

No. 11 of 2011.

*Saint Christopher (Electricity Supply)  
Act, 2011.*

Saint Christopher  
and Nevis

I assent,



CUTHBERT M SEBASTIAN  
*Governor-General*

14<sup>th</sup> April 2011.

## SAINT CHRISTOPHER AND NEVIS

### No. 11 of 2011

AN ACT to provide for the supply of electricity in the island of Saint Christopher, to allow for the privatisation of electricity services and for related matters.

*[Published 14<sup>th</sup> April 2011 Official Gazette No. 18 of 2011]*

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the National Assembly of Saint Christopher and Nevis and by the authority of the same as follows:

#### PART I PRELIMINARY

##### 1. Short title and commencement.

This Act may be cited as the Saint Christopher Electricity Supply Act 2011 and shall come into operation on such date as the Minister may appoint by Order in the Gazette.

##### 2. Interpretation.

In this Act unless the context otherwise indicates

“Commission” means the Public Utilities Commission established under section 3 of the Public Utilities Act Cap. 16.04;

“Government” means the Government of Saint Christopher and Nevis;

“area of supply” in relation to a public supplier, means the area within which a supplier is authorized to supply electricity under a public supplier's licence;

“consumer” means any person who is supplied with electricity by a public supplier;

“electricity” includes electric voltage, electric current, electric energy or any like agency;

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“Electricity Department” means the department within the Government responsible for the generation and supply of electricity to consumers and include all lands, buildings, electrical plants, furnishings and vehicles used by the department;

“electrical fittings” means electric fittings, apparatus and appliances designed for use by consumers of electricity for lighting, motive, power and other purposes for which electricity may be used;

“electricity line” means any wire or conductor used or to be used for the purpose of conveying, transmitting or distributing electricity or as pilot lines for remote control, protection, coating, covering, tube, pole, stay wire, bracket, pipe or insulator enclosing, surrounding or supporting the same, or any part thereof;

“electrical plant” means any plant, equipment, transformer, switchgear, apparatus and appliance used for the purpose of generating, transmitting and distributing electricity, and includes any building or structure required to accommodate any of the same but does not include any electrical fittings;

“general supply” means the supply of electricity to consumers;

“licensed supplier” means the holder of any licence granted under section 5;

“meter” means any electricity meter;

“Minister” means the Minister responsible for Energy;

“potential consumer” means any person entitled to be supplied with electricity;

“premises” include a dwelling house;

“private purposes” includes any purposes for which electricity may be used or applicable, not being public purposes;

“private supplier’s licence” means a licence granted for private purposes and “private supplier shall be construed accordingly;

“property” means any land and or building other than a dwelling house;

“public purposes” includes the general supply of electricity for the island of Saint Christopher, the lighting of public roads, provision of lighting for Government buildings and institutions;

“public supplier” means the holder of a public supplier’s licence;

“public supplier’s licence” means a licence granted for the supply of electricity for public purposes;

**PART II****CONTROL OF SUPPLY OF ELECTRICITY****3. Licence required for supply of electricity.**

(1) Subject to subsection (2), no company or person shall supply electricity in any area except under an Act or under a licence granted under this Act.

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(2) The Minister, in consultation with the Commission, shall prescribe in any private licence issued pursuant to subsection (1), such special conditions where the application is in respect of an electrical plant that is

- (a) powered only by wind and which is used by a person for the sole purpose of supplying electricity to his or her own premises;
- (b) used only for the photovoltaic generation of electricity by any person for the sole purpose of supplying electricity to his or her own premises.

(3) The Minister may determine that a licence is not required if the application is in respect of electrical equipment or electricity that may be

- (a) installed in any vehicle, vessel or aircraft for the sole purpose of supplying electricity to that vehicle, vessel or aircraft;
- (b) used only in connection with the carrying on of any construction or repair work, or any excavation, in any case where it is not reasonably practicable to use electricity supplied under a public supplier's licence; or
- (c) of such a limited nature and for the sole purpose of supplying electricity to a person's own premises that the grant of a licence is not deemed necessary under the circumstances in question.

**4. Application of Act.**

This Act shall apply to any licensee who may, by a licence granted under this Act, be authorised to supply electricity within any area.

**5. Minister may by licence grant right to supply electricity.**

(1) The Minister may, from time to time, by licence, grant to any company or person the right, which may include an exclusive right, to supply, generate, transmit or distribute electricity for any public or private purposes within any area and for such period as the Minister may consider proper but subject to the following provisions of this section.

(2) A licence may be for any period but the exclusive right granted by a licence shall not extend beyond a period of twenty five years from the commencement of a licence granting such right.

(3) Prior to the expiration of the period for which any licence, other than an exclusive licence, has been granted, a new licence may be granted with rights under such licence to take effect from the date of the expiration of the previous licence.

(4) Every person applying for a licence shall apply in such form and the application shall contain such particulars as the Minister may prescribe.

(5) The Minister shall publish by Notice in the Official Gazette the grant of any licence under this Act.

**6. Minister may make rules or Regulations.**

The Minister may make, rescind, alter or vary any rules or Regulations, including prescribing all forms necessary for the proper carrying out of this Act and may prescribe any fees applicable to the grant of any licence under this Act.

**7. Conditions of licence.**

(1) Any licence under this Act shall be subject to conditions governing the following matters:

- (a) the limits within which and the conditions under which a supply of electricity is to be provided;
- (b) the securing of a regular and efficient supply of electricity;
- (c) securing the safety of the public from personal injury or from fire or otherwise;
- (d) the limitation of the prices to be charged in respect of the supply of electricity;
- (e) the authorising of inspection and enquiry from time to time by the Minister;
- (f) the enforcement of the due performance of the duties of any company or person licensed under this Act in relation to the supply of electricity by the imposition of penalties or otherwise and by the revocation of any licence where any company or person licensed under the Act has, in the opinion of the Minister, practically failed to carry the powers granted to them into effect within a reasonable time or discontinued the exercise of such powers; and
- (g) generally with regard to any other matter in connection with the licence.

(2) The Minister may, on application made in writing by a private supplier not later than one year before the expiration of the period of validity of the relevant private supplier's licence, renew such licence for a period not exceeding the original period for which the licence was granted as shall be endorsed on that licence and subject to such terms and conditions as shall be so endorsed.

(3) The Minister may, on application made in writing by a public supplier not later than one year before the expiration of the period of validity of the public supplier's licence

- (a) where such licence was originally granted for a period of less than twenty five years, extend the period of validity of such licence for such further period as not to exceed twenty five years reckoned from the original date of validity of the licence;
- (b) where such licence was originally granted for a period of twenty five years, renew that licence for a period not exceeding twenty five years as shall be endorsed on that licence and subject to such terms and conditions as shall be agreed.

(4) Where a public supplier has no intention of seeking renewal of its licence, the supplier shall give notice in writing to the Minister of the supplier's intention not to renew its licence no later than two years before the expiration of that licence.

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(5) Where a public supplier contravenes subsection (4), such supplier shall pay to the Government one million dollars or such greater sum that shall be commensurate with the extent of the supplier's default and the Government may recover the amount from the supplier as a civil debt.

(6) Where a private supplier contravenes subsection (4), such supplier may be liable to pay the Government two thousand five hundred dollars or such greater sum that shall be commensurate with the extent of the supplier's default and the Government may recover the amount from the supplier as a civil debt.

**8. Act binds Crown.**

This Act binds the Crown.

**9. Revocation of licences.**

(1) Subject to subsections (2) and (3), the Minister, in addition to the exercise of any power conferred on him under a licence to revoke that licence, may, by notice in writing served on a licensed supplier, revoke the licence held by the supplier on any of the following grounds –

- (a) in the case of a public supplier's licence, where the supplier
  - (i) has been convicted of non-compliance with an order of the Public Utilities Commission pursuant to section 38 of the Public Utilities Commission Act; or
  - (ii) where the Minister has exercised his powers under section 36 of this Act;
- (b) in the case of a private supplier's licence where
  - (i) the licensee performs its functions under the licence in a manner likely to constitute a nuisance or to cause injury to any other person;
  - (ii) the licensee performs in any manner the services of a public supplier that it is not so authorised to perform;
  - (iii) the licensee unlawfully taps into or accesses the public supply of electricity;
  - (iv) the licence was obtained by fraud.

(2) Before serving on a private supplier a notice of revocation pursuant to subsection (1), the Minister shall serve on the licensee a notice in writing stating

- (a) that the Minister is considering the service of a notice of revocation under this subsection on the supplier on the grounds specified in the notice; and
- (b) that the supplier may, within a period of thirty working days from the date of the service on him of the notice under this subsection, make written representations to the Minister.

(3) The Minister shall consider any representations made by a private supplier in response to a notice under subsection (2) before serving a notice of revocation on the supplier.

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(4) After a public supplier's licence has been revoked under subsection (1) or terminated under this section, the Minister shall cause notice to be published in the Gazette and in such other way as appears to him expedient for notifying consumers in the supply area to which the licence relates.

(5) A notice of revocation shall not have effect within a period of three months from the date of the service of such notice in the case of a private supplier's licence.

(6) The Minister shall

- (a) at the request of a public supplier made at least twenty-four months prior to the intended date of termination, terminate the licence held by the supplier on such date; and
- (b) at the request of a private supplier made at least three months prior to the intended date of termination, terminate the licence held by the supplier on such date.

**10. Appeals.**

(1) A public supplier may appeal to the High Court against a notice of revocation issued in respect of its licence under subsection (1) of section 9.

(2) A private supplier may appeal to the Magistrate's Court against a notice issued in respect of its licence under subsection (1) of section 9.

(3) An appeal under subsection (1) or (2) shall be instituted by a licenced supplier within a period of twenty-one days from the date on which the notice was served on the supplier.

**11. Purchase by Government on revocation of a public supplier's licence.**

(1) Where the Minister revokes a public supplier's licence in accordance with this Act, the Government may purchase all the assets of the public supplier used pursuant to its obligations under its licence at the then current market value.

(2) Where the Minister fails to renew the public supplier's licence under section 7, the public supplier may sell its assets used pursuant to its obligation under its licence to such person as the Government may approve and where there is no such person to purchase the assets of the public supplier the Government shall purchase all such assets at the then current market value of such assets.

(3) For the purposes of this section the current market value of the assets shall be determined by an independent valuer agreed upon by the Government and the public supplier.

**PART III****VESTING IN SUCCESSOR COMPANY****12. Vesting of Property in Successor Company.**

(1) The Minister may, by order, appoint a vesting day on which there shall vest in a successor company, free of any trust, express or implied

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- (a) the whole of the undertaking of the Electricity Department together with all land, buildings, electric lines, electric plants, electric installations, electrical fittings and all other materials, appliances, equipment and apparatus used for, by or in connection with the production and supply of electricity in Saint Christopher;
- (b) all interests, rights, easements, assets, or liabilities, which immediately before the vesting day were enjoyed or borne by the Electricity Department;
- (c) the right to recover monies due and payable to the Electricity Department in connection with the production and supply of electricity.

(2) As from the vesting day, the benefits and burdens of any contract made for the provision of electricity supply to which the Government is a party, and which was in force immediately before the vesting day, shall be deemed to have been transferred to the successor company.

(3) Without prejudice to the generality of the foregoing provisions of this section, where by the operation of any of those provisions, any right or liability vests in a successor company, the said company and all other persons shall have the same rights, powers and remedies for ascertaining, perfecting or enforcing those rights or liabilities as they would have had if it had at all times been a right or liability of the successor company and any agreement applied to the Electricity Department by or under this Act shall be continued by or against the company.

**13. Nomination of successor company.**

The Minister may by order, on the vesting day, nominate as the successor company, a company formed and registered under the Companies Act, provided that on the vesting day such successor company is a company limited by shares and such shares are wholly owned by the Government.

**14. Cessation of Functions of Electricity Department .**

As from the vesting day the Electricity Department shall cease to

- (a) generate, distribute, supply and sell electricity for public and private purposes;
- (b) promote and encourage the effective and efficient development and administration of the supply of electricity.

**PART IV**

**ROLE OF PUBLIC UTILITIES COMMISSION**

**15. Powers Duties and Functions of the Commission.**

(1) Further to any powers exercisable by it under the Public Utilities Act, the Commission shall have power to regulate and oversee generally the overall use and supply of electricity in Saint Christopher.

(2) In exercising its powers, the Commission shall be responsible for and use its best efforts to

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- (a) promote and encourage the effective and efficient development and administration of the electricity supply, having regard to the development, well-being and security of the country;
  - (b) oversee the generation, distribution, supply and sale of energy for public and private purposes;
  - (c) promote the interests of consumers of electricity supplied by persons licenced to supply electricity in terms of
    - (i) the prices charged and the other terms of supply;
    - (ii) the continuity of supply; and
    - (iii) the quality of the electricity supply services provided;
  - (d) encourage the operation and development of a safe, efficient and economic electricity sector in Saint Christopher;
  - (e) ensure the security and efficiency of the supply of electricity in Saint Christopher through the conduct of an efficient long-term supply planning process with due regard for future potential generation sources such as renewable energy and wind energy;
  - (f) facilitate the promotion of sustainable and fair competition in the electricity sector where it is efficient to do so;
  - (g) protect the interests of all classes of consumers of electricity as to the terms and conditions and price of supply;
  - (h) protect the public from dangers arising from the generation, transmission or supply of electricity;
  - (i) facilitate the collection, publication, and dissemination of information relating to standards of performance by licensed operators and for the electricity sector in Saint Christopher for use by the electricity industry and its consumers and by prospective investors in the sector;
  - (j) secure the establishment and maintenance of machinery for promoting the health and safety of persons employed in the generation, transmission or supply of electricity.
- (3) In exercising its duties referred to in subsection (2), the Commission shall have due regard to
- (a) national and international environmental standards as they affect the electricity sector and shall consult with environmental bodies in Saint Christopher or in the region where necessary or expedient in relation to consumer and industry interests; and
  - (b) developments with respect to regional cooperation in electricity supply and regulation in the Region.

**16. General Functions of the Commission.**

- (1) The Commission shall



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- (a) review and advise the Minister on legislation relating to the provision of electricity supplies;
- (b) advise the Minister on the generation, transmission, distribution and supply of electricity;
- (c) review and set appropriate tariff rates for the supply of electricity;
- (d) establish, maintain, review and amend as appropriate technical and performance standards for all types of facilities within the electricity sector and shall monitor and enforce compliance with such technical standards;
- (e) establish, maintain, review and monitor safety standards for all types of facilities within the electricity sector and shall monitor and enforce compliance with such safety standards;
- (f) approve, modify monitor and enforce terms and conditions for the supply of electricity to consumers;
- (g) set operational and efficiency standards and benchmarks for licencees and monitor the performance of licencees against such standards, benchmarks and mutually agreed targets;
- (h) review the development plans, expansion programmes and fuel cost efficiencies of licencees;
- (i) review and report on the efficiency of asset utilization and optimization and the appropriateness and implications of rate structures; and
- (j) take such other actions as the Commission deems necessary to fulfill its duties and functions under this Act or as are otherwise necessary to serve the public interest or to fulfill the objectives of other legislation or treaties relating to the electricity sector in Saint Christopher.

**PART V****ELECTRICITY INSPECTORS****17. ELECTRICITY INSPECTORS**

(1) As from the vesting day there shall be appointed by the Governor-General officers to be known as electricity inspectors for the purpose of carrying out the functions assigned to them under this Act and specifically to do the following:

- (a) the right at all reasonable times to enter and inspect all electrical installations in all buildings and places, whether public or private, before energy is supplied, for the purpose of determining whether such installations have been carried out in accordance with the requirements of Regulations made under this Act and to the satisfaction of the electrical inspector.
- (b) to inspect on the request of the Public Utilities Commission, of the Commissioner of Police or any insurance company directly concerned or the occupier or owner of electrical installations in all buildings and places, whether public or private, for the purpose of determining whether

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- (i) such installations meet all proper requirements of safety from personal injury or fire or otherwise to the satisfaction of an electrical inspector;
  - (ii) such installations have been carried out in accordance with the requirements of Regulations made under this Act.
- (c) the superintendence of all electrical installations to be carried out in Government premises or properties and of requiring all repairs in connection with the same and the superintendence of fixing and repairs of all Government lightning conductors and the testing of the same;
- (d) the inspection of the wiring and connections from the licensee's mains to the consumers' meters for the purpose of determining
- (i) whether the said wiring and connections are capable of conveying to the consumers' meters the electric supply guaranteed by the licensee;
  - (ii) availability of the supply of electricity at the mains with safety and without undue drop in voltage when all the lights and electrical appliances of the consumers' installations are in use,
- (e) to notify both the licensee and the consumers if the wiring and connections referred to in paragraph (d) are inadequate or incapable of conveying or maintaining the electricity supply
- (f) to carry out such other duties as may be prescribed by the Minister under the authority of this Act or any other enactment.
- (2) (a) An electricity inspector shall have the right to direct a licensed supplier not to supply electricity to premises or property in which any installation, fittings or wiring is deemed by him to be unsafe.
- (b) The licensed supplier shall comply with such direction as soon as may be practicable and shall only reconnect the supply of electricity to such premises or property when the electricity inspector has certified that the installation, fittings or wiring in question has been made safe.
- (3) An electricity inspector shall be entitled to supervise any test carried out pursuant to the provisions of subsection (1).
- (4) Where an electricity inspector conducts an inspection pursuant to subsection (1) paragraphs (a) and (d), he shall, within fourteen days of such inspection make a deliver a report thereon to the Minister.
- (5) In the exercise of the powers granted to inspectors under this Act, there shall be appointed by the Governor General a Chief Inspector who shall be responsible for the supervision of all electricity inspectors appointed pursuant to this Act and shall have ultimate responsibility for the performance of the obligations assigned to the office of an electricity inspector.

**18. Consent for supply of electricity**

- (1) No electricity shall be supplied to any property or premises after the vesting day, or to any extension of any property or premises in existence before that date until the

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Chief Electricity Inspector grants his permission in writing to the person seeking the supply of such electricity.

(2) Where the applicant for the supply of electricity or his representative is dissatisfied with the decision of an electricity inspector, he may appeal to the Commission.

**19. Consent for alteration.**

No person shall alter or extend any electrical installation to his property or premises without the permission of an electricity inspector.

**20. Fees.**

(1) It shall be lawful for electricity inspectors to charge such fees as may be prescribed in respect of the services provided by them.

(2) All fees collected by the electricity inspectors shall be paid into the Consolidated Fund.

**21. Consumer may require test of meter.**

(1) Whenever requested to do so by any consumer and after payment by such consumer of any testing fee as may be prescribed, a public supplier shall test the meter registering the electricity supplied to such consumer against a standard meter and supply the consumer with a report showing the result of the test.

(2) If the report supplied under subsection (1) shows that the meter is registering above or below such standard as may be prescribed in accordance with the Public Utilities Commission Act, the public supplier shall replace the meter in question and shall refund to such consumer the testing fee paid by him.

(3) Pursuant to section (2) the meter shall be deemed to have been so registering erroneously from the first day of the period for reading the meter prior to the then current period until the date upon which the meter is replaced, and the public supplier shall make an allowance to such consumer in respect of electricity supplied during such time.

**PART VI****SUPPLY OF ELECTRICITY BY PUBLIC SUPPLIER****22. Power to discontinue supply.**

Notwithstanding anything contained in the Public Utilities Act, if a consumer fails or refuses to pay and discharge any charge or other sum due and payable by the consumer to a public supplier under the Act in respect of the supply of electricity to such consumer, the supplier may cut off such supply and for that purpose may cut or disconnect any electric line or other work through which electricity may be supplied and may, until such charge or sum, together with any expenses incurred in so cutting off the supply of electricity is fully paid.

**23. Re-connection.**

Where a public supplier has discontinued the supply of electricity to any premises or property of any person in accordance with the provisions of this Act a re-connection fee, as

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may be prescribed by the public supplier, with the approval of the Commission shall be payable by that person to the public supplier, prior to re-connection of such supply to the premises or property of that person.

**24. Fraudulent Abstraction.**

(1) Any person who maliciously or fraudulently abstracts, causes to be wasted or diverted, consumes or uses any electricity commits an offence of larceny and shall be liable on summary conviction to a fine of five thousand dollars and one hundred dollars for each day that the offence continues unabated, or to imprisonment for a term of two years.

(2) Where electricity is fraudulently abstracted by a corporation, the corporation shall be liable to a fine of ten thousand dollars and two hundred and twenty five dollars for each day that the offence continues unabated.

(3) The provisions of subsections (1) and (2) shall not affect the right of the supplier to recover the cost of electricity that was unlawfully abstracted from a person who commits such an act.

**25. Notice to be given by consumer before quitting his premises or property.**

(1) In the absence of any express agreement to the contrary between a consumer and a public supplier, at least fifteen working days' notice in writing shall be given by the consumer to the supplier before he quits any premises or property to which the public supplier supplies electricity.

(2) In default of a consumer giving notice to a public supplier in respect of any premises or property, such consumer shall be liable to pay to the supplier any monies due in respect of the supply of electricity by the supplier to those premises or property up to

- (a) the expiration of the usual period for reading the meter on the premises or property next following the date on which such consumer quit the premises or property; or
- (b) the date on which the subsequent occupier of those premises or property requires the supplier to supply electricity to the premises or property,

whichever first occurs, and the supplier may refuse to supply any electricity to such consumer under this section on quitting his premises or property until all such monies have been paid to the supplier.

(3) Notice to the effect that liability may accrue to a consumer under this section on quitting his premises or property shall be endorsed on each demand note for the payment of electricity supplied to the premises or property.

**PART VII****MEASUREMENT BY METER OF ELECTRICITY SUPPLIED BY PUBLIC SUPPLIER****26. Consumption of electricity to be determined by meter.**

The consumption by a consumer of electricity supplied to him or her by a public supplier shall be determined by means of a meter.

**27. Public supplier to keep meters in repair.**

(1) A public supplier shall, at its expense, keep all meters supplied by it for the purposes of determining the consumption of electricity by any consumer, in proper working order, correctly registering the consumption within the limits of error as may be prescribed in accordance with the Public Utilities Act.

(2) Subject to subsection (3), the expenses incidental to the removal, testing, inspection or replacement of a meter incurred by a public supplier in pursuance of this section shall be borne by the supplier.

(3) Where the expenses referred to in subsection (2) are reasonably incurred by a supplier by reason of any unreasonable act or omission of the consumer, the supplier may recover the amount of such expenses from the consumer as a civil debt.

**28. Penalty for damaging meters and for reconnecting service line with meter without consent.**

- (1) Any person who
  - (a) wilfully, fraudulently or recklessly removes, damages, or suffers to be removed or damaged, any meter, or alters the index of any meter or prevents any meter from duly registering the quantity of electricity supplied; or
  - (b) reconnects with a meter service line which has been disconnected by a public supplier, without the authority of the supplier

shall, without prejudice to any other right or remedy for the protection of the public supplier in question or the punishment of the offender, be guilty of an offence and liable on summary conviction, for each offence, to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding one year.

(2) The prosecution of any offence under subsection (1) shall not prevent a public supplier from recovering the amount of any damage caused to the supplier by the commission of such offence and if the offence is an offence under paragraph (b) of that subsection, the supplier may again disconnect the line at the meter.

**PART VIII****CHARGES FOR ELECTRICITY SUPPLIED BY PUBLIC SUPPLIER****29. Charges for electricity supplied by public supplier to be at prescribed rates.**

(1) The charges made by any public supplier for electricity supplied by him to a consumer shall be in accordance with such tariff of rates and charges as may be prescribed in accordance with this Act or the Public Utilities Act.

(2) Any charges made by a public supplier to a consumer under and in accordance with this Act shall be recoverable by the supplier as a civil debt.

**30. New occupier not to be liable for arrears.**

If the consumer at any premises or property quits the premises or property without paying any amount due to a public supplier in respect of charges for electricity, the supplier

shall not be entitled to require from the next consumer or potential consumer at the premises or property the payment of the amount due.

## **PART IX**

### **SUPPLEMENTARY PROVISIONS WITH RESPECT TO PUBLIC SUPPLIER**

#### **31. Right of entry of public supplier.**

(1) A person authorized by a public supplier may at all reasonable times or at any time during an emergency, on the production of some duly authenticated document showing his identity, enter upon the property or premises to which electricity is or has been supplied by the public supplier for the following purposes

- (a) inspecting, testing, maintaining, fixing, replacing or moving the electric lines, meters, fittings, wiring and apparatus thereon belonging to the public supplier;
- (b) ascertaining the quantity of electricity consumed or supplied in or to such premises or property
- (c) where a supply of electricity is no longer required or where the public supplier is entitled to cut off the supply of electricity in order to remove any electric lines, meters, fittings, wiring or apparatus belonging to the public supplier.
- (d) any other work that is necessary for the supply of electricity authorised by the licence granted to the public supplier.

(2) The public supplier shall repair all damage caused by any such actions taken pursuant to subsection (1).

(3) Where any person wilfully or maliciously places or erects anything on any property or premises which impedes or hinders or is likely to impede or hinder the easy entry, inspection, testing, maintenance, fixing, replacement, moving or removal by the public supplier of its property, the public supplier shall be at liberty to remove the impediment or hindrance in question at the cost of the occupier of the property or premises in question and the public supplier shall not be responsible for any damage caused thereby.

#### **32. Power of Government to confer exemption.**

(1) The Government may exempt, by order, a public supplier from liability to pay any taxation, duties, imposts, levies and rates and any interest, penalty or fine in connection therewith which would otherwise be payable in respect of the operations, activities, investments and profits of the supplier arising pursuant to the supplier's holding of a public supplier's licence.

(2) Where an exemption is granted in accordance with subsection (1), the exemption shall last for such period, not exceeding the period of validity of the supplier's licence, as shall be specified in the order.

(3) The Government may similarly exempt such supplier from any exchange or other restriction or control in relation to the remittance of funds by the supplier to others whether overseas or otherwise.

**33. Additional Information.**

The Chief Electricity Inspector may, at least once in each year, request from a public supplier such information with respect to the property and activities of any such supplier relating to the public supply of electricity as the Minister may reasonably require.

**34. Electric lines etc., to remain property of public supplier.**

Except where otherwise agreed between a public supplier and a consumer, all electric lines, meters and any electrical fittings belonging to a public supplier which are in or on any property or premises, not being in the possession of the supplier

- (a) shall be the property of the supplier;
- (b) shall not be taken as remedy for rent, or be liable to be taken in execution under any process of any court or proceedings in bankruptcy, insolvency, liquidation or receivership against the person in whose possession they are; and
- (c) shall not be deemed to be a landlord's fixture,

notwithstanding that they may be fixed or fastened to any part of the property or premises.

**35. Notification of accidents and inquires.**

(1) A licensed supplier shall give notice in writing to an electricity inspector of any accident by explosion, fire or otherwise which has occurred in or in connection with any part of the supplier's electrical plant or electric lines, and which has caused loss of life or personal injury and such notice shall contain particulars of any loss of life or personal injury caused by the accident.

(2) Where an accident mentioned in subsection (1) occurs and no loss of life or personal injury has resulted therefrom but which has caused substantial damage to any property or premises, the electricity inspector may request from the licensed supplier information relating to such incident.

(3) The Minister may direct the chief electricity inspector to inquire into and report on the following:

- (a) any accident affecting public safety in or in connection with any part of a licensed supplier's electrical plant or electrical lines, whether or not notice under subsection (1) of any accident is received by the chief electricity inspector; or
- (b) whether the provisions of this or any other relevant law, and the conditions of the licensed supplier's licence, in so far as they affect the safety of persons, have been complied with by the licensed supplier.

**36. Assumption of control of exercise of public supplier's licence by the Minister.**

- (1) Where the Minister is satisfied

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- (a) that a public supplier is failing or is likely to fail, to supply electricity to such an extent as to cause hardship to consumers generally in the supplier's area of supply for a longer period than may reasonably be expected in the case of a temporary breakdown in such supply; and
- (b) that the failure or apprehended failure of the supplier cannot be remedied adequately within a reasonable time,

the Minister may enter upon and take possession of all the works of the public supplier.

(2) Where the Minister takes action pursuant to subsection (1), he may by order, direct such person as may be specified in the order, to take over the control and management of any undertaking carried on by the supplier for the purpose of supplying electricity under a public supplier's licence and to take all such steps as that person may deem necessary or expedient to ensure the maintenance of a proper and efficient supply of electricity to consumers in that area.

(3) An order made under subsection (2) shall have effect until it is revoked by a subsequent order and shall be sufficient authority for such person as may be specified in the order to

- (a) enter any property or premises, whether or not in the possession of the public supplier for the purpose of ensuring a proper and efficient supply of electricity to consumers in the supplier's area of supply;
- (b) take possession of and use any electrical plant and vehicle in connection with the supply of electricity under the supplier's licence;
- (c) exercise any such rights or powers which the supplier is entitled to exercise, whether under this Act or otherwise, as may be necessary for that purpose; and
- (d) require any person who, immediately before the making of the order, was employed by the supplier in connection with the supply of electricity under the supplier's licence to assist the Minister in taking any steps required to be taken for that purpose.

(4) The Minister shall cause a copy of an order made under subsection (2) and of any subsequent order revoking that order to be served on the public supplier and shall cause any such order to be published in the Gazette.

(5) A public supplier may appeal to the High Court against an order made under subsection (2) within twenty-one days of the date of service on the supplier of a copy of the order in accordance with subsection (4) and on such an appeal, the High Court may quash, confirm or vary the order.

**PART X****MISCELLANEOUS****37. Other lines may be attached to electricity poles.**

Any company entitled to operate a public telecommunications system under the Telecommunications Act and any licensed cable television company, on the terms and



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subject to the conditions of any agreement between each of them and the public supplier, may attach and keep attached, any line used or intended to be used for the purposes of the telecommunications system or the cable television system as the case may, be to any pole or other support used by the public supplier for suspending an electric line above ground.

**38. Damaging electrical plant to cut off supply and stealing electricity.**

(1) Any person who unlawfully and maliciously damages any electrical plant with intent to cut off a supply of electricity, or who incites any other person to do so, commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars or imprisonment for a term not exceeding three years or to both such fine and imprisonment.

(2) Any person who unlawfully obstructs or causes to be obstructed, or diverts or causes to be diverted, any electricity, or consumes or uses any electricity which has been unlawfully obstructed or diverted, commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding three months and in addition to such fine or imprisonment shall be liable to make payment of any damages awarded by the court to the supplier in respect of the electricity which has been so obstructed or diverted.

(3) Any person who wilfully, fraudulently or recklessly removes, damages or disconnects or suffers to be removed, damaged or disconnected any electric line, switch or wiring or apparatus belonging to a public supplier commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding three months and without prejudice to the foregoing, the public supplier may thereafter recover from such person the amount of any loss or damage sustained by it.

(4) If, upon any premises or property in the occupation of a consumer, there is connected or adjacent to any electric line, any wire or device capable of wrongfully obstructing, diverting, consuming or using electricity, the existence of such wire or device shall be prima facie evidence that such consumer has unlawfully, obstructed or diverted electricity.

**39. False statements etc.**

(1) Any person, who for the purpose of obtaining a licence under this Act, whether for himself or herself or any other person, or for any other purpose connected with this Act

- (a) knowingly makes a false statement or false representation; or
- (b) produces or furnishes, or causes or knowingly allows to be produced or furnished, any document or information which he knows to be false in a material particular,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding two thousand dollars or to imprisonment for a term not exceeding one month.

**40. Obstruction.**

Any person who obstructs

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- (a) any other person authorised by a public supplier to perform any of the supplier's powers, functions or duties under this Act, in the exercise or the performance of any such powers, functions or duties by that other person; or
- (b) an electricity inspector in the exercise or performance of any of his powers, functions or duties under this Act,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding two thousand dollars or to imprisonment for a term not exceeding one month.

**41. Right of public supplier to move lines.**

Where the owner of any land over which any overhead electric line belonging to a public supplier is situated, obtains planning permission in respect of such land, the public supplier shall be entitled, at its expense, to move such line to a suitable alternative route so that the development in respect of which planning permission has been obtained shall not interfere with the supply of electricity by the public supplier through such line.

**42. Damage caused by lopping trees or by motor vehicles.**

(1) Any person who fells, lops or trims any tree or shrub thereby causing damage to any property of a public supplier shall be liable to pay the expense of remedying the damage so caused.

(2) Any person who drives any motor vehicle and thereby causes damage to any property of a public supplier shall be liable to pay the expense of remedying the damage so caused.

(3) For the purposes of this section "property" means any electrical plant, electric line or electricity pole.

**43. Power to execute works on land.**

(1) A public supplier may execute electrical works as may be necessary in, over or upon any land subject to

- (a) in the case of land belonging to the Government, the consent in writing of the Minister of Lands in the Government or an officer appointed by him for the purposes of this section;
- (b) in the case of any other land, the receiving of permission in writing from the owner or occupier thereof

on the condition that in case of emergency a public supplier may undertake such works as may be necessary on any land and immediately thereafter notify the owner or occupier of such land.

(2) Before placing an electric line across any land or along any road not maintained or maintainable at public expense, a public supplier shall serve an owner or occupier thereof notice of the supplier's proposal, together with a description of the nature and position of the proposed line.

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(3) If the owner or occupier on whom a notice under subsection (2) is served, does not respond in writing to the public supplier within thirty days after the date of service of such notice, such owner or occupier shall be deemed to have consented to the supplier's proposal.

(4) If, within thirty days after the date of service by a public supplier of a notice pursuant to subsection (2), the owner or occupier notifies the public supplier that he objects to the laying of any electric line across such land or road or attaches to his consent any terms or conditions to which the supplier objects, the supplier shall not place the line across such land or road unless prior approval of the Chief Electricity Inspector has been obtained in accordance with subsection (5).

(5) The Chief Electricity Inspector may, after giving the parties an opportunity of making representations to him or her, give his or her approval for the purpose of subsection (4), either unconditionally or subject to such terms and conditions as he or she thinks fit.

(6) A public supplier, an owner or an occupier may appeal to the Magistrate's Court against a decision of the Chief Electricity Inspector under this section.

**44. Power to lop trees.**

(1) Where any tree or shrub obstructs or interferes with the construction, maintenance or working of any electric line of a public supplier, or will interfere with the maintenance or working of such line, the supplier may serve a notice on the owner and occupier of the land in which the tree or shrub is growing, requiring him to lop or cut it so as to prevent obstruction or interference, on condition that the supplier shall pay the expenses reasonably incurred by the owner or occupier in complying with the notice.

(2) In any case where a notice under subsection (1) is served by a public supplier on any person who is the occupier but not the owner of the land in which the tree or shrub in question is growing, a copy of the notice shall also be served by the supplier on the owner, if known to the supplier.

(3) If, within twenty-one days from the date of service of a notice under subsection (1), neither the owner nor the occupier of the land in respect of which notice has been served

- (a) has complied with the requirements of the notice; or
- (b) has made an objection under subsection (4) to the notice,

the public supplier or any person authorised by him in writing in that behalf, may enter the land and lop or cut the tree or shrub in question as required by the notice.

(4) Notwithstanding subsection (3), in the event of an emergency, the public supplier or such authorised person having, where practicable, advised the owner and or occupier, may forthwith enter the land and cut or lop the tree or shrub in question but, in such circumstances, the owner and or occupier may seek reasonable compensation pursuant to subsection (5) and (6).

(5) If, within twenty-one days from the date of service of a notice under subsection (1) by a public supplier, or within twenty-one days from the date on which the tree or shrub in

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question is lopped or cut under subsection (4) pursuant to an emergency, the owner and or occupier of the land in respect of which the notice has been served, serves a counter-notice in writing, seeking compensation for the lopping or cutting as the case may be, either party may refer the matter to an electricity inspector for determination within twenty-one days from the date of service of the counter notice.

(6) Once a referral is made to an electricity inspector in accordance with subsection (5), the electricity inspector may, after giving the parties an opportunity of making written representations to him or her and after taking any such representations into account, make such order as he thinks fit, including an order empowering the public supplier concerned, after giving reasonable notice to the other party, to cause the tree or shrub in question to be lopped or cut, and may determine any question as to what compensation and expenses are to be paid.

(7) An order made by the electricity inspector under subsection (6) may be appealed to the Commission within twenty-one days from the date of the order.

(8) Where no such reference is made to the electricity inspector in accordance with subsection (4), a counter-notice under that subsection shall be deemed not to have been served for the purposes of subsection (3).

(9) Trees and shrubs shall be lopped or cut by or on behalf of a public supplier in pursuance of this section so as to cause as little damage as may be reasonable in all the circumstances to trees, shrubs, fences and growing crops.

(10) Where a public supplier takes action pursuant to subsection (1), it shall cause the boughs lopped to be removed as far as practicable in accordance with the particular circumstances of the owner or occupier and shall make good any damage done to the land.

(11) Where it is necessary to fell any tree for the purpose of construction or maintenance of any electric line, this section shall apply to the felling of trees as it applies to the lopping of trees.

**45. Power to survey lands.**

(1) A public supplier, without prejudice to any other rights of entry exercisable by it, or any person authorised by the supplier in writing in that behalf, may, at any reasonable time, and after giving ten days prior notice to the owner or occupier of the land, enter and survey any land, other than land covered by buildings, for the purpose of ascertaining whether the land would be suitable for the purposes of the supplier in the exercise of the public supplier's licence.

(2) Where in the exercise of any power conferred on a public supplier by subsection (1), any loss or damage is sustained by any person, that person shall be entitled to compensation to the extent of such loss or damage from the supplier.

**46. Preservation of amenity.**

A public supplier, in exercising any powers conferred by this Act in relation to the execution of any works or otherwise, shall have regard to the desirability of preserving

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natural beauty, of conserving flora and fauna and geological features of special interest, and of protecting buildings or objects of architectural or historical interest.

**47. Regulations.**

(1) The Minister may make Regulations prescribing all matters authorised or required to be prescribed under this Act or as may appear to him to be necessary or desirable for the purpose of giving effect to this Act.

(2) Regulations under this section may provide that a person contravening the Regulations shall be guilty of an offence against this Act and liable on summary conviction to a fine not exceeding one thousand dollars.

**48. Service of notices.**

(1) Any notice, order or other document required or authorized to be given or served on any person under this Act may be given or served on that person

- (a) by delivering it to him or her personally;
- (b) by leaving it at, or sending it by post addressed to him or her, at his or her usual or last known place of abode or business; or
- (c) if it is not practicable after reasonable enquiry to ascertain the name or address of that
- (d) person, by displaying it in a prominent place on the premises or property affected.

**49. Repeals and savings.**

The Electricity Act Cap.16.01 and the Electricity Ice and Cold Storage Act Cap. 16.02 are hereby repealed.

CURTIS A MARTIN  
*Speaker*

Passed by the National Assembly this 1<sup>st</sup> day of April 2011.

JOSÉ LLOYD  
*Clerk of the National Assembly*