to the proposed order.

(c) Before making an enforcement order under subsection (4), the Regulator shall consider any representations and objections made to it under paragraph (b).

(d) The Regulator shall not make an enforcement order if the Regulator is satisfied that—

- (i) the licensee has agreed to take and is taking all such steps as the Regulator considers that the licensee should take to secure compliance with the condition or requirement in question; or
- (ii) the contraventions or apprehended contraventions are trivial.

(e) As soon as practicable after making an enforcement order, the Regulator shall—

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

(f) Before revoking an enforcement order, the Regulator shall—

- (i) publish a notice in such manner as shall be prescribed for bringing the proposed order of revocation to the attention of persons likely to be affected by it;
- (ii) serve a copy of the proposed order of revocation on the licensee; and
- (iii) consider any representations and objections made in response to the notice;

(g) Every notice published under paragraph (f) shall –

- (i) state that the Regulator proposes to revoke the order specified in the notice and the effect of the revocation; and

- (ii) specify a period of not later than twenty-eight days from the date of publication of the notice, within which representations or objections to the proposed order of revocation may be made to the Regulator.

(h) If after considering any representations and objections made in response to a notice published under paragraph (f), the Regulator decides not to revoke the enforcement order to which the notice relates, it shall give notice of its decision to the licensee and to the persons affected.

(6) (a) It shall be the duty of a licensee to whom an enforcement order relates to comply with such order.

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

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

(7) (a) If a licensee to whom an enforcement order applies fails to comply with such enforcement order in whole or in part, such licensee commits an offence under this Act, and shall be liable on conviction after a summary trial before a Magistrate to a fine not less than one million rupees and not exceeding ten million rupees, and to a further fine of five hundred thousand rupees for each day during which such contravention continues after conviction.

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

(c) The levies by way of fine and compensation which may be imposed under this section shall be in addition to and not in derogation of any other liability which the person guilty of non-compliance may incur.

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

(8) (a) Where the Regulator is satisfied that a licensee who is –

(i) subject to an enforcement order made by the Regulator; or

(ii) subject to an insolvency event,

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

(b) Any person or authority in whom the management and control of an undertaking is vested under paragraph (a), shall not be held liable for conduct amounting to a fraudulent preference under the Companies Act, No. 07 of 2007 on the ground that it is continuing to carry on the management and control of the licensee's undertaking.

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

(d) During such period as an Order under this section is in force—

- (i) the licensee shall not be or continue to be voluntarily or compulsorily wound up without the consent of the Regulator;
- (ii) no steps shall be taken by any person to enforce or execute a judgment or security over that licensee's property, without ten days prior notice in writing to the Regulator; and
- (iii) the licensee shall not exercise any of his rights under the licence in relation to the undertaking or part thereof.

(e) In this section, "insolvency event" means—

- (i) the passing of a resolution for the winding up of a licensee, other than for the purposes of amalgamation or reconstruction;
- (ii) a licensee entering into a compromise with the licensee's creditors;

- (iii) the suspension by the licensee, of payment of debts or the inability of the licensee to pay the licensee's debts or the declaration of the licensee as bankrupt or insolvent; or
- (iv) the filing of a petition for the winding up of the licensee.

(9) Upon the revocation of a licence in terms of this section, the Regulator may, in consultation with the Minister take all steps necessary to vest the management and control of the business of the licensee whose licence has been revoked, to any entity who holds a valid licence to engage in a similar activity. The terms and conditions subject to which such vesting to be carried out shall be as prescribed.

24. A generation licensee shall be entitled to –

Additional conditions for generation licensees

- (a) establish, operate and maintain generating stations, tie-lines, sub-stations, and dedicated transmission lines and any other associated equipment connected therewith;
- (b) implement and maintain such technical or operational codes, standards or parameters in relation to the generation system as the National System Operator and National Transmission Network Service Provider considers necessary or expedient;

- (c) take all possible steps to protect persons, electricity plants and equipment from injury and damage;
- (d) develop and maintain electricity lines, cables, electricity plants and fuel handling and associated equipment;
- (e) sell electricity to any other licensee or consumer subject to the provisions of section 13;
- (f) submit technical details regarding its generating stations to the Regulator; and
- (g) co-ordinate with the National Transmission Network Service Provider and the national system operator licensee for transmission of the electricity generated by such licensee.

Additional conditions for a distribution licensees

25. (1) A distribution licensee may require any person who requires a supply of electricity in terms of this Act to accept in respect of such supply,-

- (a) any terms requiring that such person continues to receive and pay for such supply of electricity for a minimum period of time and subject to minimum consumption requirements;
- (b) any restrictions which may be required to be imposed for the purpose of enabling such licensee to comply with any regulations made under this Act, or the Electricity Supply Code which shall be as prescribed for the purposes of this Act; and

- (c) any terms restricting any liability of such licensee for any economic, consequential or other indirect loss sustained by such person, however arising, which it is reasonable in all the circumstances for that person to be required to accept.

(2) It shall be the duty of a distribution licensee to develop and maintain an efficient, coordinated and economically viable distribution system at the licensee's cost, in his area of supply and to supply electricity in terms of this Act, so as to enable owners or occupiers of premises in such area to obtain an electricity supply connection by paying the service connection charges from the nearest connecting point of the distribution line to the meter box on such premises, without requiring such owner or occupier to pay for the capital cost of erection of distribution lines and other associated connecting facilities.

(3) (a) A distribution licensee shall allow, on a non-discriminatory basis, a connection to an embedded generator including rooftop solar generator to its distribution network subject to the provisions of subsection (3) of section 11.

(b) The interconnection of such network shall be subject to compliance with the technical and safety requirements and other conditions as may be prescribed.

(4) The Regulator shall implement open access from such date as shall be determined by Order published in the *Gazette* in terms of section 13.

(5) (a) Where any person, whose premises is situated within the area of supply of a distribution licensee requires a supply of electricity from any other generation licensee or other distribution licensee, such person may, by notice, require

the distribution licensee in whose area of supply such person's premises is situated, to open access to such electricity supply in accordance with the rules made by the Regulator in terms of the provisions of subsection (1) of section 13 and the duties of the distribution licensee in whose area of supply such person's premises is situated with respect to such supply shall be of a common carrier providing non-discriminatory open access.

(b) Where the Regulator permits a consumer or class of consumers to receive supply of electricity from a person other than the distribution licensee of his area of supply, such consumer shall be liable to pay open access charges as provided for in section 13, as may be specified by the Regulator to meet the fixed cost of such distribution licensee arising out of his obligation to supply electricity.

(c) Every distribution licensee shall, within six months from the appointed date or date of grant of licence, whichever is earlier, establish a forum for addressing and providing a platform for the redress of grievances of the consumers in accordance with the rules made by the Regulator.

Power to
recover
expenditure

26. (1) Where any electrical line or electrical plant is provided by the distribution licensee for the purpose of connect and supply of electricity to any person requiring a supply of electricity, subject to the provisions of subsection (2) of section 25, the licensee may require any expenses reasonably incurred in providing the line or plant or the connect and supply of electricity to the person concerned, to be defrayed by such person, to such extent as is allowed by the conditions of the distribution licence.

(2) Where any person who requires a supply of electricity but has not sufficient means to defray the expenses incurred by the distribution licensee under subsection (1), such person may request the distribution licensee to connect and supply

the electricity to the premises concerned, on the basis of recovering such expenses in reasonable monthly instalments along with the tariff and any other charges levied by the distribution licensee, in terms of the standard tariff agreement.

(3) Where the distribution licensee is satisfied that a person as referred to in subsection (2) does not have sufficient means to defray in total the expenses incurred by the licensee, prior to providing the line or plant or connect and supply of electricity to the premises concerned, such person shall be required to enter into an agreement with the distribution licensee relating to the manner in which the expenses would be defrayed by him to the distribution licensee, before providing the line or plant or connect and supply of electricity to the premises is being attended to by the distribution licensee.

(4) The information required by the distribution licensee for the purpose of being satisfied as provided for in subsection (3), that a person does not have sufficient means to defray any expenses incurred by such licensee, shall be based on such guidelines as shall be prescribed.

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

- (a) the period of time between laying the distribution line and making the connection;
 - (b) any payment any other person has previously made to the licensee in respect of such expenses;
- and

(c) the extent to which the licensee has already recovered the licensee's expenses.

(6) Directions given by the Regulator under subsection (5) may require the distribution licensee who has recovered an amount in respect of expenses reasonably incurred in providing any electric line or electrical plant to apply any amount so recovered or part thereof in making such payments as may be appropriate towards reimbursing any person who had previously contributed to such expenses.

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

Power to require security

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

(a) in respect of the supply; or

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

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

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

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

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

28. (1) Where any person or category of persons engages in the generation and distribution of electricity, and the capacity or amount of electricity so generated is below such amount as the Regulator, in consultation with the National System Operator specifies by Order published in the *Gazette*, such person or category of persons shall be deemed, by operation of law, to be statutorily exempted from the requirement of obtaining a licence therefor.

Statutory
exemptions

(2) Where it is brought to the notice of the Regulator that the person or category of persons enjoying such statutory exemption is in violation of the amount specified in subsection (1), the Regulator shall immediately notify such person or category of persons to cease all activities

connected with such generation and distribution and forthwith disconnect all equipment used for such purpose.

PART VIII

TARIFFS

Tariffs

29. (1) The national tariff policy shall include the principles to be adopted by the Regulator in setting the tariffs specified in subsection (3) and shall be submitted to the Cabinet of Ministers for approval.

(2) In setting the tariffs, the Regulator shall ensure financial sustainability including a reasonable return on the investment of the regulated entities.

(3) The following shall be the tariffs required to be set, as shall be prescribed by the Regulator in accordance with the national tariff policy:-

- (a) the feed in tariff, determined and updated every six months, to be included in standard power purchase agreements payable to generators supplying electricity to the National System Operator in accordance with subsection (3) of section 11;
- (b) the power purchase tariff from the new generation licensees, procured in accordance with subsection (1) of section 11;
- (c) the power purchase tariff from the generation licensees issued to Ceylon Electricity Board's successor companies and which shall include the debt service cost of the portion of the Ceylon Electricity Board's debt allocated to such

successor companies as provided for in paragraph (b) of subsection (3) of section 18;

- (d) the bulk sale tariff of the National System Operator to the distribution licensees;
- (e) the transmission tariff and open access charges payable to transmission and distribution licensees;
- (f) the end user consumer tariff consisting of distribution tariff and supply tariff for consumers connected to the distribution network and applicable supply tariff for consumers connected to the transmission network; and
- (g) the allowed revenue to be recovered by transmission and distribution licensees.

(4) The provisions of this section shall apply to “tariffs” and “other charges” to be levied by the National System Operator -

- (a) for procuring of electricity in bulk form from the generation licensees including when so required, the import of electricity from the generators or suppliers of the regional market (hereinafter referred to as the “bulk purchase tariff”);
- (b) for the sale of electricity in bulk form to the distribution licensees or to any consumers or traders or customers in the export market (hereinafter referred to as the “bulk sale tariff”):

Provided that, with the establishment of the Wholesale Electricity Market in the manner provided for in terms of Part IX and its implementation from such date as shall be determined by Order published in the *Gazette* in terms of

section 1, the tariffs specified in paragraphs (a) and (b) of this subsection shall cease to be operative in a phased manner.

(5) All tariffs shall be set in accordance with a cost reflective mechanism in accordance with the national tariff policy permitting the relevant licensees to recover the eligible reasonable costs, including reasonable return on investments allowed under the national tariff policy.

(6) The end user consumer tariff levied by a distribution licensee for the distribution and supply of electricity or distribution or supply of electricity (hereinafter referred to as the “distribution and supply tariffs”) shall consist of-

- (a) the distribution tariff set by the Regulator, based on the national tariff policy upon consideration of the reasonable cost of maintaining and operating the distribution network including consumer services; and
- (b) the supply tariff set by the Regulator to recover the cost of the bulk purchase tariff and transmission tariff paid by the distribution licensees:

Provided that, with the establishment of the Wholesale Electricity Market in terms of Part IX and its operation in terms of section 1, the supply tariff shall be determined on the basis of the power procurement cost of the distribution licensees from the market.

(7) For the avoidance of doubt, it is stated that –

- (a) the end user consumer tariffs levied by the distribution licensees shall consist of two distinct

tariffs namely, the “electricity distribution tariff” and the “supply tariff”;

- (b) with the implementation of open access at a future date, the supply tariff shall cease to be applicable to consumers opting for open access, as open access charges shall be determined on the basis of commercial agreements between the generation licensees and the eligible traders or customers opting for open access:

Provided that, the distribution licensee shall be entitled to levy the distribution tariff from such consumers availing of open access as part of the open access charges.

(8) The open access charges to be levied by transmission and distribution licensees shall be set by the Regulator in terms of the relevant provisions of the national tariff policy applicable to the determination of open access charges.

(9) The bulk purchase tariff, bulk sale tariff, transmission tariff, open access charges, and the distribution tariff and the supply tariff, as the case may be, shall be determined by the Regulator based on tariff filings made by the licensees as shall be prescribed in accordance with the national tariff policy and shall–

- (a) allow the relevant licensee to recover all reasonable costs incurred including the reasonable return on investment in the carrying out of all activities authorised by the licence granted to such licensee on an efficient basis; and
- (b) be published in such manner as may be determined by the Regulator ensuring wide public awareness.

(10) The licences of the National System Operator, the National Transmission Network Service Provider, or a distribution licensee, as the case may be, shall include provisions for bulk purchase tariff or for bulk sale tariff and other charges or for transmission tariff and other charges or for open access charges and other charges, and for distribution tariff and supply tariff and other charges, as the case may be. All such tariffs shall be subject to review by the Regulator in the manner as shall be prescribed and which also provide for –

- (a) the annual timetable for the review of transmission tariff and distribution tariffs, open access charges and other charges;
- (b) a quarterly timetable for the review of bulk sale tariff, bulk purchase tariff and supply tariff; and
- (c) the manner in which consumers and other interested parties could participate in the procedure for purposes of review.

(11) notwithstanding any other provision of this Act, the Regulator may -

- (a) upon being satisfied of the adequacy of funds being provided by the Government to bear the cost of any subsidy to distribution companies approved by the Government to subsidize certain consumers; and
- (b) considering any cross subsidy recoverable from such categories of consumers in terms of the national tariff policy,

set tariffs and charges to be levied by the relevant licensees, which reflect such subsidies.

PART IX

WHOLESALE ELECTRICITY MARKET

30. (1) The Minister shall, by Order published in the *Gazette* under section 1, specify the date from which the Wholesale Electricity Market shall commence operations, subject to any conditions which may be stated therein.

Establishment of
the Wholesale
Electricity
Market

(2) The Wholesale Electricity Market shall be a competitive market and the operating procedures to be adopted in the operation thereof shall be as prescribed.

(3) Prior to an Order being made in terms of subsection (1) for the operation of the Wholesale Electricity Market by the National System Operator, the Minister shall ensure that regulations, terms and conditions, guidelines, and rules necessary for facilitating the efficient operation of the Wholesale Electricity Market have been made identifying and specifying the operating, technical, commercial and economic parameters and the market monitoring processes.

(4) The Minister may, with the approval of the Cabinet of Ministers in the interests of the national economy, allow the distribution licensees to enter into power purchase agreements with generation licensees prior to the establishment of the Wholesale Electricity Market.

PART X

CONSUMER PROTECTION

31. The Minister shall issue policy guidelines in consultation with the Regulator, on steps to be adopted to prevent anti-competitive practices, monopolies, collusion and abuses of a dominant position, and consequent merger

Policy
guidelines
relating to
competition
practices

situations affecting the competition in the Electricity Industry.

Standard for
supply of
electricity

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

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

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

(4) The payment of compensation to any person as provided for in subsection (3) in respect of a failure by a distribution licensee to meet a standard prescribed by regulations made under this section shall be without prejudice to any other remedy which is available to such person in respect of the act or omission constituting such failure.

(5) Any dispute arising from the enforcement of regulations made under this section may be referred to the Regulator by a distribution licensee or a tariff customer or any other affected party, and the Regulator may determine such dispute in accordance with the provisions of section 46.

33. The Regulator may, after consultation with distribution licensees and with persons or bodies representative of persons likely to be affected, from time to time, –

Standards of overall performance and efficient use of electricity

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

34. (1) The Regulation shall, from time to time, collect information with respect to—

Information with respect to levels of performance

- (a) the compensation paid by distribution licensees in terms of the regulations made under section 32, if any;
- (b) the levels of overall performance attained by such licensees in connection with the provision of electricity and electricity supply services; and
- (c) the levels of performance attained by such licensees in connection with the promotion of the efficient use of electricity by consumers.

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

- (a) as respects each standard prescribed by regulations under section 32, the number of cases in which compensation was paid and the aggregate amount or value of the compensation paid; and
- (b) as respects each standard determined under section 33, such information with respect to the level of performance attained by the licensee as may be required by the Regulator.

(3) A distribution licensee who without reasonable cause, fails to do anything required of the licensee by subsection (2) commits an offence and shall, on conviction be liable after a summary trial before a Magistrate, to a fine not exceeding one million rupees and to an additional fine of fifty thousand rupees for each day during which such offence is continued to be committed after such conviction, which shall be paid into the Fund of the Regulator established under section 31 of the Public Utilities Commission of Sri Lanka Act.

(4) Subject to the provisions of section 7, the Regulator shall at least once in every year arrange for the publication in such form and in such manner as it considers appropriate, of such information collected by or furnished to it under this section, as may appear to it expedient to give to customers or potential customers of distribution licensees.

PART XI

FINANCE

Annual Levy

35. (1) There shall be levied and recovered from every licensee an annual levy of such amount as may be determined by the Regulator with the approval of the Ministers assigned the subjects of Finance and Policy Implementation, by Order published in the *Gazette*.

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

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

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

(4) Where the licensee fails to pay the levy imposed under subsection (1) for any year before the thirtieth day of June of that year, the levy shall be deemed to be in default and the Chairman of the Regulator appointed under section 8 of the Public Utilities Commission of Sri Lanka Act (hereinafter referred to as the “Chairman”), shall issue a certificate certifying the amount of the levy due from the licensee.

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

(6) Where the Chairman issues a certificate under subsection (4), the Chairman shall notify in writing to the

licensee specified in the certificate, that the amount specified in the certificate is payable by the licensee, but the non receipt of such notice shall not invalidate any proceedings instituted under this section.

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

PART XII

MISCELLANEOUS

Licence required
for overhead
and
underground
electricity lines

36. (1) Subject to the provisions of subsection (2), a person shall not install an electricity line above or below the ground, except in accordance with a licence obtained in that behalf in terms of this Act.

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

- (a) to an electricity line or an underground cable which has a nominal voltage not exceeding thirty-three kilovolts, or any other higher voltage as may be determined by the Regulator; and
- (b) to such portion of an electricity line as is or will be, within the premises being occupied or is under the control of the person responsible for its installation.

(3) A licence granted under this Act –

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

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

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

(4) The Regulator may direct that an electricity line be designated as a “high voltage line” for the purposes of this Act.

37. (1) Where the President on a recommendation made by the Minister is of the opinion that any immovable property is required for a power generation project or a transmission project and that such project would serve for the general welfare and benefit of the public, the President may by Order published in the *Gazette*, declare that such immovable property is required for such purpose, and the property may accordingly be acquired under the Land Acquisition Act (Chapter 295) and be transferred to the person or persons proposing to carry out such project.

Acquisition of property for power generation and transmission projects

(2) The provisions of section 3 to section 8 (both inclusive) of the Urban Development Projects (Special Provisions) Act, No. 2 of 1980 shall, *mutatis mutandis*, apply to and in relation to an acquisition of property under subsection (1).

(3) Any sum payable for the acquisition of any immovable property under subsection (1), shall be paid by the person or persons to whom the property is transferred.

PART XIII

GENERAL

Establishment of
the Power Sector
Reforms
Secretariat

38. (1) There shall be established for the purpose of assisting the Minister in the implementation of the reform process as provided for in this Act, a secretariat called and known as the Power Sector Reforms Secretariat.

(2) (a) The Minister shall appoint not more than five persons with integrity, one of whom shall have not less than ten years of experience in electrical engineering, and the other four persons with not less than ten years of experience in one or more of the following fields to be members of the Power Sector Reform Secretariat: -

- (i) power system planning and operation;
- (ii) human resource management;
- (iii) State owned enterprise restructuring;
- (iv) law;
- (v) public private partnership; or
- (vi) finance.

(b) The Minister shall appoint a person possessing not less than fifteen years of experience in one or more of the following fields to be the Director-General of the Power Sector Reforms Secretariat:-

- (i) power system planning and operation;
- (ii) human resource management;
- (iii) State owned enterprise restructuring;
- (iv) electrical engineering;
- (v) public private partnership; or
- (vi) finance.

(3) The Power Sector Reforms Secretariat shall have the power to direct and oversee the implementation of the reforms enumerated in this Act. The Secretary to the Ministry

of the Minister shall in the implementation of the reforms process as envisaged in this Act, exercise supervision over the Power Sector Reforms Secretariat subject at all times, to the direction and control of the Minister.

- (4) The Power Sector Reforms Secretariat shall -
- (a) assist the Minister in implementing the provisions of this Act and ensuring that the new companies incorporated in terms of the Companies Act, No.07 of 2007 as specified in section 17 commence operations as provided for in this Act;
 - (b) assist the Minister in prioritizing and facilitating the preparation of regulations to be made under the provisions of this Act in order to ensure the implementation of the reforms to the Electricity Industry;
 - (c) facilitate the preparation in an expeditious manner of the preliminary transfer plan and the final transfer plan required for the finalisation of the reforms process;
 - (d) coordinate the formulation of a comprehensive and efficient financial restructuring process which identifies methodology to be applied to the restructuring of the assets and liabilities of the Ceylon Electricity Board including the completion of the process of divesting the Ceylon Electricity Board of its activities as identified in the Transfer Plan prepared in terms of section 18; and
 - (e) initiate capacity building of the National System Operator in operating the reformed power sector

and in the procurement of new generation capacity using competitive, transparent and accountable procedures.

(5) The provisions relating to the Power Sector Reforms Secretariat shall cease to be operative on the expiration of a period of two years from the date on which the Bill becomes an Act of Parliament:

Provided that, the Minister may, thirty days prior to the expiration of the said period of two years, by an Order published in the *Gazette*, extend subject to obtaining the approval of the Cabinet of Ministers for such extension, the functioning of the Power Sector Reforms Secretariat by one year at a time:

Provided further, the cumulative period for which the Power Sector Reforms Secretariat may be so extended shall not extend beyond a period of five years from the date on which the Bill becomes an Act of Parliament.

Ceylon
Electricity Board
required to
provide all data
and information
in its possession
to the Power
Sector Reforms
Secretariat

39. (1) The Board of Directors of the Ceylon Electricity Board shall cooperate with the Power Sector Reforms Secretariat in the restructuring activities being carried out in terms of this Act. The General Manager of the Ceylon Electricity Board shall on behalf of the Board of the Ceylon Electricity Board be required to furnish to the Power Sector Reforms Secretariat -

- (a) all data and documents and any other material information including, information relating to all activities being carried out by the Ceylon Electricity Board, in whatever form, in the possession of the said Board;
- (b) preliminary allocation of all assets and preliminary valuation of such assets including

land, building, plant and machinery and other movable assets to successor companies prior to the appointed date with such valuation being carried out by the Chief Valuer:

Provided that, the Chief Executive Officer of the residual company established under paragraph (e) of subsection (3) of section 18 shall be responsible for final asset allocation and final asset valuation to be included in the final transfer plan;

- (c) information relating to the financial status of the Ceylon Electricity Board;
- (d) preliminary staff allocation to successor companies including the residual company prior to the appointed date:

Provided that, the Chief Executive Officer of the residual company established under paragraph (e) of subsection (3) of section 18 shall be responsible for the final allocation to be included in the final transfer plan and addressing staff grievances in that regard;

- (e) information relating to all pending litigation of the Ceylon Electricity Board;
- (f) information of all contractual commitments the Ceylon Electricity Board has entered into which are required for the purpose of finalising the transfer plan required by section 18:

Provided that, the Power Sector Reforms Secretariat shall maintain confidentiality in respect of all information received from the Ceylon Electricity Board and use such information only

for the purpose of exercising and discharging its powers and functions in terms of the provisions of this Act:

Provided further, the General Manager of the Ceylon Electricity Board shall be responsible for providing the allocation of contractual commitments of Ceylon Electricity Board to successor companies prior to the appointed date.

Application of certain provisions of the Anti - Corruption Act, No. 9 of 2023, to this Act

40. The provisions of Chapter I of Part III under the heading “Offences relating to Bribery or Corruption” of the Anti- Corruption Act, No. 9 of 2023 shall, *mutatis mutandis*, apply to or in relation to the provisions of this Act.

Extraction of electricity to be an offence

41. (1) Every person who takes, uses or extracts any electricity –

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

commits an offence and shall, on conviction after a summary trial before a Magistrate be liable to a fine not exceeding one hundred thousand rupees and to an additional fine in a sum of money being the value of the loss or damage caused to the licensee as a result of the act or default constituting such offence or to imprisonment of either description for a term not exceeding three months or to both such fine and imprisonment. Any sum recovered as an additional fine shall be paid to the licensee on application made to court.

(2) Any person who aids or abets the commission of any offence punishable under this section shall be guilty of an offence under this Act and be liable to the same punishment as is provided for such offence.

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

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

42. (1) Without prejudice to the provisions of this Act, every person who –

Improper use of
electricity to be
an offence

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

- (c) intentionally or negligently -
 - (i) alters the quantity of electricity supplied to any premises by a distribution licensee as registered on any meter used for measuring the same; or
 - (ii) prevents any meter from duly registering the quantity of electricity supplied through that meter,

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

(2) Where any person is prosecuted for an offence under paragraph (c) of subsection (1), a certificate issued by the distribution licensee to the effect that -

- (a) the meter was in the custody or under the control of the person being prosecuted; and
- (b) there is clear proof that the meter has been tampered causing an alteration of the register of the quantity of electricity registered on such meter and therefore, preventing the meter from duly registering such usage,

shall be admissible in evidence and shall be *prima facie* proof of the matters contained therein.

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

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

(5) In the case of the offence specified in subsection (1) being continued after conviction, there shall be imposed a further fine not exceeding five thousand rupees for each day on which such offence is being continued after conviction.

(6) Where any person is convicted of an offence under paragraph (c) of subsection (1), the distribution licensee may discontinue the supply of electricity to the premises of the person convicted and remove the meter in respect of which the offence was committed and thereafter keep the same in safe custody, until the Regulator authorises the licensee to dispose it. However, in the event that the unpaid dues are recovered by the distribution licensee, the distribution licensee shall, within a reasonable period of time, restore the supply of electricity that was discontinued.

(7) Notwithstanding anything to the contrary in the Code of Criminal Procedure Act, No.15 of 1979, an offence under this Act shall be a cognizable offence within the meaning and for the purposes of that Act.

General penalty

43. (1) Every person who contravenes any provision of this Act or any regulation made thereunder commits an offence under this Act and shall, except as otherwise expressly provided in this Act, be liable on conviction after summary trial before a Magistrate to a fine not exceeding two hundred thousand rupees and in any case where such offence is continued after conviction, to a further fine not exceeding five thousand rupees for each day on which such offence being continued after conviction.

(2) Upon conviction of any person for an offence under this Act, a Magistrate may, in addition to, or in lieu of, imposing any punishment specified for the offence under subsection (1), make an order directing that any installation or other apparatus involved in the commission of the offence shall be dismantled and removed before a date specified in such order.

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

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

Offences by
bodies of
persons

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

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

shall be deemed to be guilty of that offence:

Provided that, that a director or officer of that body corporate or a partner of such partnership shall not be deemed to be guilty of such offence, if such person proves that such offence was committed without the knowledge of such person or that such person used all due diligence as was necessary, to prevent the commission of such offence.

45. (1) Where the Regulator has reasonable grounds to believe that an activity contrary to the provisions of this Act is being carried out on any premises, the Regulator or any officer acting on behalf of the Regulator may, on obtaining a warrant from a Magistrate, and on production of the same, if required, -

Powers of entry,
inspection and
search

- (a) to enter, inspect and search at all reasonable hours of the day the premises in which any regulated entity is carrying on its business or any other connected premises; and
- (b) to inspect, take copies of or seize and detain any relevant records or documents of that regulated entity.

(2) Any person who obstructs the Regulator or an officer acting on behalf of the Regulator in the exercise of his powers under this section commits an offence.

46. (1) Where any dispute connected with the supply or use of electricity arises between or in relation to-

Resolution of
disputes

- (a) a licensee and a tariff customer;
- (b) a licensee and another licensee;
- (c) a licensee and any other affected party;
- (d) use of electricity meters; or

- (e) the payment of tariffs in terms of the provisions of this Act,

and where the parties have not been able to resolve the dispute, any aggrieved person may, forthwith forward a written request to the Regulator requesting the matter in dispute to be heard and determined by the Regulator.

(2) Upon receipt of a request under subsection (1), the Regulator shall mediate and resolve the dispute unless the Regulator determines that it is more appropriate for the dispute to be determined either by the court or through arbitration.

(3) In mediating and resolving any dispute under subsection (2), the Regulator may, where it considers it expedient to do so, refer such dispute for the purpose of resolution to a panel of mediators consisting of three persons appointed by the Regulator, one of whom shall be either a member of the Regulator or a member of the staff of the Regulator or a public officer, who shall function as the Chairperson of such panel. The panel of mediators shall make every endeavour to resolve the dispute referred to it and bring about a settlement among the parties to the dispute and conclude its deliberations within the time, as shall be specified by the Regulator.

(4) The practice and procedure to be followed in the resolution of any dispute under this section shall be as prescribed.

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

- (a) may include such incidental, supplemental and consequential provisions, including provisions

requiring either party to pay a sum in respect of the costs or expenses incurred by the Regulator as the Regulator considers appropriate; and

- (b) shall be final and shall be enforceable so far as it includes such provisions as to costs or expenses incurred by the Regulator in the District Court of Colombo, as if it were a decree entered by that court for the payment of money.

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

47. (1) The Consumer Affairs Authority established by the Consumer Affairs Authority Act, No. 9 of 2003, shall not exercise any powers, duties or functions conferred on that Authority by that Act, in relation to the exercise, discharge or performance of the powers, duties and functions conferred on the Regulator by this Act or the Public Utilities Commission of Sri Lanka Act.

Consumer
Affairs
Authority Act
not to apply

(2) The Regulator shall, wherever the need to do so arises and in the absence of specific provisions in this Act and in the Public Utilities Commission of Sri Lanka Act relating to the protection of the rights of consumers, exercise, perform and discharge such of the powers, duties and functions conferred on the Consumer Affairs Authority established by the Consumer Affairs Authority Act, No. 9 of 2003 as are relevant thereto, and the provisions of that Act shall, *mutatis mutandis*, apply to and in regard to the exercise, performance and discharge of such powers, duties and functions by the Regulator.

- Rules
- 48.** (1) Rules may be made in respect of all matters for which rules are required or authorised to be made in terms of this Act.
- (2) Every rule made in terms of this Act shall be published in the *Gazette* and shall come into force on the date of such publication or on such later date as may be specified therein.
- Orders
- 49.** (1) Every Order made in terms of this Act shall be published in the *Gazette* and shall, other than the Orders made in terms of section 1, come into operation on the date of such publication.
- (2) Every Order published in the *Gazette* in terms of subsection (1) shall be placed before Parliament for approval, by a resolution of Parliament, within ninety days from such publication.
- (3) Any Order not so approved shall be deemed to be rescinded with effect from the date of the resolution but without prejudice to anything duly done thereunder.
- Regulations
- 50.** (1) The Minister may make regulations under this Act in respect of all matters required by this Act to be prescribed or in respect of which regulations are required or authorised by this Act to be made.
- (2) Every regulation made under this section shall be published in the *Gazette* and shall come into operation on the date of such publication or on such later date as may be specified therein.

(3) Every regulation made under this section shall within three months of its publication in the *Gazette* be brought before Parliament for approval. Any such regulation, which is not so approved shall be deemed to be rescinded as from the date of its disapproval, but without prejudice to anything duly done thereunder.

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

PART XIV

REPEALS AND TRANSITIONAL PROVISIONS

51. (1) With effect from the appointed date, the Ceylon Electricity Board Act, No.17 of 1969 shall stand repealed. Notwithstanding the repeal of the Ceylon Electricity Board Act, No. 17 of 1969 -

Repeals and
Transitional
Provisions

(a) all regulations made under the repealed Ceylon Electricity Board Act, No.17 of 1969, and in force on the day immediately preceding the appointed date, shall, in so far as such regulations are not inconsistent with any provision of this Act, continue to be in operation from and after the appointed date, until regulations are made under this Act, to replace such regulations;

- (b) the provisions of the promotion schemes, codes of conduct and the disciplinary codes of the Ceylon Electricity Board in force on the day immediately preceding the appointed date shall, in so far as such promotion schemes, codes of conduct and the disciplinary codes are not inconsistent with any provision of this Act, continue to be in operation from and after the appointed date, in respect of any matter or question arising in relation to the promotions, conduct and disciplinary control of the employees of the Ceylon Electricity Board who have opted to continue in the service of the successor companies, until promotion schemes, codes of conduct and disciplinary codes are adopted by the successor companies to regulate promotions, conduct and disciplinary control of such employees;
- (c) where after the appointed date, there remains any matter or issue arising in or concerning the Electricity Industry, for which no provisions or no effective provision has been made in this Act, such of the provisions of the Ceylon Electricity Board Act, No.17 of 1969 as are not inconsistent with the provisions of this Act shall, from and after the appointed date, continue to be in operation and be applicable only in respect of any such matter or issue only and no other, until provision is made in this Act for such purpose;
- (d) all actions or proceedings whatever nature instituted by or against the Ceylon Electricity Board and pending on the day immediately

preceding the appointed date shall be deemed as from the appointed date to be actions and proceedings instituted by or against the respective successor company and may be continued accordingly;

- (e) all judgments, decrees or orders of any court made in favour or against the Ceylon Electricity Board before the appointed date, shall from and after such date be deemed to continue to be in force and shall be enforced accordingly in terms of this Act;
- (f) any reference to the Ceylon Electricity Board in any notification, contract, instrument, record, share certificate, document, deed, bond, agreement, guarantee, Power of Attorney, grant of legal representation or any other instrument of whatever nature, which are currently in force shall be deemed to be valid and effectual and continue to be enforced accordingly in terms of this Act.

(2) With effect from the appointed date, the Sri Lanka Electricity Act, No. 20 of 2009, shall stand repealed. Notwithstanding the repeal of Sri Lanka Electricity Act, No. 20 of 2009-

- (a) all licences and deemed licences issued under the provisions of Sri Lanka Electricity Act, No.20 of 2009, and in force on the day preceding the appointed date shall, in so far as such licences authorised any one of the following activities, shall from and after the appointed date, continue to be valid and effective for a period of nine months from such date :-

- (i) all generation licences and deemed generation licences issued for generation of Electricity;
- (ii) the national transmission network service provider licence deemed to have been issued to carry on activities listed under sections 15 and 16 of this Act for operation, maintenance, future planning and development of the National Transmission Network (also referred to as the “National Grid of Sri Lanka”);
- (iii) the distribution licences issued for the distribution of electricity and or to supply of electricity to consumers and or to any premises of the authorised areas of the distribution divisions of the Ceylon Electricity Board;
- (iv) national system operator licence deemed to have been issued to carry on activities listed under section 10;
- (v) distribution licence issued to Lanka Electricity Company (Private) Ltd., for distribution and or to supply of electricity to consumers or to any premises of the authorised area of the Lanka Electricity Company (Private) Ltd.:

Provided that, not less than six months prior to the expiry of the period of nine months referred to in paragraph (a) of subsection (2), all licensees and deemed licensees

shall be required to forward applications to obtain licences in terms of the provisions of this Act:

Provided further, all generation licences issued to entities other than the Ceylon Electricity Board and the distribution licence issued to the Lanka Electricity Company (Private) Ltd. shall continue for the remaining period of such licences. The successor companies to be formed to take over the generation activities currently undertaken by the Ceylon Electricity Board, the National Transmission Network Service Provider, National System Operator and the distribution companies shall be deemed to be licensed to undertake the tasks assigned under this Act for a period of nine months and within six months from the appointed date, these entities shall be required to apply for new licences under this Act; and

- (b) all regulations made under section 56 of the repealed Sri Lanka Electricity Act, No. 20 of 2009, and in force on the day immediately preceding the appointed date shall, with effect from such date, continue to be in force and be deemed, in so far as such regulations are not inconsistent with any provision of this Act, until regulations are made under this Act.

(3) The Registrar of Lands, shall be required to register all lands that have been transferred from the Department of Government Electrical Undertakings and the local authorities to the Ceylon Electricity Board by virtue of the operation of the provisions of Part II of the Ceylon Electricity Board Act, No. 17 of 1969, upon submission of a certificate issued under the hand of the General Manager of the Ceylon Electricity Board based on information and documentary proof in respect of such transfer as is within the possession and control of the General Manager certifying that the Ceylon Electricity

Board is the owner of all lands described (with metes and boundaries) in the Schedule annexed to such certificate.

(4) A certificate shall be issued under the hand of the General Manager of the Ceylon Electricity Board to the effect that the Ceylon Electricity Board became the owner and occupier of the lands more fully described in the Schedule annexed to the certificate as from the date of taking over the all electrical undertakings including all assets and lands, which were owned and possessed by the Department of Government Electrical Undertakings or any local authority, by virtue of the operation of the provisions of Part II of the Ceylon Electricity Board Act, No. 17 of 1969 and from and after the date on which all electrical undertakings of the Department of Ceylon Electricity Board had enjoyed all benefits of those lands and assets as the property of the Ceylon Electricity Board free of any encumbrances.

(5) For the purpose of this section, the term “Registrar of Lands” means the Registrar of Lands appointed under the Registration of Documents Ordinance (Chapter 117) and having jurisdiction over the districts or divisions in which such lands are situated.

Interpretation

52. In this Act unless the context otherwise requires -

“additional transmission licensees” means, the companies to which additional transmission licences are granted under subsection (2) of section 14;

“authorise” means authorised by licence or exemption under this Act;

“authorised area” in relation to a person authorised by a licence to transmit or to distribute and

supply electricity, means, the area designated in the licence;

“bulk sales” in relation to the sale of electricity means, the sale of electricity in bulk by National System Operator to distribution licensees, and to traders and customers who are connected to the transmission network, as may be identified in the relevant licence;

“bulk supply account” means, the account maintained by the National System Operator to record the bulk sales of electricity and purchase of electricity from generation licensees;

“captive generating plant” means, a power plant set up by any person to generate electricity primarily for such person’s own use;

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

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

“consumer” means, any person who is supplied with electricity for personal use by a licensee or the Government of Sri Lanka or by any other

person engaged in the business of supplying electricity to the public and includes any person whose premises are for the time being connected for the purpose of receiving electricity and includes any prospective consumer;

“dedicated transmission line” means, any electricity supply line or point to point connection which is required for the purpose of connecting electricity lines or electricity plants of a captive generating plant or generating station, to any transmission line or substation, as the case may be;

“dispatch” means, the informing the power plant operators of the power output to be produced by each power plant by the National System Operator;

“distribute” in relation to electricity means, a system which consists of low voltage lines and electrical plant and is used for conveying electricity to any premises or to any other distribution system and the expressions “distribution” and “distribution system” shall be construed accordingly;

“distribution line” in relation to a distribution licensee, means, any distribution line in the authorised area of the distribution licensee which is being used for the purpose of supplying electricity to any premises;

“distribution tariff” means, the tariff set by the Regulator for recovering the reasonable cost

of maintaining and operating the distribution network including the consumer services under subsection (6) of section 29;

“distribution voltage” means, any voltage not exceeding 33 kilovolt or such voltage as determined by the Regulator;

“electrical plant” means, any plant, equipment, or appliance used for or in connection with the generation, transmission, distribution or supply of electricity, and does not include any electricity line or any meter used for ascertaining the quantity of electricity supplied to any premises or any electrical appliance under the control of a consumer;

“electrical power system” means, the combination of electrical generators (*i.e.*, power plants), transmission and distribution lines, equipment, circuits, and transformers used to generate and transport electricity from the generator to the consumption areas or to adjacent electrical power systems;

“electricity line” means, any line whether used for carrying electricity for any purpose which is laid underground or on the surface, and includes any equipment used as support for any such line, including, but not limited to, any structure, pole or other thing in, on, by or from which any such line is supported, carried or suspended; any apparatus connected to any such line for the purpose of carrying electricity; and any wire, cable, tube, pipe other similar thing (including its casing,

insulator or coating) which surrounds or supports or is installed in close proximity to any such line;

“electricity trading” means, the purchase of electricity for resale and the expression “trade” shall be construed accordingly;

“Electricity Supply Code” means, a Code of prescribed standards to be complied with by all distribution licensees;

“embedded generator” means, a generation plant that is connected to the distribution network;

“enforcement order” means an Order made in terms of subsection (4) of section 22 of this Act;

“feed in tariff” means, the power purchase tariff from the embedded generators;

“generating station” means, any facility for generating electricity, including the site where such generating station is installed, and any building, plant, transformer, switchgear, switch yard, cables or other appurtenant equipment, if any, used for the aforesaid purpose, and any building used for housing the operating staff of a generating station, and where electricity is generated by hydro power, includes penstocks, head and tail works, main and regulating reservoirs, dams and other hydraulic works, but does not include any substation;

“generator” means, a generation licensee or a person exempted from the requirement of obtaining a generation licence;

“grid” means, a high voltage backbone system of interconnected transmission lines, substations and generating plants;

“grid code” means, the operating procedures and standards for planning of power system, scheduling of generators, interconnection of generators, transmission equipment and consumers to the national grid, operation of the power system and the national grid and the metering of power transfers;

“high voltage line” means, an electricity line or cable of a nominal voltage exceeding 33 kilovolt, or of such nominal voltage as may be specified by the Regulator, from time to time;

“indigenous energy resources” means, any form of energy resource available in Sri Lanka such as domestically produced fossil fuel energy, energy produced from renewable energy and includes any other derivatives thereof but does not include any imported fossil fuel based energy products;

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

- (a) the generation, transmission, distribution, or supply of electricity;
- (b) the manufacture, production, sale or supply of fuel for the generation of electricity;

- (c) the import, manufacture, sale, lease, hire or other supply of or, dealing in, machinery, plant, equipment, apparatus or fittings for generation, transmission, distribution, supply or use of electricity; or
- (d) the provision of legal, accountancy or banking services to any company or undertaking;

“Lanka Electricity Company (Private) Ltd.” means, the Lanka Electricity Company (Private) Limited registered under the Companies Act, No. 07 of 2007;

“licence” means, a licence issued in terms of section 21 of this Act, and the term “licensee” means, any person to whom a licence in terms of this Act has been issued for engaging in the activities connected to the generation, transmission, distribution, supply, trade or procurement of electricity;

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

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

“Minister” means, the Minister assigned the subject of electricity in terms of Article 44 or 45 of the Constitution;

“National Grid” means, the transmission network consisting of transmission assets and grid substations owned by the National Transmission Network Service Provider and additional transmission licensees;

“National System Operator” means, the person or body of persons to whom a licence has been issued in terms of section 10 of this Act;

“National Transmission Network Service Provider” means, the person or body of persons to whom the licence to operate the National Transmission Network has been granted;

“open access” means, the non-discriminatory provision for the use of transmission network or distribution lines or associated facilities for supplying electricity to consumers eligible to purchase electricity directly from generation licensees under this Act, in accordance with directions issued by the Regulator. It permits third party suppliers to provide electricity to access the transmission and distribution network on the same conditions as the network owner or any other user, upon payment of a open access charges;

“open access charges” means, the charges set by the Regulator and levied by the transmission and distribution licensees for providing open access to consumers eligible for open access;

“power purchase agreement” means, the agreement between the National System Operator, distribution licensees or a consumer and a generation licensee governing the sale of electricity by the generation licensee;

“power system” means, all aspects of generation, transmission, distribution and supply of electricity and includes one or more of the following, namely:-

- (a) generating stations;
- (b) transmission lines;
- (c) substations;
- (d) tie-lines;
- (e) load dispatch activities;
- (f) distribution mains;
- (g) electricity supply lines;
- (h) overhead lines;
- (i) service lines; and
- (j) works;

“power sales agreement” means, the agreement between the distribution licensees and the National System Operator governing the bulk sale of electricity to the distribution licensees by the National System Operator;

“premises” means, any land, building or structure;

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

“public private partnership” means, the entering into a long term agreement with an investor for the provision of electricity, energy storage,

ancillary services or transmission services where the capital investments will be substantially borne by the investor;

“regional market” means, the electricity market that is in operation outside the territory of Sri Lanka within the South Asian Region;

“regional transmission network” means, the transmission network by the regional markets;

“standardized power purchase agreement” means, a power purchase agreement on pre-defined terms and conditions where the technology, specific power purchase tariff and other contractual terms for renewable energy based power plants having a maximum capacity of 10MW;

“successor companies” means, the companies incorporated under section 17 of the Act to take over the roles and responsibilities of the Ceylon Electricity Board;

“supply” in relation to electricity means, the delivery of electricity through the distribution system to end users;

“supply tariff” means, the component of end user tariff set by the Regulator to cover the cost of bulk purchase tariff and transmission tariff paid by the distribution licensees;

“System Control Centre” means, the Centre established under section 10 of this Act for

carrying out real time operation of the National Grid;

“transmission interconnection” means, the equipment and facilities required for a safe and reliable interconnection of an electrical plant to the National Grid;

“transmission network” means, all high voltage cables and overhead lines (not being an essential part of the distribution system of a licensee) used for conveying electricity from a generation station to a grid substation, from one generation station to another or from one grid substation to another, together with any transformers, switchgear and other works and equipment necessary to and used for the control and protection of such cables or overhead lines, and such buildings or part thereof as may be required to accommodate such transformers, switchgear and other works and equipment;

“transmission service agreement” means, the agreement between the National Transmission Network Service Provider and the National System Operator governing the use of the National grid for transmitting electricity from generation licensees to distribution licensees and consumers;

“transmission tariff” means, the tariff charged by the transmission licensees for the use of transmission network from the National System Operator;

“transmission voltage” means, any voltage above 33 kilovolt or such other voltage as determined by the Regulator to be the voltage or voltages at which the transmission system operates;

“transmit” in relation to electricity, means, the transportation of electricity by means of a transmission system, which consists of high voltage lines and electricity plant and is used for conveying electricity from a generating station to a grid substation, from one generating station to another or from one grid substation to another, and the expressions “transmission” and “transmission system” shall be construed accordingly;

“utility” means, the electricity lines or electricity plant, including all lands, buildings, works and materials attached thereto belonging to any person acting as a licensee under the provisions of this Act and an “electric utility” means any plant, works, system, facilities or properties, together with all parts and appurtenances thereto, including contract and franchise rights used and useful primarily for the production, transmission or distribution of electric energy;

“Wholesale Electricity Market” means, a market where multiple electricity suppliers compete with each other to provide electricity to consumers at the most beneficial cost; and

“works” includes electricity line, and any building, plant, machinery, apparatus and any other thing of whatever description required to transmit, distribute or supply electricity to the public and to carry into effect the objects of a licence or sanction granted under this Act.

Sinhala text to prevail in case of inconsistency

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

SCHEDULE I

[Section 17]

STRUCTURE OF THE ELECTRICITY INDUSTRY

The activities relating to the hydro-electric generation, thermal electricity generation, and renewable energy generation as set out below, which are presently vested with the Ceylon Electricity Board, shall on the appointed date be re-structured and vest in the corporate entities which will be incorporated under the Companies Act, No.07 of 2007 for the purposes of the implementation of this Act, substantially in the manner set out below:-

- (a) one company of which one hundred *per centum* of the shares are held by the Secretary to the Treasury to take over the hydropower generation assets of the Ceylon Electricity Board;
- (b) one company to take over the Coal power Plant owned and operated by the Ceylon Electricity Board as well as Lanka Coal Company;
- (c) one company to take over the thermal generation assets of the Ceylon Electricity Board;
- (d) one company to take over the Wind Power Plant owned, possessed and operated by the Ceylon Electricity Board.;
- (e) one company of which the Secretary to the Treasury holds more than fifty *per centum* of the shares to take over the functions of the Ceylon Electricity Board relating to the development, maintenance and operation of the physical infrastructure that makes up the National Grid of Sri Lanka;
- (f) one company of which the Secretary to the Treasury holds one hundred *per centum* of the shares to take over the functions of the Ceylon Electricity Board relating to generation scheduling, commitment and economic dispatch of generating plants and functions relating to the planning of future electricity and transmission capacity;
- (g) separate companies to take over the distribution functions of the distribution divisions of the Ceylon Electricity Board; and
- (h) such number of companies as shall be required for managing the residual functions of the Ceylon Electricity Board. Such residual companies shall be incorporated to

undertake among other matters which may not be allocated to any successor company, the following residual functions:-

- (i) one company to take over functions of the Ceylon Electricity Board other than those functions and activities entrusted to the companies incorporated;
- (ii) one company to take over the functions of the Provident Fund and Pension Fund of the Ceylon Electricity Board and to act as the custodian and trustee and manage of such provident fund and pension fund, provided that, the entire share holdings of the company shall always remain with the Secretary to the Treasury.

SCHEDULE II

[section 21(7)(c)]

OTHER POWERS OF LICENSEES

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

- (a) installing under, over, in, on, along or across any street-
 - (i) any electricity lines or electrical plant; and
 - (ii) any structures for housing or covering any such lines or plant, and from time to time, inspect, maintain, adjust, repair, alter, replace or remove any such plant or lines; and

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

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

(ii) tunneling or boring under any street; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (a) that the undertaker intends himself or herself to make any alteration made necessary or expedient by the works proposed to be executed by the licensee; or
- (b) that the undertaker requires the licensee to make any such alteration under the supervision, and to the satisfaction of the undertaker.

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

- (a) the undertaker shall have the right, instead of the licensee, to execute any works for the purpose of making that alteration; and

- (b) any reasonable expenses incurred by the undertaker in or in connection with the execution of those works and the amount of any loss or damage sustained by the undertaker in consequence of the alteration shall be recoverable by the undertaker from the licensee.

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

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

(9) Where-

- (a) no counter notice is given under paragraph (6); or
- (b) the relevant undertaker, having given a counter notice under that paragraph fails to make any alteration made necessary or expedient by the works proposed to be executed by the licensee, within any such period (being not less than forty eight hours) as the licensee may by notice specify or, as the case may be, unreasonably fails to provide the required supervision,

the licensee may execute works for the purpose of making the alteration or, as the case may be, may execute such works without the supervision of the undertaker; but in either case the licensee shall execute the works to the satisfaction of the undertaker.

(10) Licensee or any agent of such licensee who-

- (a) executes any works without giving the notice required by paragraph (4); or
- (b) unreasonably fails to comply with any reasonable requirement given by a relevant undertaker under this paragraph,

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

3. (1) This item applies where-

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

(2) This item also applies where-

- (a) for any purpose connected with the carrying on of the activities which the licensee is authorised by its licence to

carry on, it is necessary or expedient for a licensee to keep an electricity line installed on, under or over any land; and

(b) the owner or occupier of the land has given notice to the licensee under paragraph 5(2) requiring it to remove the electricity line.

(3) Where paragraph (1) or (2) applies and the Regulator is satisfied that -

(a) the licensee has made all reasonable efforts to secure the grant of a wayleave;

(b) those efforts have been unsuccessful; and

(c) the acquisition of that wayleave is necessary for the carrying on of the activities authorised by the licence of the licensee,

the Regulator, shall, within six weeks of an application made by the licensee, recommend to the Minister, the acquisition of the wayleave. Where the Minister approves the proposed acquisition, by Order published in the *Gazette*, the wayleave shall be deemed to be required for a public purpose and may be acquired under the Land Acquisition Act (Chapter 295) and transferred to the licensee.

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

(a) the land is covered by an authorised dwelling, or planning permission has been granted under the relevant laws for the construction of a dwelling on that land; and

(b) the line is to be installed on or over that land.

(5) Before making a recommendation under paragraph (3), the Regulator shall give-

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

an opportunity of being heard by a person appointed by the Regulator.

(6) Where a wayleave is acquired under the Land Acquisition Act (Chapter 295) and transferred to a licensee, the wayleave -

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

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

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

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

(2) Where in the exercise of any right conferred by such a wayleave any damage is caused to land or to movables, any person interested in the land or the movables may recover from the licensee reasonable compensation in respect of that damage; and where in consequence of the exercise of such right a person is disturbed in the enjoyment of

any land or movables such person may recover from the licensee compensation in respect of that disturbance of such amount as may be determined by the Regulator.

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

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

(5) A person who is aggrieved by the decision of the Regulator that no compensation is payable under paragraph (1) or (2) or who is dissatisfied with the amount of compensation determined to be payable by the Regulator, may institute, in a court of competent jurisdiction, an action against the licensee from whom the compensation is claimed for the recovery of the compensation claimed by that person or the difference between the amount of the compensation claimed by that person and the amount of the compensation determined to be payable to that person by the Regulator.

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

(a) that person receives a communication sent by the Regulator under paragraph (4);

(b) the amount of compensation determined by the Regulator is paid to that person under paragraph (7); or

- (c) the notice of the payment of that amount into the court is given, or is exhibited for the first time under paragraph (7).

(7) A licensee who is liable to pay to the owner of that land an amount of compensation under paragraph (1) or (2) shall pay that amount to that person within such period as may be determined by the Regulator. Where that owner is unknown or where the ownership of that land is subject to dispute, the licensee shall-

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

5. (1) This paragraph applies where at any time such a wayleave as is mentioned in item 3 (whether granted under that item or by agreement between the parties)-

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

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

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

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

give to the licensee a notice requiring the licensee to remove the electricity line from the land. However, the licensee shall not be obliged to comply with such a notice except in the circumstances and to the extent provided by the following provisions of this paragraph.

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

- (a) fails to make an application for the grant of the necessary wayleave under item 3;
- (b) makes an application for the grant of the necessary wayleave under item 3 and that application is refused by the Regulator;
- (c) fails to obtain an order authorising the compulsory purchase of the land under item 7 of this Schedule,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (a) cause the tree to be felled or lopped or their roots to be cut back in accordance with good arboricultural practice

and so as to do as little damage as possible to trees, fences, hedges and growing crops;

(b) cause the felled trees, lopped boughs or root cuttings to be removed in accordance with the directions of the owner or occupier; and

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

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

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

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

(b) those efforts have been unsuccessful,

the Regulator may recommend to the Minister that the immovable property be acquired under the Land Acquisition Act (Chapter 295) and transferred to the licensee.

(2) Where the Minister, by Order published in the *Gazette*, approves the proposed acquisition of the immovable property specified in the recommendation of the Regulator made under paragraph (1), such immovable property shall be deemed to be required for a public purpose and may accordingly be acquired under the Land Acquisition Act (Chapter 295) and transferred to the licensee.

(3) Any sum payable for the acquisition of any immovable property under the Land Acquisition Act (Chapter 295) for a licensee shall be payable by that licensee.

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

SCHEDULE III

[section 21(7)(d)]

ELECTRICITY SUPPLY CODE

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

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

- (a) the second working day after such tariff customer gives such notice to the licensee provided that reasonable access to the premises has been granted;
- (b) the next day on which the register of any meter is ascertained; and

- (c) the day from which any subsequent occupier of the premises requires the supplier to supply electricity to the premises.

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

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

- (a) may refuse to furnish such tariff customer with a supply of electricity at any other premises until such tariff customer pays the charges due;
- (b) shall not be entitled to require payment of that charge from the next occupier of the premises.

(5) If a tariff customer-

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

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

(6) In paragraph (5) the “requisite period” means-

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

(b) in the case of any other premises, a period of ten days after the making of such a demand.

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

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

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

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

(a) has made good the default;

(b) has paid the reasonable expenses of disconnecting and reconnecting the supply; and

(c) has given such security as is mentioned in section 27 of this Act.

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

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

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

(6) Without prejudice to any right which any person may have by virtue of paragraph (4) to bring civil proceedings against a distribution licensee in respect of any failure to comply with the obligation imposed on the licensee by paragraph (1), compliance with that obligation may be enforced by the Regulator against the licensee by the institution of appropriate proceedings in a court of civil jurisdiction.

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

(2) If any person acts in contravention of paragraph (1), such person commits an offence under this Act and shall on conviction after a summary trial before a Magistrate be liable to a fine not

exceeding twenty five thousand rupees and the distribution licensee may cut off the supply.

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

(a) any electrical plant or electricity line belonging to or operated by-

- (i) a distribution licensee;
- (ii) a generation licensee; or
- (iii) a transmission licensee; or

(b) any part of any domestic electricity supply equipment belonging to or operated by a distribution licensee that is situated on his or her property,

such person commits an offence under this Act and shall on conviction after a summary trial before a Magistrate be liable to a fine not less than five thousand rupees and not exceeding fifty thousand rupees.

(2) In this item, “domestic electricity supply equipment” includes all lines and plants up to, and including, the meter situated in a consumer’s property.

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

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

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

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

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

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

(a) inspecting any electricity line or electrical plant belonging to or operated by the distribution licensee;

(b) ascertaining the register of any electricity meter and, in the case of a prepayment meter, removing any money or tokens belonging to or operated by the distribution licensee;

(c) removing, inspecting or reinstalling any electricity meter or installing any substitute meter or associated equipment.

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

(a) the consumer has applied in writing to the distribution licensee for the licensee to cease to supply electricity to the premises; and

(b) the licensee has failed to do so within a reasonable time.

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

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

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

(2) Where-

- (a) a distribution licensee is authorised by any other provision of this Act or of regulations made under it to cut off or discontinue the supply of electricity to any premises;
- (b) a person occupying any premises supplied with electricity by a distribution licensee ceases to require such supply;
- (c) a person entering into occupation of any premises previously supplied with electricity by a distribution licensee does not require such supply; or
- (d) a person entering into occupation of any premises previously supplied with electricity through a meter belonging to or operated by a distribution licensee does not hire or borrow that meter,

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

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

(a) placing a new electricity line or new electrical plant in place of, or in addition to, any existing line or plant which has already been lawfully placed; or

(b) repairing or altering any such existing line or plant.

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

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

(a) three days notice of the intended entry has been given by the electrical inspector or the licensee or officer of the licensee stating as fully and accurately as possible the nature and extent of the acts intended to be done;

(b) if required to do so, such electrical inspector or licensee has produced evidence of the authority of such electrical inspector or licensee;

(c) reasonable compensation is paid to the owner of the land or premises for any disturbance, disability or damage that may be caused pursuant to the entry.

(2) Any notice referred to in subparagraph (a) of paragraph (1) shall-

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

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

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

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

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

9. (1) If, in an attempt to exercise any of the powers of entry conferred by this Schedule, the distribution licensee has made all reasonable efforts, otherwise than by the use of force, to obtain entry to the premises; and those efforts have been unsuccessful, it may

apply, *ex parte*, to the Magistrate's Court having jurisdiction over the place where the premises are situated for an order authorizing the licensee or an officer authorized by the licensee to enter the premises by force.

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

(3) The licensee or an officer authorised by the licensee shall incur no liability to any person in respect of the entry by force to the premises:

Provided that, such licensee or officer shall -

- (a) take no action to effect entry other than such action as is specified in the order;
- (b) observe any condition stipulated by the order; and
- (c) do as little damage as is reasonably practicable in taking the specified action and in observing any stipulated condition.

(4) No appeal shall lie from a decision of the Magistrate's Court-

- (a) to grant or not to grant an order under paragraph (1);
or
- (b) regarding the terms of, or the conditions stipulated in, any such order.

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

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

(a) the officer shall ensure that the premises are left no less secure by reason of the entry; and

(b) the distribution licensee shall make good, or pay compensation for, any damage caused by the officer, or by any person accompanying him or her in entering the premises, or in taking any action authorised by this Schedule, or in making the premises secure.

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

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

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

(a) shall be deemed not to be landlord's fixtures, notwithstanding that they may be fixed or fastened to

any part of the premises in which they may be situated;
and

- (b) shall not be subject to distress or be liable to be taken in execution under process of any court or any proceedings in bankruptcy against the person in whose possession they may be.

SCHEDULE IV

[section 21(7)(e)]

USE OF ELECTRICITY METERS

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

(2) The meter shall be provided-

(a) by the distribution licensee; or

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

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

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

(a) is necessary to secure compliance with the provisions of this Schedule or any regulations made under the Act; or

(b) is otherwise reasonable in all the circumstances,

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

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

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

(7) Pending the decision under section 23 of any dispute arising under this item, the Regulator may give directions as to the provision or installation of a meter and directions under this item may apply either in the case of meters of particular descriptions or in particular cases.

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

(a) the premises are not premises used wholly or mainly for domestic purposes; or

(b) the supplier or the consumer is a person authorized by an exemption to supply electricity to those premises.

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

(a) is of an approved pattern or construction and is installed in an approved manner; and

(b) subject to the provisions of paragraph (2), is certified under item 4,

and in this Schedule “approved” means approved by the Regulator in accordance with regulations made under this Act.

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

(3) Regulations may provide-

(a) for determining fees to be paid for approvals given by or under the regulations;

(b) for revoking an approval so given to any particular pattern or construction of meter and requiring meters of that pattern or construction which have been installed to be replaced with meters of another approved pattern or construction within a prescribed period;

(c) for revoking an approval so given to any particular manner of installation in that manner to be installed in another approved manner within such period as is specified in the regulation,

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

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

- (a) the meter is not of an approved pattern or construction or is not installed in an approved manner; or
- (b) except in the case of a meter referred to in subparagraph (b) of paragraph (2) of item 1, is not certified under item 4,

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

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

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

(4) No proceedings shall be instituted in respect of an offence under this item except by or on behalf of the Regulator.

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

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

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

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

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

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

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

(2) In the event of-

- (a) a meter (by which the quantity of electricity supplied to any consumer is ascertained) being proved to register consumption incorrectly;

- (b) the malfunction of any meter; or
- (c) any person altering the register of any meter used for measuring the quantity of electricity supplied to any premises,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (a) alters the register of any meter used for measuring the quantity of electricity supplied to any premises by a distribution licensee; or

- (b) prevents any such meter from duly registering the quantity of electricity supplied through that meter,

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

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

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

shall be sufficient evidence that the alteration or prevention was intentionally caused by such person.

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

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

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

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

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