

A BILL

i n t i t u l e d

An Act to amend the Electricity Supply Act 1990.

[]

ENACTED by the Parliament of Malaysia as follows:

Short title, commencement and application

1. (1) This Act may be cited as the Electricity Supply (Amendment) Act 2015.

(2) This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette*, and the Minister may appoint different dates for the coming into operation of this Act in different parts of Malaysia.

(3) This Act shall apply throughout Malaysia; however the Minister may, by order, suspend the operation of the whole or any of the provisions of this Act in any State.

General amendment

2. The Electricity Supply Act 1990 [*Act 447*], which is referred to as the “principal Act” in this Act, is amended by substituting for the words “shall be guilty of” wherever appearing the word “commits”.

Amendment of section 2**3. Section 2 of the principal Act is amended—**

(a) by inserting after the definition of “motor” the following definition:

‘ “power factor” means the ratio of active power to the apparent power;’;

(b) by inserting after the definition of “electricity distribution network” the following definition:

‘ “electricity supply infrastructure” means the licensee’s—

(a) generating station;

(b) main supply lines and supply lines;

(c) substations for converting, transforming or controlling electricity;

(d) equipment for metering, monitoring or controlling electricity; and

(e) any wires, equipment and passages including tunnels and cavities or others used for, or in connection with, the generation, transmission, distribution or supply of electricity;’;

(c) by inserting after the definition of “reserved land” the following definition:

‘ “retail” means the activity of supplying and selling of electricity to end consumers;’;

(d) in the definition of “equipment”—

(i) by deleting the comma after the word “energy”;

(ii) by inserting after the word “energy” the words “or communications”; and

(iii) by inserting after the word “accessories” the words “, electrical product, consumer electrical equipment”;

(e) by inserting after the definition of “consumer” the following definition:

“consumer electrical equipment” means an appliance, product, wires, device, accessory or any part thereof, that uses low voltage electricity that—

(a) is sold to the public; or

(b) does not require special skill in its operation;’;

(f) by inserting after the definition of “electrical product” the following definition:

“electrical work” means any work performed or carried out on an electrical installation and includes the installing, constructing, erecting or repairing, the altering of the structure, the replacing of any of its parts, the adding of any part to it or the carrying out of any work for the purposes of its maintenance, but does not include work in relation to—

(a) the manufacturing of an electrical installation or the assembling in the course of, or in connection with, its manufacture for the purpose of producing a new article; or

(b) the oiling, greasing, cleaning or painting of an electrical installation;’;

(g) by inserting after the definition of “Chairman” the following definition:

“Chief Executive Officer” means the Chief Executive Officer of the Commission;’;

(h) by inserting after the definition of “Commission” the following definition:

“communications” has the meaning assigned to it under the Communications and Multimedia Act 1998 [Act 588];’;

- (i) by inserting after the definition of “power factor” the following definition:

‘ “power quality” means the characteristics of the electricity at a given point on an electrical system, evaluated against a set of reference technical parameters such as voltage and current magnitude, frequency or waveform;’;

- (j) by inserting after the definition of “retail” the following definition:

‘ “ring fence” means identifying and isolating the activities, assets, costs, revenues and service obligations of a System Operator or a Single Buyer from the licensee referred to in sections 22A and 22B respectively through accounting, financial or legal separation or other means as determined by the Commission so as to ensure that the management of the System Operator or Single Buyer is capable of acting independently from activities under the licence of the licensee and to facilitate effective competition and enhance transparency in the operations of the power system;’;

- (k) by inserting after the definition of “management” the following definition:

‘ “meter” means any appliance, instrument, equipment or device used for the purpose of measuring and recording the amount of electrical energy or maximum demand or power factor or any combination;’;

- (l) by inserting after the definition of “ring fence” the following definition:

‘ “Single Buyer” means any person or a unit, department or division forming part of a licensee who is authorized under subsection 22B(1) responsible for the management of procurement of electricity and related services, which includes planning, scheduling, procuring and settlement, and any other function as may be prescribed;’;

- (m) by inserting after the definition of “system” the following definition:

‘ “System Operator” means any person or a unit, department or division forming part of a licensee who is authorized under subsection 22A(1) responsible for system security, operational planning, dispatch of generating units, real time operation and control of the power system and any other function as may be prescribed;’;

- (n) in the definition of “installation”, by inserting after the words “supply line” the words “, electricity supply infrastructure, domestic and non-domestic electrical installation”;

- (o) by inserting after the definition of “District Land Administrator” the following definition:

‘ “electrical product” means any equipment, device or appliance other than consumer electrical equipment;’;

- (p) by inserting after the definition of “electricity” the following definition:

‘ “electricity distribution network” means a system or part of a system at nominal voltage below 66 kilovolts of electric lines or cables, substations and associated equipment and buildings for distributing electricity regardless of whether a generating plant is connected to such system;’;

- (q) by inserting after the definition of “electricity supply infrastructure” the following definition:

‘ “electricity transmission network” means a system or part of a system at nominal voltage of 66 kilovolts and above of main supply lines or cables, substations and associated equipment and building used for conveying electricity—

- (a) from a generating station to a substation;
- (b) from one generating station to another;
- (c) from one substation to another;

- (d) to or from any interconnection point; or
 - (e) to the final consumer;’;
- (r) by inserting after the definition of “power quality” the following definition:
- ‘ “power system” means a combined system consisting of an electricity transmission network, electricity distribution network and generating stations connected to the electricity transmission network and includes part of such system;’;
- (s) by deleting the definition of “extra high voltage”; and
 - (t) by deleting the definition of “high voltage”.

Amendment of section 4

4. Section 4 of the principal Act is amended—

- (a) in paragraph (b), by inserting after the words “determination of” the words “supply and services standards,”;
- (b) in paragraph (d)—
 - (i) by substituting for the words “to promote the interests of consumers of electricity supplied by licensees in respect of—” the words “to exercise regulatory function in respect of the consumers’ interests and the enforcement in respect of—”;
 - (ii) in subparagraph (ii), by deleting the word “and” at the end of the subparagraph;
 - (iii) in subparagraph (iii), by inserting the word “and” at the end of the subparagraph; and
 - (iv) by inserting after subparagraph (iii) the following subparagraph:
 - “ (iv) the quality of electricity supply which includes reliability and power quality;”;

(c) by inserting after paragraph (e) the following paragraph:

“(ea) to regulate the activities of the licensee so that all reasonable demands for electricity are satisfied;”;

(d) in paragraph (f) in the English language text, by substituting for the word “secure” the word “ensure”;

(e) by inserting after paragraph (g) the following paragraphs:

“(ga) to promote the establishment and maintenance of safe and efficient systems for electricity generation, transmission, distribution and supply to consumers and the continued improvement of safety requirements;

(gb) to enforce standards for electrical installations and licensee’s electricity supply infrastructure, electrical products and consumer electrical equipment;”;

(f) by substituting for paragraph (k) the following paragraph:

“(k) to provide, where necessary, for the registration of any installation, person providing service relating to efficient use of electricity, private wiring unit, electrical contractor, electrical services contractor, electrical repair contractor, manufacturer and importer, training and examination center or institution, conformity assessment bodies and any competent person, as may be prescribed;”;

(g) in paragraph (la), by deleting the word “and” at the end of the paragraph; and

(h) by inserting after paragraph (la) the following paragraphs:

“(lb) to review or audit any of the information which a licensee is required to furnish to the Commission;

(lc) to audit or cause to be audited activities of any licensee or any other person determined by the Commission; and”.

Substitution of section 4A

5. The principal Act is amended by substituting for section 4A the following section:

“Authorized officer

4A. (1) The Minister may in writing authorize any public officer or officer of the Commission to exercise the powers of enforcement under this Act.

(2) Any such officer shall be deemed to be a public servant within the meaning of the Penal Code [*Act 574*].

(3) In exercising any of the powers of enforcement under this Act, an authorized officer shall on demand produce to the person against whom he is acting the authority issued to him by the Minister.”.

New sections 5A and 5B

6. The principal Act is amended by inserting after section 5 the following sections:

“Cost of holding things seized

5A. Where any equipment, instrument, material, book, record, account, document, goods or thing seized under this Act or its subsidiary legislation is held in the custody of the Government or the Commission pending completion of any proceedings in respect of an offence under this Act or its subsidiary legislation, the cost of holding such equipment, instrument, material, book, record, account, document, goods or thing in custody shall, in the event of any person being found guilty of an offence, be a debt due to the Government or the Commission, as the case may be, by such person and shall be recoverable accordingly.

Release of things seized

5B. (1) If any equipment, instrument, material, book, record, account, document, goods or thing has been seized under this Act, the authorized officer who effected the seizure, may at any time after that, with the consent of the Public Prosecutor, release the equipment, instrument, material, book, record, account, document, goods or thing to the person as he determines to be lawfully entitled to the equipment, instrument, material, book, record, account, document, goods or thing if he is satisfied that the equipment, instrument, material, book, record, account, document, goods or thing is not otherwise required for the purpose of any proceedings under this Act or its subsidiary legislation, or for the purpose of any prosecution under any other written law, and in such event, neither the officer effecting the seizure, nor the Government, the Commission or any person acting on behalf of the Government or the Commission shall be liable to any proceedings by any person if the seizure and the release of the equipment, instrument, material, book, record, account, document, goods or thing had been effected in good faith.

(2) A record in writing shall be made by the authorized officer effecting the release of anything under subsection (1) specifying in detail the circumstances of and the reason for the release and send a copy of the record to the Public Prosecutor.”.

Amendment of section 7

7. The principal Act is amended by deleting section 7.

Amendment of section 8

8. Section 8 of the principal Act is amended—

(a) by deleting the word “or” at the end of paragraph (c);

(b) by inserting after paragraph (c) the following paragraph:

“(ca) refuses to give any officer of the Commission any information which may reasonably be required of him and which he has in his knowledge or power to give relating to any matter under the functions, duties and powers of the Commission under section 4; or”;

- (c) by substituting for the words “five thousand” the words “fifty thousand”; and
- (d) by substituting for the words “two years” the words “three years”.

Amendment of section 9

9. Section 9 of the principal Act is amended—

(a) in subsection (1)—

- (i) by substituting for the words “Subject to such exemptions as may be prescribed” the words “Subject to any exemptions as may be granted”; and
- (ii) in the English language text, by substituting for the words “terms of a licence expressly” the words “terms and conditions of a licence as may be prescribed”;

(b) in subsection (2), by inserting before the word “conditions” the words “terms and”;

(c) by inserting after subsection (2A) the following subsections:

“(2B) Notwithstanding subsection (2), the Commission may grant a licence upon payment of fees and upon such conditions as appear to be requisite or expedient having regard to the duties imposed by section 4 in respect of any installation as may be prescribed.

(2C) The Commission may, from time to time, issue codes, guidelines or directions in respect of any installation.”; and

(d) by inserting after subsection (6) the following subsection:

“(7) The Commission may, with the approval of the Minister, at any time—

- (a)* impose any additional terms or conditions on the licences, including existing licences; or

(b) amend any terms or conditions imposed on the licences,

in accordance with the procedure as may be prescribed.”.

New sections 9A, 9B, 9C, 9D and 9E

10. The principal Act is amended by inserting after section 9 the following sections:

“Obligation to submit business plan

9A. (1) The Commission may request any licensee to submit a five year, or such other period as determined by the Commission, rolling business plan updated on an annual basis or any other time period as determined by the Commission according to procedures provided in the guidelines issued by the Commission.

(2) Any licensee who contravenes this section commits an offence.

Requirements on licensing

9B. (1) Notwithstanding any other provisions of this Act, if at any time it appears to the Commission that a licensee has failed to comply with any requirement of or to meet any of its duties or obligations under this Act or its subsidiary legislation or the conditions of the licence, the Commission may require the licensee to rectify the failure or to comply with the requirements, duties or obligations or licence conditions within a specified period.

(2) The licensee referred to in subsection (1) shall take all reasonable measures to comply and submit periodic compliance reports on the measures taken to the satisfaction of the Commission.

(3) Any licensee who contravenes this section commits an offence.

Standards of performance of supply and services by licensees

9c. (1) The Commission may, from time to time, issue codes, guidelines or directions on such standards of performance of supply and services to be implemented by a licensee including procedures for—

- (a) reasonably meeting consumer requirements;
- (b) handling consumer complaints and disputes;
- (c) procedures for the compensation of consumers in case of a breach of the standards of performance or a breach of any of the licensee's obligations under the Act; and
- (d) the protection of consumer information.

(2) Any action taken by the Commission pursuant to this section in respect of any failure by any licensee to meet the standards referred to in subsection (1), shall not prejudice or affect any other remedy which may be available in respect of the act or omission of the licensee which constituted that failure under any other law including the Consumer Protection Act 1999 [*Act 599*].

(3) The Commission may direct the licensee to provide any information on the levels of performance achieved and services provided in respect of the standards referred to in subsection (1) to consumers or potential consumers.

(4) A licensee shall publish its own standards of consumer services in accordance with the codes, guidelines or directions referred to in subsection (1).

(5) Any licensee who contravenes this section commits an offence.

Proper annual accounts by licensee

9d. (1) The licensee shall keep and maintain proper annual accounts of activities under the licence containing sufficient details as may be required of any revenues, costs, assets, liabilities, reserves or any other related matters.

(2) The accounts shall also be in accordance with any guidelines or directions as the Commission may, from time to time, issue to the licensee and such accounts shall be submitted to the Commission accordingly.

Arrangement for procurement of electricity

9E. In exercising its functions under paragraph 4(d), any arrangement by licensees or the Single Buyer for the procurement of electricity through the electricity transmission network, shall be subject to the approval of the Commission.”.

Amendment of section 12

11. Section 12 of the principal Act is amended by substituting for subsection (1) the following subsection:

“(1) Subject to the approval of the State Authority and to such conditions as the State Authority may deem proper, a licence may extend to authorizing the licensee to lay, place or carry on, under or over State land, such supply lines and to erect and maintain in or upon State land such posts and other equipment as may in the opinion of the Commission be necessary or proper for the purposes of the licensed installation.”.

Amendment of section 17

12. Section 17 of the principal Act is amended by inserting after subsection (3) the following subsection:

“(4) Without prejudice to subsection (3), the licensee shall rectify and repair any damage to ensure continuation of the supply of electricity and where applicable, compensate for any damage within the period of time as directed by the Commission if it is shown to have resulted from the negligence of the licensee, his agents or servants, as the case may be.”.

Amendment of section 21

13. Section 21 of the principal Act is amended—

(a) by substituting for subsection (1) the following subsections:

“(1) Before the completion of a new installation, other than an installation belonging to a supply authority or an installation operated or owned by a licensee, the owner of the installation shall forward, in duplicate, to the Commission, an application for registration in the prescribed form.

(1A) The Commission shall cause inspection and tests to be made within the prescribed period and, if the installation satisfies the requirements of this Act, shall issue or cause to be issued a Certificate of Registration in the prescribed form.”; and

(b) in subsection (2), by inserting after the word “installation,” the words “other than an installation excluded under subsection (1)”.

New sections 22A and 22B

14. The principal Act is amended by inserting after section 22 the following sections:

“System Operator

22A. (1) The Minister may, upon the recommendation of the Commission, authorize or revoke the authorization of any person or a unit, department or division forming part of a licensee to be a System Operator by order published in the *Gazette*.

(2) The System Operator shall comply with any regulations, codes, guidelines or directions with regards to its functions as may be made or issued by the Minister or the Commission, as the case may be, under this Act.

(3) A System Operator, pursuant to discharging its functions under this Act, shall ensure non-discriminatory conduct and optimal operation of such power system to the extent that it does not compromise the reliability, security and safety of the power system.

(4) The Commission may, from time to time, issue codes, guidelines or directions to ring fence the System Operator from activities under the licence of the licensee which are not related to its function as a System Operator.

Single Buyer

22B. (1) The Minister may, upon the recommendation of the Commission, authorize or revoke the authorization of any person or a unit, department or division forming part of a licensee to be a Single Buyer by order published in the *Gazette*.

(2) The Single Buyer shall comply with any regulations, codes, guidelines or directions with regards to its functions as may be made or issued by the Minister or the Commission, as the case may be, under this Act.

(3) A Single Buyer, pursuant to discharging its functions under this Act, shall ensure non-discriminatory conduct and optimal operation of such power system to the extent that it does not compromise the reliability, security and safety of the power system.

(4) The Commission may, from time to time, issue codes, guidelines or directions to ring fence the Single Buyer from activities under the licence of the licensee which are not related to its function as a Single Buyer.”.

New section 23D

15. The principle Act is amended by inserting after section 23c the following section:

“Registration of person providing service relating to efficient use of electricity

23D. No person shall provide any service relating to efficient use of electricity unless registered under this Act.”.

Amendment of section 24

16. Section 24 of the principal Act is amended by inserting after subsection (5) the following subsection:

“(6) Any person who unlawfully—

- (a) hinders, prevents or obstructs the supply of electricity from being given by the licensee to the consumer;
- (b) hinders, prevents or obstructs the supply of electricity to any consumer from being disconnected by the licensee in accordance with this Act; or
- (c) causes the supply of electricity to any consumer to be disconnected,

commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both.”.

Amendment of section 25

17. Section 25 of the principal Act is amended—

(a) by inserting after paragraph (a) the following paragraph:

“(aa) the premises, being a commercial or industrial premises—

- (i) is located on land without the consent of the landowner;
- (ii) has not been approved pursuant to or is in contravention of the Local Government Act 1976 [Act 171] and Town and Country Planning Act 1976 [Act 172]; or
- (iii) is in contravention of any other written law; and

(b) by substituting for paragraph (b) the following paragraph:

“(b) he is prevented from doing so by the malfunction or failure of any electricity supply infrastructure, electrical system, equipment or installation beyond his control, or as a result of fire, flood, landslide, explosion, accident, industrial disturbance on a national level, emergency, riot, civil disturbance or war, or any other similar event not within the control of the licensee.”.

Substitution of section 26

18. The principal Act is amended by substituting for section 26 the following section:

“Power to fix tariffs and charges

26. (1) The Commission may determine tariffs and charges to be levied, with the approval of the Minister, by a licensee.

(2) The Commission may, from time to time, issue guidelines on tariffs and charges including—

(a) the methodology, principles, category and design of tariffs and charges;

(b) the duration for the imposition of tariffs and charges and for the review of the tariffs and charges; and

(c) the submission of any information as the Commission deems requisite and necessary.

(3) A licensee shall submit a proposal on tariffs and charges to the Commission in accordance with the guidelines issued by the Commission under subsection (2).

(4) The approved tariffs and charges shall be published by the licensee in such manner as in the opinion of the Commission will secure adequate publicity for it.

(5) The approved tariffs and charges under subsection (1) may include but not limited to—

(a) a fixed charge in addition to the charge for the actual electricity supplied;

(b) a charge in respect of the availability of a supply of electricity and such charge may vary according to the extent of supply;

(c) a rent or other charge in respect of any electricity meter or electrical plant or equipment provided by the licensee;

(d) a rate or quantum of discount or premium from the approved tariff in respect of certain type of consumers or public purposes as determined by the Minister; and

(e) a rate or quantum of payment, charge or levy of any sum pursuant to any other written law or any guidelines issued by the Commission.

(6) In levying tariffs and charges pursuant to subsection (1) and entering into special agreements under section 29, a licensee shall not show undue preference or discrimination as among consumers or persons similarly situated having regard to the place and time of supply, the quantity of electricity supplied, the consumer load and power factor, and the purpose for which the supply is taken.”.

Amendment of section 27

19. Subsection 27(1) of the principal Act is amended by inserting after the words “reasonably incurred” the words “as determined by the Commission”.

New section 28B

20. The principal Act is amended by inserting after section 28A the following section:

“Supply agreement with consumer

28B. (1) A person who requested for a supply of electricity from a licensee after the date of coming into operation of this Act shall enter into an agreement with the licensee for the supply of electricity on such terms and conditions as may be specified in the agreement before the electricity is supplied.

(2) An agreement referred to in subsection (1) shall be in the form and substance as approved by the Commission.”.

Amendment of section 29

21. Section 29 of the principal Act is amended—

(a) in subsection (1), by inserting after the words “a person” the words “or a licensees”; and

(b) by inserting after subsection (3) the following subsection:

“(4) Any agreement made between licensees under subsection (1) shall be approved by the Commission.”.

Amendment of section 30

22. Section 30 of the principal Act is amended—

(a) by substituting for subsections (1) and (2) the following subsections:

“(1) A dispute between two or more persons regarding any matter under sections 9E, 17, 24 to 29 and 32 shall first be attempted to be resolved by negotiations between the parties to the dispute.

(2) If the parties to a dispute cannot or otherwise fail to reach an agreement to resolve the dispute, the parties may seek resolution of the dispute by a committee established by the Commission to hear and resolve disputes:

Provided that in a case where the Commission thinks fit the dispute may be determined by arbitration under section 36.”;

(b) in subsection (4)—

(i) by inserting after the word “sections” the words “9E, 17,”;and

(ii) by inserting after the word “29” the words “and 32”; and

(c) in subsection (5), by deleting the words “or the arbitrator, as the case may be,”.

New sections 30A and 30B

23. The principal Act is amended by inserting after section 30 the following sections:

“Notification of dispute and binding decision by the Commission

30A. (1) Any party to a dispute may, in writing, notify the Commission of the dispute which the parties to the dispute had failed to resolve by negotiation under subsection 30(1).

(2) The committee established by the Commission under subsection 30(2) shall only be convened to resolve a dispute if the Commission is satisfied that—

(a) an agreement to resolve the dispute will not be reached or will not be reached within a reasonable time; and

(b) the dispute and its notification is not trivial, frivolous or vexatious.

(3) The committee may resolve the dispute upon such terms and conditions as it deems fit.

(4) The terms and conditions under subsection (3) shall be in writing and accompanied by the grounds for the committee's decision.

(5) The committee's decision shall be deemed as a decision of the Commission and be binding on the parties.

(6) A decision made by the Commission under this section may, by leave of the Sessions Court, be enforced in the same manner as a judgment or order to the same effect by the Sessions Court, and where leave is so given, judgment may be entered in terms of the decision of the Commission and as if the decision was a judgment of such Court.

(7) The judgment under subsection (6) can only be entered if a certificate has been issued by the Commission to any party for leave to proceed to the Court for the enforcement of the decision but no certificate is required if an action is taken by the Commission under this section.

Register of decisions

30B. (1) The Commission shall maintain a register of all decisions made under section 30A.

(2) The register shall contain—

(a) the names of the parties to the dispute;

(b) a general description of the matter pertaining to the decision; and

(c) the date of the decision.”.

Amendment of section 32

24. Section 32 of the principal Act is amended—

(a) in subsection (1), by inserting after the word “consumer” the words“, a licensee or a Single Buyer”;

(b) by inserting after subsection (1) the following subsection:

“(1A) The meter shall be installed, calibrated, tested, verified and maintained as may be prescribed or in accordance with any codes or guidelines issued under this Act, as the case may be.”;

(c) in subsection (2), by inserting after the word “licensee” the words “supplying electricity”;

(d) in subsection (3)—

(i) by inserting after the word “consumer’s” the words “, licensee’s or Single Buyer’s”; and

(ii) by inserting after the words “the licensee” the words “supplying electricity”;

(e) in subsection (4)—

(i) by inserting after the word “consumer” the words “, licensee or Single Buyer”; and

(ii) by inserting after the words “the licensee” the words “supplying electricity”; and

(f) in subsection (5), by inserting after the words “such use” the words “and may include a pre-paid meter, metering infrastructure, telemetering or any other means of metering determined by the Commission”.

Amendment of section 33

25. Section 33 of the principal Act is amended—

(a) in the shoulder note, by substituting for the words “**.Investigation**” the words “**and investigated**”; and

(b) in paragraph 2(e), by substituting for the word “Chairman” the words “Chief Executive Officer”.

New Part VIIA

26. The principal Act is amended by inserting after section 33 the following Part:

“PART VIIA

SAFETY OF INSTALLATION AND EQUIPMENT

Responsibilities of licensee for safety

33A. (1) A licensee who operates and maintains any electricity supply infrastructure shall comply with any regulations made under this Act, the electrical infrastructure safety code or in the absence of such regulations or code, with standards and prudent utility practices as may be determined by the Commission.

(2) A licensee shall prepare a safety management plan dealing with matters as may be prescribed in the electrical infrastructure safety code or in the absence of such code, with standards and prudent utility practices as may be determined by the Commission.

(3) Any licensee who fails to prepare a safety management plan referred to in subsection (2) commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

Responsibilities of non-domestic electrical installation owner or operator, licensee for retail and licensee for a private installation for safety

33B. (1) A non-domestic electrical installation owner or operator registered under this Act, licensee for retail and licensee for a private installation shall comply with the non-domestic electrical installation safety code and the safety management programme, or in the absence of such code or programme, with standards and prudent industry practices as may be determined by the Commission.

(2) A non-domestic electrical installation owner or operator registered under this Act, licensee for retail and licensee for a private installation shall prepare a safety management programme within such time as may be directed by the Commission.

(3) The safety management programme referred to in subsection (2) shall provide for matters as may be prescribed in the non-domestic electrical installation safety code, or in the absence of such code, with standards and prudent industry practices as may be determined by the Commission.

(4) A non-domestic electrical installation owner or operator registered under this Act, licensee for retail and licensee for a private installation who fails to prepare the safety management programme referred to in subsection (2) commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

Undertaking electrical work

33c. (1) A competent person or a person under the control of a competent person who undertakes to carry out electrical work shall ensure that such electrical work complies with any regulations made under this Act, the electrical infrastructure safety code or non-domestic electrical installation safety code, as the case may be, or in the absence of such regulations or codes, with standards and prudent industry practices as may be determined by the Commission.

(2) The person undertaking electrical work under subsection (1) shall ensure that such work shall not cause electricity related injury to any person or damage to any property.

Responsibilities relating to non-electrical work

33d. (1) Any person who undertakes any construction, building, renovation or work other than electrical work in the vicinity of electrical installation shall ensure that the work shall not cause interference with the supply of electricity or electricity related injury to any person or damage to any property.

(2) Any person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding twenty-five thousand ringgit and, in the case of a continuing offence, to a fine not exceeding five hundred ringgit for every day or part of a day during which the offence continues after conviction.

Compliance inspection

33E. (1) The Commission may, inspect or cause to be inspected an electricity supply infrastructure, non-domestic electrical installation or the place of business or any activities of a registered manufacturer or importer or of a registered conformity assessment body or a registered training and examination center or institution to ensure the licensee, licensee for retail and licensee for a private installation, non-domestic electrical installation owner or operator, registered manufacturer or importer, registered conformity assessment body or registered training and examination center or institution, as the case may be, is in compliance with this Act, any regulations made under this Act, guidelines, codes or directions issued by the Commission under this Act, the safety management plan and safety management programme, as the case may be.

(2) The Commission may inspect or cause to be inspected any equipment in any premises, building, facility including temporary facility and vehicle that is used for the sale or offer for sale by way of retail to ascertain if such equipment conforms to the standards as may be determined by the Commission.

33F. Interpretation

For the purposes of this Part—

“electrical infrastructure safety code” means a code developed, issued and registered by the Commission under section 50A on safety requirements, appropriate safety and technical standards, operation, maintenance and protection of the electrical system and other related matters for electricity supply infrastructure;

“non-domestic electrical installation safety code” means a code developed, issued and registered by the Commission under section 50A on safety requirements, appropriate safety and technical standards, operation, maintenance and protection of the electrical system and other related matters for non-domestic electrical installation;

“safety management plan” means the safety, reliability, maintenance and technical management plan in respect of electricity supply infrastructure;

“licensee” does not include licensee for retail and a licensee for a private installation;

“non-domestic electrical installation owner or operator” means a person who owns, uses, works or operates a non-domestic electrical installation;

“non-domestic electrical installation” means a set of wires and associated fittings, equipment and accessories that is installed in a place for the conveyance, control or use of electricity that is, or is to be, or has been, supplied for consumption in the place, but does not include—

- (a) any electricity supply infrastructure owned or operated by a licensee;
- (b) any wires, fittings, equipment or accessories connected to and beyond any electrical outlet at which fixed wiring terminates, other than any such outlet used to connect sections of fixed wiring; or
- (c) private dwelling premises;

“safety management programme” means the safety, reliability, maintenance and technical management programme in respect of non-domestic electrical installation.”.

Amendment of section 36

27. Section 36 of the principal Act is amended—

- (a) in subsection (1), by inserting before the words “required to be determined” the words “deemed fit by the Commission under section 30 or”; and

- (b) in subsection (3), by substituting for the words “Arbitration Act 1952 [Act 93]” the words “Arbitration Act 2005 [Act 646].”.

Amendment of section 37

28. Section 37 of the principal Act is amended—

(a) in subsection (1)—

- (i) by substituting for the words “one hundred thousand” the words “one million”; and
- (ii) by substituting for the word “five” the word “ten”;

(b) in subsection (2)—

- (i) by substituting for the words “fifty thousand” the words “one hundred thousand”; and
- (ii) by substituting for the word “three” the word “five”;

(c) in subsection (3), by substituting for the words “shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both” the following words:

“commits an offence and shall, on conviction—

(A) be liable:

- (i) in the case of a domestic consumer, to a fine of not less than one thousand ringgit and not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding one year or to both; and
- (ii) in the case of a non-domestic consumer, to a fine of not less than twenty thousand ringgit and not exceeding one million ringgit or to imprisonment for a term not exceeding five years or to both; and

- (B) be liable for the second and subsequent offence:
- (i) in the case of a domestic consumer, to a fine of not less than five thousand ringgit, and not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both; and
 - (ii) in the case of a non-domestic consumer, to a fine of not less than one hundred thousand ringgit and not exceeding five million ringgit or to imprisonment for a term not exceeding ten years or to both.”;
- (d) in subsection (10), by substituting for the words “one thousand” the words “twenty-five thousand”;
- (e) in subsection (12)—
- (i) in paragraph (a), by inserting after the words “part thereof” the words “as may be prescribed,”; and
 - (ii) in paragraph (b), by substituting for the word “five” the word “fifty”;
- (f) in subsection (14)—
- (i) by inserting after the word “damages” the words “or removes”; and
 - (ii) by substituting for the word “five” the word “fifty”;
- (g) by substituting for subsection (15) the following subsection:
- “(15) Any person—
- (a) found guilty of any offence against this Act for which no penalty is expressly provided shall, on conviction, be liable to a fine not exceeding twenty-five thousand ringgit and, in the case of

a continuing offence, to a fine not exceeding five hundred ringgit for every day or part of a day during which the offence continues after conviction;

(b) who by any act or omission contravenes any provision under this Act commits an offence and if no penalty is expressly provided shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit and, in the case of a continuing offence, to a fine not exceeding five hundred ringgit for every day or part of a day during which the offence continues after conviction.”; and

(h) by substituting for subsection (16) the following subsection:

“(16) For the purposes of subsection (3)—

“domestic installation” means an installation in a private dwelling which is not used in any hotel or boarding house or for the purpose of carrying out any business, trade, profession or service;

“non-domestic consumer” means a consumer of electricity other than domestic consumer;

“domestic consumer” means a consumer in domestic installation supplied or connected with electricity.”.

New sections 37A and 37B

29. The principal Act is amended by inserting after section 37 the following sections:

“Offence committed by body corporate

37A. (1) Where an offence against this Act or its subsidiary legislation has been committed by a body corporate, any person who at the time of the commission of the offence

was a director, chief executive officer, chief operating officer, manager, secretary or other similar officer of the body corporate or was purporting to act in such capacity or was in any manner or to any extent responsible for the management of any of the affairs of the body corporate or was assisting in such management—

- (a) may be charged severally or jointly in the same proceedings with the body corporate; and
- (b) if the body corporate is found guilty of the offence, shall be deemed to be guilty of that offence unless having regard to the nature of his functions in that capacity and to all circumstances, he proves—
 - (i) that the offence was committed without his knowledge, consent or connivance; and
 - (ii) that he had taken all reasonable precautions and exercised due diligence to prevent the commission of the offence.

(2) If any person would be liable under this Act or any regulations made under this Act to any punishment or penalty for his act, omission, neglect or default he shall be liable to the same punishment or penalty for every such act, omission, neglect or default of any employee, servant or agent of his, or of the employee or servant of such agent if the act, omission, neglect or default was committed—

- (a) by that person's employee or servant in the course of his employment;
- (b) by the agent when acting on behalf of that person;
or
- (c) by the employee or servant of the agent in the course of his employment by the agent or otherwise on behalf of the agent acting on behalf of that person.

Offence of attempt and abetment

37B. Where any person—

- (a) aids, abets, assists, incites or induces any other person to make or makes on behalf of another person an incorrect return, account, statement or declaration or to commit any offence punishable under this Act; or
- (b) attempts to make or to make on behalf of another person an incorrect return, account, statement or declaration or to commit any offence punishable under this Act,

that person commits an offence and shall, on conviction, be punishable with the punishment provided for such offence under this Act provided that any term of imprisonment imposed shall not exceed one-half of the longest term provided for the offence.”.

Amendment of section 38

30. Section 38 of the principal Act is amended—

- (a) by substituting for subsection (1) the following subsection:

“(1) Where any person employed by a licensee finds upon any premises evidence which gives reasonable grounds for him to believe that an offence has been committed under subsection 37(1), (3) or (14), the licensee or any person duly authorized by the licensee shall within three working days from the date of such finding inform the Commission in writing, and the licensee may, upon giving not less than forty eight hours’ notice from the same date in such form as may be prescribed, cause the supply of electricity to be disconnected from the said premises.”;

- (b) by inserting after subsection (1A) the following subsection:

“(1B) Upon receiving such information under subsection (1), the Commission may verify the matter and in cases where it finds that no offence has been committed, the supply of electricity shall be reconnected immediately.”;

(c) by substituting for subsection (3) the following subsection:

“(3) The licensee may require the consumer to pay him for the loss of revenue due to the offence committed under subsections 37(1), (3) and (14) and any reasonable expenses directly incurred by the licensee under this section including expenses incurred in respect of reconnection of electricity in the manner as have been directed by the Commission:

Provided that and subject to subsection (4), if the licensee does not proceed with a claim for such loss of revenue and expenses in court, the licensee may only claim against the consumer for the said loss of revenue and expenses for a period not exceeding six months retrospectively from the date the offence was discovered under subsection (1).”;

(d) in subsection (4)—

(i) by inserting after the words “subsection (3)” the words “and such written statement shall be notified to the consumer within fourteen working days or any period as extended with the written approval of the Commission after the disconnection”; and

(ii) in paragraph (a)—

(A) by inserting before the word “expenses” the word “reasonable”;

(B) by deleting the word “and” at the end of the paragraph; and

(C) by inserting after paragraph (a), the following paragraph:

“(aa) the manner of calculation of the loss of revenue and items of expenses; and”; and

(e) in subsection (5), by inserting after the words “written statement” the words “under subsection (4)”.

Substitution of section 43

31. The principal Act is amended by substituting for section 43 the following section:

“Compounding

43. (1) The Minister may, with the approval of the Public Prosecutor, make regulations prescribing—

- (a) any offence under this Act or its subsidiary legislation as an offence which may be compounded;
- (b) criteria for compounding such offence; and
- (c) method and procedure for compounding such offence.

(2) The Commission may, with the consent in writing of the Public Prosecutor, at any time before a charge is being instituted compound any of the offences prescribed in the regulations as an offence which may be compounded by making a written offer to the person reasonably suspected of having committed the offence to compound the offence upon payment to the Commission of a sum of money not exceeding fifty per centum of the amount of maximum fine to which the person would have been liable to if he had been convicted of the offence, within such time as may be specified in his written offer.

(3) An offer under subsection (2) may be made at any time after the offence has been committed but before any prosecution for it has been instituted, and where the amount specified in the offer is not paid within the time specified in the offer, or such extended time as the Commission may grant, prosecution for the offence may be instituted at any time after that against the person to whom the offer was made.

(4) Where an offence has been compounded under subsection (2), no prosecution shall be instituted in respect of the offence against the person to whom the offer to compound was made, and any document or thing seized in connection with the offence may be released by the Commission, subject to such terms and conditions as it thinks fit.

(5) All sums of moneys received by the Commission under this section shall be paid into and form part of the Federal Consolidated Fund.”.

New section 44A

32. The principal Act is amended by inserting after section 44 the following section:

“Use of supply line, etc., for purposes of communications under the Communications and Multimedia Act 1998

44A. (1) Notwithstanding any other provisions of this Act and subject to the provisions of this section and to any terms and conditions as may be prescribed, any supply line, part of an electricity supply infrastructure, installation, plant or equipment may be used for the purposes of communications under the Communications and Multimedia Act 1998 [Act 588].

(2) For the purposes of subsection (1), the Commission may issue codes, guidelines or directions.

(3) Prior to and during the operation of communications, as the case may be, the licensee, non-domestic electrical installation owner or operator, electricity consumer and the person licensed under the Communications and Multimedia Act 1998 shall comply with such regulations, codes, guidelines and directions referred to in subsections (1) and (2).

(4) The licensee, non-domestic electrical installation owner or operator and the person licensed under the Communications and Multimedia Act 1998 shall be responsible in ensuring that the provision or operation of the communications, as the case may be, is in compliance with the Act.

(5) Any owner or occupier of an electrical installation in a dwelling premises or electricity consumer may choose to be a customer or otherwise of communication service provided by a person licensed under the Communications and Multimedia Act 1998 who shall obtain the express consent of such owner or occupier or consumer before providing the communication service.

(6) Notwithstanding any provisions of the Communications and Multimedia Act 1998, any licensee or person licensed under the Communications and Multimedia Act 1998 who fails to comply with this section commits an offence.”.

New Part IXA

33. The principal Act is amended by inserting after section 44A the following Part:

“PART IXA

ELECTRICITY INDUSTRY FUND

Contribution by licensee

44B. (1) A licensee shall, if required by the Minister under any regulations made under this Act or by order published in the *Gazette* pursuant to the recommendation made by the Commission, allocate and pay into the Electricity Industry Fund, in such manner and at such rates as may be prescribed in such regulations or order.

(2) Upon the recommendation of the Commission, the Minister may suspend or revoke such requirement made under subsection (1).

Electricity Industry Fund

44C. (1) A fund to be known as the “Electricity Industry Fund” is established and shall be administered and controlled by the Commission.

(2) The Electricity Industry Fund shall consist of—

- (a) such sums allocated and paid by a licensee pursuant to section 44B;
- (b) such sums as may be provided by the Parliament for the purposes of the Electricity Industry Fund from time to time;
- (c) all moneys derived as income from investments made from the Electricity Industry Fund, including interest income; and
- (d) all other moneys lawfully received by the Commission on behalf of the Electricity Industry Fund.

(3) The Electricity Industry Fund shall be expended for the following purposes:

- (a) to manage the impact of electricity tariff on consumers;
- or

- (b) such other purposes pertaining to the electricity industry as deemed necessary by the Commission.

Investment

44D. (1) The moneys in the Electricity Industry Fund shall, in so far as they are not required or immediately required to be expended by the Commission for the purposes of subsection 44C(3), be invested in such manner as the Minister may, with the concurrence of the Minister of Finance, approve.

(2) The Commission shall open and maintain an account or accounts to hold moneys in the Electricity Industry Fund with such bank or banks in Malaysia as it thinks fit, after consulting the Minister and the Minister of Finance, and every such account shall be operated upon in such manner as may be authorized by the Commission for such purpose from time to time.

Accounts

44E. (1) The Commission shall cause proper accounts of the Electricity Industry Fund and proper reports of its activities in respect of the Fund to be kept and shall, as soon as practicable after the end of the financial year of the Commission, cause to be prepared for that financial year—

- (a) a statement of accounts which shall include a balance sheet and an account of the contributions and expenditure; and
- (b) a statement of its activities.

(2) The Commission shall as soon as practicable send a copy of the statement of accounts certified by the auditors and a copy of the auditor's report to the Minister who shall cause them to be laid before both Houses of Parliament.”.

Amendment of section 45

34. Subsection 45(1) of the principal Act is amended by deleting the words “telegraph, telephone, radio”.

New sections 45A, 45B and 45C

35. The principal Act is amended by inserting after section 45 the following sections:

“Audit of licensees and non-domestic electrical installations owners or operators

45A. (1) The Commission may conduct an audit at any time or at such intervals as determined by it require a licensee or non-domestic electrical installation owner or operator to appoint at their own cost an independent expert to audit on any matter under Part IV and safety of installations and equipment under Part VIIA of this Act or any information which a licensee or non-domestic electrical installation owner or operator furnishes to the Commission.

(2) The audit shall be conducted in accordance with any codes, guidelines or directions issued by the Commission under this Act.

(3) The Commission may determine the class or category of licensee or non-domestic electrical installation owner or operator that are to be subject to an audit.

(4) The licensee or non-domestic electrical installation owner or operator shall establish to the satisfaction of the Commission that such independent expert referred to in subsection (1) has the necessary qualification and competence.

(5) The licensee or non-domestic electrical installation owner or operator shall forward a copy of a report of such audit to the Commission within the time as specified by the Commission.

(6) A licensee or non-domestic electrical installation owner or operator who—

(a) fails to furnish any information as may be required by the Commission under section 52B;

(b) intentionally alters, suppresses or destroys any document or information which he has been required by written notice to produce; or

- (c) refuses to assist or facilitate, or obstructs the Commission, its authorized officers or appointed consultants in conducting an audit under this section,

commits an offence.

Determination of standards of installation or equipment

45b. The Commission may determine the standards applicable to any installation or equipment and such standards as may be prescribed in the regulations, codes or guidelines made or issued under this Act.

Keeping of records and documents

45c. A licensee, non-domestic electrical installation owner or operator, registered manufacturer or importer, registered private wiring unit, registered electrical services contractor, registered electrical sign contractor, registered switch board manufacturer, registered electrical contractor, registered training and examination center or institution and registered conformity assessment body shall keep records and documents in respect of matters and for a period of time as may be prescribed.”.

Amendment of section 46

36. Subsection 46(1) of the principal Act is amended—

- (a) by inserting after the words “operation of any installation” the words “, metering infrastructure, telemetering, application of communications over supply lines,”; and
- (b) by substituting for the words “radio-communications, telecommunications, telegraph, telephone” the word “communications”.

Amendment of section 48

37. Subsection 48(1) of the principal Act is amended by inserting after the words “under this Act” the words “, provided in the relevant codes issued under this Act”.

New sections 50A, 50B, 50C, 50D, 50E and 50F

38. The principal Act is amended by inserting after section 50 the following sections:

“Development of codes by the Commission and compliance of the codes

50A. (1) The Commission may, with the approval of the Minister, develop and issue codes relating to the generation, transmission, distribution, supply and use of electricity and for electrical safety.

(2) The Commission may develop and issue such additional codes as it deems fit and expedient or as the Minister may from time to time direct, as the case may be.

(3) All codes developed and issued pursuant to this section shall only be effective upon registration by the Commission.

(4) All licensees, non-domestic electrical installation owners or operators shall comply with the codes.

(5) Unless otherwise determined by the Commission, in ensuring reliability, safety and security of the electricity networks, the codes issued under this section shall take precedence over any agreement that may exist between the parties mentioned in subsection (4).

Retention of documents by Commission

50B. (1) Any licensee, non-domestic electrical installation owner or operator upon being directed by the Commission shall furnish document to the Commission failing which the Commission may take possession of the document.

(2) Any document furnished to or taken by the Commission under subsection (1) may be retained as long as necessary by the Commission.

(3) The person otherwise entitled to possession of the document is entitled to be supplied, as soon as practicable, with a copy certified by the Commission to be a true copy.

(4) Until a certified copy is supplied, the Commission may, at such times and places as the Commission thinks appropriate, permit the person otherwise entitled to possession of the document or a person authorized by that person, to inspect and make copies of or take extracts from the document.

(5) If the Commission is satisfied that the retaining of the documents is no longer necessary, the Commission may as soon as practicable return the documents to the person who provided the documents under subsection (1).

Guidelines or directions by Commission

50c. (1) The Commission may, from time to time, issue guidelines or directions on any matter as provided under this Act to any licensee, non-domestic electrical installation owner or operator, registered manufacturer or importer, competent person or any person.

(2) The Commission may, from time to time, issue any direction in writing to any licensee, non-domestic electrical installation owner or operator, registered manufacturer or importer, competent person or any person on the compliance or non-compliance of the Act or any regulations made under this Act, conditions of licences, including the remedying of a breach of a license condition or on any other matter requiring the making of a direction or specifically to be made the subject of a direction under this Act in accordance with such procedures as may be prescribed.

(3) The guidelines or directions issued by the Commission under this section shall be registered and shall be effective from the date of such registration or such later date as the Commission may specify in the guidelines or directions.

(4) A licensee, non-domestic electrical installation owner or operator, registered manufacturer or importer, competent person or any person shall comply with the guidelines and directions.

Variation, review or revocation of codes, guidelines or directions by the Commission

50D. (1) The Commission may vary, review or revoke any codes, guidelines or directions issued under this Act.

(2) The procedures set out in subsections 50c(3) and (4) shall apply in respect of any variation, review or revocation of the codes, guidelines or directions.

Offence for non-compliance with codes, guidelines or directions of the Commission

50E. A person who fails to comply with any codes, guidelines or directions of the Commission issued under this Act commits an offence and shall, on conviction, be liable to a fine not exceeding two hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

Register of codes, guidelines or directions

50F. The Commission shall maintain a register of all codes, guidelines or directions issued by the Commission under this Act, including any variation, review or revocation of the codes, guidelines or directions.”.

New sections 52A and 52B

39. The principal Act is amended by inserting after section 52 the following sections:

“Supply infrastructure information security

52A. (1) Any licensee as directed by the Commission providing supply of electricity to consumers shall be responsible for the preservation of confidentiality, integrity and availability of its information, information systems and supporting network infrastructure pertaining to its duties and other matters as provided under this Act.

(2) The licensee shall—

- (a) take the necessary measures, establish and implement standards and employ the relevant information security controls to prevent, avoid, remedy, recover or restore its information, document, instrument or records stored in its computers and for its operational system by its computers from any risk of—
 - (i) threat or unauthorised access; and
 - (ii) intrusion or removal;
- (b) take necessary measures to ensure the resiliency of its supporting network infrastructure to minimise business impact against various threats to its activities under the licence; and
- (c) ensure that the reliability, continuity and quality of electricity supply, its performance of duties and conformity to the provisions of this Act and any regulations made thereunder shall not be jeopardized thereby,

and shall report to the Commission within the time specified by the Commission, and in the event of any incident which interferes or affects the performance of the activities under the licence, report such incident immediately to the Commission and other relevant authorities.

(3) Any licensee who fails, neglects to comply with or contravenes any provision of this section commits an offence and shall, on conviction, be liable to a fine not exceeding three hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both.

(4) For the purposes of this section—

“supporting network infrastructure” refers to relevant connection, network devices, hardware and software that provides network services in supporting business functions;

“information security controls” refers to means of managing risk, including policies, procedures, guidelines, practices or organizational structures, which can be administrative, technical, management or legal in nature;

“resiliency” means an ability of an organization to resist being affected by an incident.

Obligation to give information

52B. (1) The Commission may authorize any of its officer to obtain any information pertaining to the licensee or any other person under this Act and shall be given access to such information whether stored in a computer or otherwise.

(2) Any officer authorized by the Commission under subsection (1), shall have the power to require the production of records, accounts, data, computerized data and documents kept by a licensee or any other person and to inspect, examine and to download from them, make copies of them or take extracts from them.

(3) For the purposes of this section, “access” includes being provided with the necessary password, encryption code, decryption code, software or hardware and any other means required to enable comprehension of computerized data.

(4) Any person who refuses to give any information which may reasonably be required of him under subsection (1) and which he has in his knowledge or power to give commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.”.

Amendment of section 53

40. Section 53 of the principal Act is amended—

(a) in subsection (1)—

- (i) in paragraph (i), by deleting the words “the form and contents of licences and the conditions to be prescribed,” and the words “licences and”;
- (ii) in paragraph (l), by substituting for the words “wiring contractors” the words “private wiring unit, electrical contractor, electrical services contractor, electrical repair contractor,”;
- (iii) in paragraph (xa), by deleting the word “and” at the end of the paragraph; and

- (iv) by inserting after paragraph (xa) the following paragraphs:
- “(xb) the standards, specification, practices and measures to be adopted and any other matters relating to power quality;
 - (xc) matters relating to metering, prepaid metering, metering infrastructure, telemetering, equipment, electrical product and consumer electrical equipment;
 - (xd) matters relating to use of supply line for the purposes of communications as set out under section 44A;
 - (xe) in respect of the import and manufacture of consumer electrical equipment, the registration of importers and manufacturers and conformity assessment bodies pertaining to the consumer electrical equipment, training and examination center or institution and to prescribe fees for such registration;
 - (xf) matters relating to the Electricity Industry Fund;
 - (xg) matters relating to the licensing under the Act;
 - (xh) all functions, duties and responsibilities of the System Operator and the Single Buyer;
 - (xi) the revision of the safety management plan and safety management programme and for the audit of the licensee and non-domestic installation owner or operator;
 - (xj) the fees payable in respect of efficient use of electricity by equipment and approval thereof;

- (*xk*) matters relating to registration of person providing service relating to efficient use of electricity and the payment of fees for processing application and registration;
- (*xl*) matters and period of time for keeping of records and documents; and”;

(*b*) in subsection (2)—

- (i) by substituting for the words “five thousand” the words “twenty thousand”; and
- (ii) by substituting for the words “one year” the words “two years”.

Amendment of section 54

41. Section 54 of the principal Act is amended—

(*a*) by renumbering the existing section as subsection (1) of that section;

(*b*) in subsection (1)—

- (i) by inserting after the word “may” the words “, upon the recommendation of the Commission,”;
- (ii) by inserting after the words “or any regulation made” the words “or codes issued”;
- (iii) by inserting after the word “thereunder” the words “for any period as specified”;

(*c*) in paragraph (*a*), by inserting after the words “supply authority” the words “or licensee;”;

(*d*) by inserting after subsection (1) the following subsections:

“(2) The Commission may recommend to the Minister the conditions to be applicable to an exemption granted under subsection (1).

(3) Except as otherwise provided in the exemption, an exemption under subsection (1) may be varied or revoked.”.

Savings and transitional

42. (1) Any registration, licence, act, order, direction, approval or decision done, made or given before the date of coming into operation of this Act shall be deemed to have been done, made or given under this Act and shall continue in full force and effect in relation to whom they apply until revoked or amended.

(2) Any action or proceedings commenced or pending immediately before the date of coming into operation of this Act shall, after the date of coming into operation of this Act, be continued as if the principal Act had not been amended by this Act.

(3) Where on the date of coming into operation of this Act applications for registration of installations under section 21 of the principal Act are pending before the Commission, the provisions of the principal Act relating to registration of installations as amended by this Act shall apply.

(4) Where on the date of coming into operation of this Act requests for the supply of electricity are pending before the licensee, the provisions of the principal Act relating to the exceptions to duty to supply electricity as amended by this Act shall apply.

(5) Where on the date of coming into operation of this Act special agreement under section 29 of the principal Act between licensee and any person are being negotiated, the provisions of the principal Act relating to the special agreement with respect to supply as amended by this Act shall apply.

(6) A commercial or industrial premises that has not been approved pursuant to or is in contravention of the Local Government Act 1976 and Town and Country Planning Act 1976 on the date of coming into operation of this Act shall cease to be supplied with electricity at the expiration of twenty-four months from the date of coming into operation of this Act unless the commercial or industrial premises has been approved pursuant to or is not in contravention of the Local Government Act 1976 and Town and Country Planning Act 1976.

(7) Where a dispute under sections 9E, 17, 24, 25, 26, 27, 28, 28A, 29 and 32 of the principal Act arose before the coming into operation of this Act, the provisions of the principal Act applicable to the determination of dispute as amended by this Act shall apply.

(8) Where any accident or fire causing or resulting in loss of life or hurt to any person or serious damage to property occurred before the date of coming into operation of this Act and the authorized officer has not forwarded his report on such accident or fire, the provision of the principal Act applicable to notification of accident or fire as amended by this Act shall apply.

(9) Any person who provides any service relating to efficient use of electricity before the date of coming into operation of this Act, shall register with the Commission within twelve months from the date of coming into operation of this Act.

EXPLANATORY STATEMENT

This Bill seeks to amend the Electricity Supply Act 1990 (“Act 447”) primarily to enhance the licensing of electricity supply activities and conduct of licensees, improve the quality of services by licensees towards the consumers, stabilize the regulatory and enforcement mechanism including stricter deterrent measures to combat theft of electricity, enable the use of the latest communications technology, advanced metering of electricity and to improve the safety of installations and electrical equipment.

2. *Clause 1* contains the short title and provisions on the commencement of the proposed Act.

3. *Clause 2* seeks to make general amendments to Act 447 by replacing the words “shall be guilty of” with the word “commits”.

4. *Clause 3* seeks to amend section 2 of Act 447 to introduce new definitions and to amend existing definitions in Act 447. Amongst the new definitions introduced are—

- (a) “communications” refers to electricity supply lines that may be used for communications purposes. This is to allow electricity supply lines to be used for communications purposes for example Broadband on Power Lines (BPL) or Power Line Communications (PLC). The Act currently prohibits electricity supply lines from being used for signals or communications;

- (b) “ring fence” refers to the separating of the positions and functions of the System Operator and the Single Buyer from that of the licensee for effective competition and transparency. This is to ensure that the Single Buyer and the System Operator act independently;
 - (c) “Single Buyer” refers to any person or a unit, department or division forming part of a licensee who is authorized under the proposed new subsection 22B(1) responsible for the management of procurement of electricity and related services, which includes planning, scheduling, procuring and settlement, and any other function as may be prescribed. This is to ensure that the function of the Single Buyer is independent from any activities under the licence of the licensee; and
 - (d) “System Operator” refers to the authorized person or entity of a licensee responsible for the operation, dispatch of electricity and control of the power system that will be separated from any activity of the licensee. This is to ensure that the function of the System Operator is independent from any activities under the licence of the licensee.
5. *Clause 4* seeks to amend section 4 of Act 447 to provide a more comprehensive and effective functions and duties of the Commission to cater for current and future issues and challenges to the electricity supply industry.
6. *Clause 5* seeks to substitute section 4A of Act 447 to clarify the scope of authority of authorized officers of the Commission in line with current legislation.
7. *Clause 6* seeks to introduce new sections 5A and 5B into Act 447 to empower the Commission to recover the costs of holding equipment, instrument, material, book, record, account, document, goods or things seized from the person found guilty for the offence and release of seized equipment, instrument, material, book, record, account, document, goods or things if not required by the proceedings.
8. *Clause 7* seeks to delete section 7 of Act 447.
9. *Clause 8* seeks to amend section 8 of Act 447 to provide for an offence for refusal to give information to any officer of the Commission in carrying out the functions, duties and powers under section 4 of Act 447 and to enhance the penalty for obstruction of authorized officer’s exercise of duty for better deterrence and compliance.
10. *Clause 9* seeks to amend subsection 9(1) of Act 447 to enable terms and conditions of licence to be prescribed and to introduce new subsections (2B), (2C), and (7) into section 9 of Act 447 to empower the Commission to licence persons by activities of electricity supply in order to separate the licensable activities from other activities of the licensee, to enable the Commission to issue licences to public or private installations with capacity below 30 megawatts which is

renewed regularly or over short periods and connected at distributor grids which do not have a significant impact on the national grid system, to enable the Commission to issue codes, guidelines or directions in respect of any installation and, with the approval of the Minister, to impose additional terms or conditions on licences and to amend any term or condition of a licence.

11. *Clause 10* seeks to introduce new sections 9A, 9B, 9C, 9D and 9E into Act 447 to require the licensees to submit business plans for better governance and regulation, to enable the Commission to issue directives on licensees to ensure strict compliance, to enable the application of standards of performance of supply and services by the licensee, to improve the quality of supply and services to consumers, require licensees to have in place consumer standards to better meet consumer demands, handling of complaints, protection of consumer information, information on tariff, billing, etc., to enable the Commission to direct the licensees to provide information on the levels of the performance achieved, to require the licensees to keep and maintain proper annual accounts for activities under the licence and to empower the Commission to approve the terms and conditions in any arrangement by the licensees or the Single Buyer for the procurement of electricity.

12. *Clause 11* seeks to amend section 12 of Act 447 by substituting the whole of subsection (1) to clarify it.

13. *Clause 12* seeks to amend section 17 of Act 447 for rectification of damage by the licensee and to ensure continuation of the supply of electricity within the prescribed period of time and for the licensee to repair any damage and to compensate for any damage as directed by the Commission if it is shown to have resulted from the negligent act of the licensee.

14. *Clause 13* seeks to amend section 21 of Act 447 to clarify the existing provision and to exclude the requirement for registration for an installation which has been excluded under subsection 21(1).

15. *Clause 14* seeks to introduce new sections 22A and 22B to Act 447 to provide for a System Operator and Single Buyer for the purpose of ensuring transparent and non-discriminatory operation of the power system and whose responsibility is separated from activities under the licence of the licensee.

16. *Clause 15* seeks to introduce new section 23D to Act 447 to require the registration of any person providing service relating to efficient use of electricity.

17. *Clause 16* seeks to introduce a new offence under a new subsection 24(6) of Act 447 to ensure that the licensee discharges its statutory obligation to give electricity supply or to lawfully exercise its power to disconnect electricity supply, without hindrance or interference.

18. *Clause 17* seeks to amend section 25 of Act 447 to clarify the circumstances in which the licensee can be exempted from giving supply of electricity.

19. *Clause 18* seeks to substitute section 26 of Act 447 to involve the Commission in the setting of tariffs and charges to ensure supply of electricity at reasonable prices.

20. *Clause 19* seeks to amend section 27 of Act 447 to improve the quality of supply and services to consumers by ensuring that the licensee can only impose approved connection expenses.
21. *Clause 20* seeks to introduce a new section 28B into Act 447 to ensure that the licensee and consumers enter into approved electricity supply agreements which are in accordance with the Act.
22. *Clause 21* seeks to amend section 29 of Act 447 to improve the quality of supply and services by licensees to consumers under approved special agreements which are in accordance with the Act.
23. *Clause 22* seeks to amend section 30 of Act 447 to better enable the Commission to resolve disputes under the Act.
24. *Clause 23* seeks to introduce new sections 30A and 30B into Act 447 to require disputes to be notified to the Commission in writing that the disputing parties have failed to resolve the dispute by negotiations and to meet the prescribed requirements. The new sections also provide for binding and enforceability of the Commission's decision and for a register of decisions to be maintained by the Commission.
25. *Clause 24* seeks to amend section 32 of Act 447 to enhance provisions on metering of electricity supply by the licensee and to allow for the usage of pre-paid meters, metering infrastructure or telemetering and for the meter to be installed, calibrated, tested, verified and maintained in accordance with the regulations, codes or guidelines made or issued under this Act.
26. *Clause 25* seeks to amend the shoulder note to section 33 of Act 447 for purpose of clarity and to substitute the Chairman with the Chief Executive Officer to be in line with the Energy Commission Act 2001 [*Act 610*].
27. *Clause 26* seeks to introduce a new Part VIIA and new sections 33A to 33F into Act 447 to enhance the safety of installations and equipment and to better enable the Commission to ensure stricter compliance to safety requirements by licensees, non-domestic electrical installation owners or operators, licensee for retail, licensee for a private installation and persons subject to the Act.
28. *Clause 27* seeks to amend section 36 of Act 447 to enable disputes under section 30 or other matters to be resolved through arbitration.
29. *Clause 28* seeks to amend subsections 37(1), (2), (3), (4), (10), (12), (14), (15) and (16) of Act 447 to increase the punishments for the offences of tampering or adjusting any installation so as to cause or to be likely to cause danger to human life or limb or injury or to any equipment or other property, rash or negligent act or omission that causes damage to person or property in respect of any installation or equipment, electricity theft including meter tampering and provisions for repeated offences whereby a different punishment is provided for domestic consumers and non-domestic consumers, affixing posters or defacing

structures of a public installation, damaging any meter or other instrument used or in connection with any licensed installation for recording the output or consumption of electricity.

The amendments also seeks to increase the punishment for an offence against the Act for which no penalty is expressly provided as well as to introduce a new paragraph 37(15)(b) into Act 447 to provide for an offence and punishment of any person who by any act or omission contravenes any provision under the Act. In addition, subsection 37(16) of Act 447 is substituted to provide the definitions of “domestic consumers”, “non-domestic consumers” and “domestic installation” for purposes of subsection 37(3) of Act 447.

30. *Clause 29* seeks to introduce new sections 37A and 37B into Act 447 for the offence committed by a body corporate and offence of attempt to commit and abetment of offences.

31. *Clause 30* seeks to amend section 38 of Act 447 to ensure that only in clear and proven cases of electricity theft under the Act can a licensee disconnect supply to a consumer. The Commission may also verify whether such offences had been committed and if it has not been committed, the Commission may direct the reconnection of supply of electricity by the licensee. The licensee shall also have to prove that it had suffered losses and reasonable expenses before it can claim against the consumer concerned and the licensee can only recover such losses or expenses through a court action and not by disconnection of supply of electricity and the licensee may only claim for the loss of revenue and expenses for a period of six months only unless it is a claim in court.

32. *Clause 31* seeks to substitute section 43 of Act 447 to empower the Minister with the approval of the Public Prosecutor to prescribe any offence under the Act to be compoundable as well as criteria for compounding such offence. The Commission implements the compounding of such offences with the consent of the Public Prosecutor.

33. *Clause 32* seeks to introduce a new section 44A into Act 447 to allow communications under the Communication and Multimedia Act 1998 [Act 588] using the electricity supply network and infrastructure of a licensee. It also enables regulations, codes, guidelines and directions to be made by the Commission to regulate the activity and the parties concerned.

34. *Clause 33* seeks to introduce a new Part IXA and new sections 44B to 44E into Act 447 to enable the contribution by a licensee to and the establishment of an Electricity Industry Fund and to empower the Commission to manage, operate and expend the fund.

35. *Clause 34* seeks to amend subsection 45(1) of Act 447 to be in line with amendments relating to communication using the electricity supply network and infrastructure of a licensee as well as to keep up with technological development in communications.

36. *Clause 35* seeks to introduce new sections 45A, 45B and 45C into Act 447 to enhance governance, efficiency and competitiveness in the electricity supply industry through audit of licensees and non-domestic electrical installation owners or operators. These amendments also enable the Commission to determine the

standards applicable to any installation or equipment and for the licensees, non-domestic electrical installation owners or operators, manufacturers, importers and registered electrical contractors to retain and keep records and documents in respect of matters and for a period of time as may be prescribed under Act 447.

37. *Clause 36* seeks to amend section 46 of Act 447 to include the usage of electricity supply lines for metering infrastructure, telemetering and for communications which shall not interfere with Government signaling lines.

38. *Clause 37* seeks to amend section 48 of Act 447 to enable codes to be issued by the Commission in respect of restriction of connection with the earth.

39. *Clause 38* seeks to introduce new sections 50A, 50B, 50C, 50D, 50E and 50F into Act 447 pertaining to the development of and compliance to codes containing a set of rules, principles and procedures issued by the Commission with the approval of the Minister, including the electrical infrastructure safety code, the non-domestic electrical installation safety code and other codes and to allow the Commission to retain documents. The amendments also aim to enable the Commission to issue guidelines or directions for stricter compliance, to vary, review or revoke a codes, guidelines or directions, offence for non-compliance with any codes, guidelines or directions and register of codes, guidelines or directions.

40. *Clause 39* seeks to introduce new sections 52A and 52B into Act 447 pertaining to supply infrastructure information security by licensee in line with cyber security and to enable the Commission to obtain information and access to data pertaining to a licensee or any person under the Act including the power to require the production of records, account, data, computerized data and documents kept by a licensee or any other person and the introduction of a new offence and punishment for non compliance.

41. *Clause 40* seeks to amend section 53 of Act 447 to expand the areas for the Minister to make regulations under Act 447 including the matters under the proposed amendments.

42. *Clause 41* seeks to amend section 54 of Act 447 to expand the power of which the Minister can grant exemptions from the provisions of the Act, regulations or codes upon the recommendation of the Commission. The Commission may also recommend to the Minister the conditions to be applicable to an exemption and any exemption may be varied or revoked.

43. *Clause 42* provides for savings and transitional provisions.

FINANCIAL IMPLICATIONS

This Bill will involve the Government in extra financial expenditure the amount of which cannot at present be ascertained.