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OBJECTS AND REASONS

This Bill would regulate the generation, storage, transmission, distribution, dispatch, supply and sale of electricity and promote local participation, competition and the adoption of energy practices and technologies in the electricity sector that are sustainable to enhance energy security, climate resiliency and ensure the reliability and affordability of services in the sector.

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BARBADOS

A Bill entitled

An Act to regulate the generation, storage, transmission, distribution, dispatch, supply and sale of electricity.

ENACTED by the Parliament of Barbados as follows:

PART I

PRELIMINARY

Short title

1. This Act may be cited as the *Electricity Supply Act, 2023*.

Interpretation

2. In this Act,

“affiliate”, in relation to a body corporate, has the meaning assigned to it by section 440 of the *Companies Act, Cap. 308*;

“business day” means a day other than a Saturday, Sunday or public holiday;

“Codes” means the codes issued pursuant to section 48;

“Commission” means the Fair Trading Commission established by section 3 of the *Fair Trading Commission Act, Cap. 326B*;

“control”, in relation to a body corporate, has the meaning assigned to it by section 441 of the *Companies Act, Cap. 308*;

“cumulative installed capacity”, in relation to more than one generation system, means the sum of the installed capacity of the systems;

“decommissioning fund” means a fund to be used exclusively to meet the costs and expenses of conducting decommissioning operations;

“decommissioning operations” means the activities involved in the execution of a decommissioning plan;

“decommissioning plan” means a plan which specifies the manner in which a licensee intends to decommission a facility for the generation, transmission, distribution or storage of electricity;

“dispatch” means the conduct of activities involved in the central management and direction of electricity from generation systems and other sources of

supply of electricity to the public grid in order to achieve an economic supply of electricity that is safe and reliable;

“dispatch code” means rules to govern dispatch;

“distribution” means the transport of electricity by means of a distribution system;

“distribution system” means a system which

- (a) consists, wholly or mainly, of low voltage electric lines; and
- (b) is used primarily for conveying electricity from a substation to a consumer;

“electricity system” means the system for the generation, storage, transmission, distribution and dispatch of electricity for use by the public, and includes the public grid;

“energy efficiency” includes

- (a) the use of less electricity to accomplish the same task or satisfy the same need through a change of technology or patterns of usage;
- (b) the utilization or management of a grid in a more cost-effective manner; and
- (c) a reduction in the amount of electricity required to be supplied to customers;

“Fund” means the Electricity System Benefit Fund established by section 51;

“generation” means the production of electricity by means of a generation system;

“generation system” means a system that includes one or more generation sets;

“grid” means a system for the generation, transmission, distribution and supply of electricity;

- “grid code” means the minimum, technical and commercial requirements to be satisfied by a person who owns, controls or operates a grid or supplies electricity to, or receives electricity from, a grid;
- “independent power producer” means a person, other than the Public Utility, who owns or operates, on a commercial basis, a facility for the generation or storage of electricity primarily for supply to the public, whether through the public grid or otherwise;
- “installed capacity” means the sum of the maximum rated electric output of each generator in a generation system, as determined by the manufacturer of the generator;
- “interconnection” means the connection of an electric line between a generation system or a storage system of a registrant or a licensee and a transmission system or distribution system;
- “licence” means a licence issued under this Act;
- “licensee” means a person who holds a licence;
- “merit order” means the sequence in which generation and storage systems are designated to deliver electricity, with the aim of economically optimizing the supply of electricity;
- “microgrid” means a system, other than the public grid, for the generation, distribution and supply of electricity, whether connected to the public grid or islanded;
- “microgrid code” means the minimum, technical and commercial requirements to be satisfied by a person who owns, controls or operates a microgrid or supplies electricity to, or receives electricity from, a microgrid;
- “public grid” means the physically connected generation, transmission and distribution systems used for the supply of electricity to the public;
- “Public Utility” means the person who owns, controls or operates the public grid;

- “registrant” means a person, other than a licensee, registered pursuant to section 19;
- “renewable energy source” means an energy source that is not depleted when exploited;
- “self-generator” means a person, other than the Public Utility, an independent power producer or an operator of a microgrid, who generates or stores electricity for his own use and for supply to another, and includes a person described in section 8(2)(a) and (b);
- “service provider” has the meaning assigned to it by section 2 of the *Fair Trading Commission Act*, Cap. 326B;
- “smart grid” means a grid which includes two-way digital communication between the supplier of electricity and a consumer, intelligent metering and a monitoring system;
- “storage system” means a system, mechanism or device for the conversion of electricity into a form of energy which can be kept in reserve, the keeping of that energy and the subsequent reconversion of that energy into electrical energy in a controllable manner;
- “store” means to operate a storage system;
- “supply” means the provision of electricity to consumers, the Public Utility, an operator of a microgrid or any other person;
- “System Operator” means the person who holds the licence, and is responsible, for dispatch;
- “telecommunications” has the meaning assigned to it by section 2 of the *Telecommunications Act*, Cap. 282B;
- “telecommunications network” has the meaning assigned to it by section 2 of the *Telecommunications Act*, Cap. 282B;
- “telecommunications service” has the meaning assigned to it by section 2 of the *Telecommunications Act*, Cap. 282B;

“transmission” means the transport of electricity by means of a transmission system;

“transmission system” means a system for conveying electricity from a generating station to a substation or to another generating station or to or from an interconnector or to a consumer but does not include an electric line that is part of a distribution system;

“Tribunal” means the Electricity Appeals Tribunal established by section 56;

“works” includes electric lines and any buildings, machinery, engines, equipment and other things required to generate, store, transmit and distribute or otherwise supply electricity.

Objectives of Act

- 3.** The objectives of this Act are to
- (a) provide for a modern system of regulation of the generation, storage, transmission, distribution, supply, dispatch and sale of electricity;
 - (b) facilitate the efficient, effective, sustainable and orderly development and operation of the electricity system, supported by adequate levels of investment, local participation, and research and development;
 - (c) promote energy security, energy efficiency and the use of renewable energy sources;
 - (d) promote transparency in the identification and allocation of costs and revenues within the electricity sector;
 - (e) ensure that the regulation of the electricity sector is transparent and predictable; and
 - (f) ensure the protection and safety of consumers of electricity and the public.

Act to bind State

- 4.** This Act binds the State.

PART II

ADMINISTRATION

System planning

5.(1) The Minister shall direct the planning, development and monitoring of the electricity system and, for the purpose, shall

- (a) require the Public Utility to develop integrated resources and resilience, and grid modernization plans for the system;
- (b) collect technical, financial and other relevant data from licensees and registrants;
- (c) consult with the Commission, the Chief Electrical Officer, the Public Utility, the System Operator and other stakeholders within the electricity sector on matters concerning the system; and
- (d) conduct system forecasting in accordance with the national energy policy.

(2) The Minister shall require the Public Utility, for the purposes of developing the plans referred to in subsection (1)(a), to consider

- (a) the disaggregation of the public grid into a series of microgrids capable of operating in island mode;
- (b) the development and deployment of smart grid infrastructure;
- (c) the underground placement of electric lines;
- (d) the deployment of utility storage facilities at diverse points along the transmission and distribution system;
- (e) the adoption of a policy on a non-wires solution with respect to upgrades to the transmission and distribution system; and
- (f) any other measures deemed necessary for ensuring the resiliency of the electricity system in relation to climatic and other events.

Minister to set capacity targets and limits

6.(1) The Minister may, by Order, after consultation with

- (a) the Commission;
- (b) the Chief Electrical Officer;
- (c) the Public Utility;
- (d) the System Operator; and
- (e) such other persons as the Minister may deem appropriate,

prescribe the minimum and maximum amounts of electricity that shall be permitted by the Public Utility to be supplied to the public grid.

(2) Without prejudice to the generality of subsection (1), minimum and maximum amounts may be prescribed for electricity generated

- (a) from different renewable energy sources; and
- (b) on different types of premises, whether domestic, commercial or otherwise.

New generation and storage capacity

7. Without prejudice to Part III, where the Minister determines that it is in the public interest to do so, the Minister may facilitate the provision of new generation and storage capacity at utility scale, for the supply of electricity to the public grid, through negotiations with an independent power producer or competitive bidding.

PART III

LICENSING AND REGISTRATION

Restrictions on certain electricity services without licence

8.(1) Subject to subsection (2), no person shall, except in accordance with a licence issued to the person,

(a) engage, in connection with the supply of electricity to another, in any of the following activities:

- (i) generation;
- (ii) storage;
- (iii) transmission;
- (iv) distribution;
- (v) dispatch;
- (vi) sales;
- (vii) development of a microgrid; or
- (viii) energy efficiency and demand side management, on a commercial basis; or

(b) erect, maintain or have an electric line or other works over, along, across or under any street, road, bridge or pavement.

(2) Subsection (1)(a) does not apply to

- (a) a person who generates electricity on premises that are primarily residential and supplies the electricity to the Public Utility, where the installed capacity of the generation system installed on the premises does not exceed the amount set out in paragraph 1 of the *First Schedule*, whether or not the person stores some or all of the generated electricity;

- (b) a person, other than a person described in paragraph (a), who generates electricity and supplies the electricity to the Public Utility, where the cumulative installed capacity of the generation systems owned, controlled or operated by the person for the supply of electricity does not exceed the amount set out in paragraph 2 of the *First Schedule*, whether or not the person stores some or all of the generated electricity;
 - (c) the Public Utility, where it develops a microgrid along the transmission and distribution systems for the purpose of modernizing or enhancing the resilience of the public grid; and
 - (d) such other persons as the Minister may prescribe by Order.
- (3) A person who contravenes subsection (1) is guilty of an offence and is liable, on summary conviction, to a fine of \$100 000 or to imprisonment for 2 years or both.

Application for licence

- 9.(1) A person may apply to the Minister for a licence in such form as the Minister may require.
- (2) An applicant shall submit with his application
- (a) such information as the Minister may require to determine whether a licence should be issued to the applicant;
 - (b) the prescribed fee; and
 - (c) where he intends to operate a generation system or storage system with an installed capacity that exceeds the amount set out in paragraph 3 of the *First Schedule*, a decommissioning plan which provides for
 - (i) the dismantling, demolition and removal of the asset to be decommissioned;
 - (ii) the disposal of hazardous waste; and

(iii) the restoration of the premises at which the system is installed to an acceptable condition.

(3) The Minister shall, in determining whether to issue a licence to an applicant, take into account, where relevant

- (a) the objects of this Act;
- (b) the national energy policy;
- (c) the current and projected demand for electricity based on the most recent integrated resources and resilience, and grid modernization plans;
- (d) the cumulative installed capacity of the electricity system; and
- (e) whether the applicant proposes to introduce commercially and economically viable new and innovative renewable energy or storage technology into the electricity system.

(4) Notwithstanding subsection (1), the following persons shall not apply for a licence in respect of energy efficiency and demand side management on a commercial basis without the approval of the Minister:

- (a) the Public Utility;
- (b) an operator of a microgrid; and
- (c) an affiliate of the Public Utility or an operator of a microgrid.

Issue of licence

10.(1) The Minister may, upon payment of the prescribed fee, issue a licence to an applicant where the Minister is satisfied that

- (a) the facility and location intended to be used pursuant to the licence is safe and adequate for the purpose;

- (b) the applicant
 - (i) possesses the financial capacity and viability to build and maintain the facility;
 - (ii) has the technical capability to operate the facility safely, reliably and efficiently; and
 - (iii) meets such other requirements for the issue of a licence as may be prescribed;
 - (c) any planning permission required under the *Planning and Development Act, 2019* (Act 2019-5) has been obtained; and
 - (d) the issue of a licence to the applicant would not result in the cumulative installed capacity of the renewable energy generation systems connected to the public grid being in excess of such amount as the Minister may prescribe by Order.
- (2) Notwithstanding subsection (1), the Minister may refuse to issue a licence where the Minister is satisfied that
- (a) the amount of electricity to be supplied pursuant to the licence would exceed the needs of the electricity system; or
 - (b) the issue of the licence is not in the public interest.
- (3) The Minister shall
- (a) notify an applicant in writing as soon as practicable of his intention to refuse to issue a licence and of the reasons for his decision; and
 - (b) provide the licensee with an opportunity to make submissions, within 30 days of receipt of the notice, as to why the issue of a licence should not be refused.
- (4) The Minister shall, within 7 days of receipt of any submissions made by an applicant pursuant to subsection (3)(b)
- (a) consider the submissions; and

- (b) notify the applicant in writing of his decision with respect to the issue of a licence.

Terms and conditions of licence

11.(1) A licence may be issued for such period and upon such terms and conditions as the Minister considers appropriate for the purposes of this Act.

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

(a) it is a condition of every licence that the licensee

- (i) pay the prescribed annual fee;
- (ii) observe such of the Codes as apply to the operations of the licensee;
- (iii) provide the Minister with such information as the Minister may require for the purposes of this Act; and
- (iv) refrain from acting in a manner that will adversely affect, directly or indirectly, the security and stability of the electricity system, or the safety of the public; and

(b) the Minister may

- (i) include in a licence, a condition requiring a licensee to comply with such other obligation, whether or not relating to the activities authorized by the licence, as appears to the Minister to be necessary or expedient for the purposes of this Act; and
- (ii) provide for a condition in a licence to cease to have effect at such time and in such circumstances as the Minister considers appropriate.

(3) A licence, other than a licence for the transmission and distribution of electricity through the public grid, shall be non-exclusive.

Local participation and investment

12.(1) The Minister may, in accordance with the national energy policy, require a licensee who owns a generation system or storage system with a cumulative installed capacity that exceeds the amount set out in paragraph 4 of the *First Schedule* to

- (a) ensure that at least 30% of the generation capacity or storage capacity is, for the duration of the licence, beneficially owned by individuals who are citizens or permanent residents of Barbados; and
- (b) make a capital contribution not exceeding 2% of net profits annually towards the Electricity System Benefit Fund.

(2) Subsection (1) does not apply to a licensee other than the public utility or an independent power producer.

Renewal of licence

13.(1) A licence may be renewed, upon payment of the prescribed fee, for such period as the Minister considers appropriate.

(2) The Minister may refuse to renew a licence where the licensee is or has engaged in conduct that materially contravenes the Codes, this Act or any regulations made under this Act.

(3) The Minister shall

- (a) notify a licensee in writing as soon as practicable of his intention not to renew the licence and of the reasons for his decision; and
- (b) provide the licensee with an opportunity to make submissions, within 30 days of receipt of the notice, as to why renewal of the licence should not be refused.

(4) The Minister shall, within 7 days of receipt of any submissions made by a licensee pursuant to subsection (3)(b)

- (a) consider the submissions; and

- (b) notify the licensee in writing of his decision with respect to renewal of the licence.

Modification of licence

14.(1) The Minister may, on his own motion or on the application of a licensee, modify a licence with the consent of the licensee.

(2) Notwithstanding subsection (1), the Minister may modify a licence without the consent of the licensee where the Minister is satisfied that the modification is necessary in the public interest.

(3) Where the Minister intends to modify a licence pursuant to subsection (2), the Minister shall, at least 2 days prior to the modification, notify the licensee and any other party who may be affected by the modification in writing of his intention.

Suspension and revocation of licence

15.(1) The Minister may suspend or revoke a licence where

- (a) the licensee
 - (i) engages in conduct that materially contravenes the Codes, this Act or any regulations made under this Act;
 - (ii) fails to observe a term or condition of the licence; or
 - (iii) fails to pay a prescribed fee; or
- (b) the suspension or revocation is necessary in the interest of national security or otherwise in the public interest.

(2) Where the Minister intends to suspend or revoke a licence, the Minister shall

- (a) notify the licensee in writing, at least 60 days prior to the suspension or revocation, of
 - (i) his intention;

- (ii) the grounds on which he proposes to suspend or revoke the licence; and
 - (iii) the date of the proposed suspension or revocation; and
- (b) provide the licensee with an opportunity to
 - (i) make submissions, within 30 days of receipt of the notice or such longer period as the Minister may specify, in respect of the grounds and generally as to why the licence should not be suspended or revoked; and
 - (ii) remedy any matter described in subsection (1)(a), where applicable.
- (3) The Minister shall, within 7 days of receipt of any submissions made by a licensee pursuant to subsection (2)(b), including in relation to any remedial action taken by the licensee
 - (a) consider the submissions made or remedial action taken; and
 - (b) notify the licensee in writing of his decision with respect to the suspension or revocation of the licence.
- (4) The suspension or revocation of a licence shall take effect on the date specified pursuant to subsection (2)(a)(iii) or such other date as the Minister may specify.

Licensee to notify of changes

- 16.** A licensee shall notify the Minister where
- (a) control of the licensee is transferred; or
 - (b) there is a material change in the circumstances of the licensee that impacts upon the ability of the licensee to conduct operations under his licence.

Assignment of licence

17.(1) A licensee may, with the approval of the Minister, assign his licence or any rights under his licence.

(2) A licensee shall submit with his application for approval pursuant to subsection (1)

- (a) particulars of the assets and of the controlling interest or share holding to be assigned;
- (b) evidence establishing that the assignee is a fit and proper person to hold a licence; and
- (c) such other information as the Minister may require to determine whether to approve the assignment.

(3) The Minister may grant approval for an assignment of a licence or any rights under a licence where the Minister is satisfied that the proposed assignee is legally, technically and financially qualified to undertake the obligations imposed by this Act and the licence.

(4) Notwithstanding subsection (1), where it is proposed to assign a licence or any rights under a licence to a person other than an affiliate of the licensee, the State shall have the right of first refusal, subject to any preexisting liens.

(5) An assignment pursuant to subsection (1) shall be deemed to be a licence issued under this Act.

(6) A licensee shall not, by virtue of an assignment pursuant to subsection (1), be relieved of any obligations and liabilities which the licensee incurred prior to the assignment.

(7) Where a dispute arises under this section, the dispute shall be referred to and determined by the Tribunal.

(8) A purported assignment of a licence in contravention of subsection (1) is void.

(9) A licensee who assigns his licence or any rights under his licence without the approval of the Minister is guilty of an offence and is liable, on summary conviction, to a fine of \$100 000.

State's right to step-in

18.(1) Where the Public Utility, the System Operator or an independent power producer fails to perform a material obligation or suspends or ceases operations in the electricity system for any reason including an event of *force majeure* or the suspension or revocation of a licence, the State shall have the right to step-in and take over the performance of the obligation or the operations.

(2) The State may assign the right specified in subsection (1) to another person who is qualified to perform the obligation or continue the operations.

(3) The Minister may include in a licence such terms and conditions as may be appropriate for the purposes of subsections (1) and (2).

Registration of generation systems and storage systems

19.(1) The Minister shall cause to be maintained a register that contains the following information:

- (a) the name and address of every person who owns, controls or operates a generation system or storage system, whether the system is
 - (i) connected to the public grid or islanded; or
 - (ii) installed pursuant to a licence or otherwise;
- (b) the location of the premises at which the system is installed and the type of premises;
- (c) the type of system, including the energy source utilized by the system, and its installed capacity;
- (d) a copy of every licence issued or deemed to be issued and any modification, if any, made to the licence; and

- (e) such other information as the Minister considers appropriate for the purposes of this Act.
- (2) A person who owns, controls or operates a generation system or storage system but does not require a licence under this Act shall furnish to the Minister such information as the Minister may require for the purpose of subsection (1).
- (3) Where the Minister is satisfied that a person has failed to comply with subsection (2), the Minister may impose on the person an administrative penalty of \$250.
- (4) A member of the public may, upon payment of the prescribed fee, inspect, and obtain copies of information from, the register.

PART IV

INTERCONNECTION AND SALE OF ELECTRICITY TO PUBLIC UTILITY

Interconnection

20.(1) The Public Utility shall, in accordance with subsection (2), make interconnection services available to

- (a) another licensee; or
- (b) a registrant,

at the request of the licensee or registrant.

- (2) Interconnection services referred to in subsection (1) shall be
 - (a) offered at points along the public grid subject to
 - (i) the approval of the Chief Electrical Officer;
 - (ii) such agreement between the parties as may be approved by the Commission for the purpose; and
 - (iii) the payment of such fee as may be specified by the Public Utility and approved by the Commission;

(b) made available

(i) on such terms and conditions as may be approved by the Minister as reasonable, transparent and non-discriminatory; and

(ii) within such period as may be specified by the Minister.

(3) The terms and conditions of an agreement on interconnection may include:

(a) a description of the interconnection services to be provided;

(b) the location of points of interconnection;

(c) the technical requirements for interconnection;

(d) the processes for the testing and establishment of interconnection;

(e) the charges for interconnection;

(f) the duration of the agreement;

(g) provision on

(i) the maintenance and quality of interconnection services;

(ii) access to ancillary services;

(iii) traffic forecasting and network management;

(iv) limitation of liability and indemnity; and

(v) confidentiality in relation to certain aspects of the agreement;

(h) the procedure to be followed where alterations to the system or the services offered are proposed; and

(i) dispute resolution procedures.

(4) The Public Utility may refuse interconnection services for technical reasons but shall not impose on another licensee or a registrant, for the purpose of interconnection, a technical requirement that is

- (a) unnecessary or onerous in the context of the safety, stability and reliability of the public grid; or
- (b) inconsistent with the licence or conditions of registration of the person.

(5) Where the Public Utility refuses to provide interconnection services to another licensee or a registrant, the Public Utility shall, within 2 days of the refusal

- (a) provide the licensee or registrant with written reasons for the refusal; and
- (b) supply a copy of the reasons to the Minister and the Commission.

(6) Where the Minister is notified of a dispute regarding a technical requirement for the purpose of interconnection, the Minister shall, after

- (a) providing the Public Utility and the licensee or registrant with an opportunity to make submissions on the matter; and
- (b) consulting with the Chief Electrical Officer and such other expert, if any, as the Minister considers appropriate,

determine whether the technical requirement meets the criteria set out in subsection (4)(a) or (b) of that subsection; and the decision of the Minister shall be final.

Agreement on purchase of electricity by Public Utility

21.(1) The Public Utility shall purchase electricity from another licensee or a registrant at such rate and on such other terms and conditions as may be approved by the Commission.

(2) Where a licensee is an independent power producer, the Minister shall, after consultation with the Commission, establish a time frame for the conclusion

of negotiations for an agreement between the Public Utility and the independent power producer on the purchase of electricity.

(3) Where the Public Utility and the independent power producer fail to arrive at an agreement within the time frame established pursuant to subsection (2), the Commission shall specify the terms and condition of the agreement.

Public Utility not to unreasonably refuse agreement

22. The Public Utility shall not unreasonably refuse to enter into an agreement referred to in this Part.

PART V

DUTIES OF PARTICIPANTS IN THE ELECTRICITY SYSTEM

Public Utility obliged to provide service

23.(1) The Public Utility shall, in accordance with its licence, this Act and any regulations made under this Act, and in cooperation with other participants within the electricity system, provide to all parts of the island of Barbados, an adequate, safe, reliable and efficient electricity service, based on modern standards and at reasonable rates to meet the demand for electricity.

(2) Where, at any time, the demand for electricity from the public grid exceeds the amount of electricity available for supply, the Public Utility shall provide electricity to meet the excess demand.

Other participants to develop reliable and safe generation and storage systems

24. A person, other than the Public Utility, involved in the generation or storage of electricity shall, in accordance with his licence, if any, the grid code, this Act and any regulations made under this Act, develop and maintain generation or storage systems that are reliable, efficient, safe, and in the case of an independent power producer, economical.

Public Utility to implement integrated resources and resilience, and grid modernization plans

25.(1) The Public Utility shall, with the approval of the Minister, implement the integrated resources and resilience, and grid modernization plans developed pursuant to section 5.

(2) Where the Public Utility, with the approval of the Minister, invests in smart grid technologies and measures for resiliency in relation to the public grid, the Public Utility may apply to the Commission to implement a specific cost recovery mechanism to recover its investment.

Public Utility to keep separate accounts

26.(1) The Public Utility shall keep the accounts for its generation, transmission, distribution and supply activities separate and distinct from each other and from the accounts it keeps in respect of any other part of its undertaking or business.

(2) The Public Utility may engage in any other business in addition to the activities it conducts pursuant to its licence but no revenue, costs, profits or losses resulting therefrom shall be taken into account in the fixing of rates by the Commission.

Public Utility to report on activities

27. The Public Utility shall furnish to the Minister and the Commission annually, not later than 90 days after the end of each financial year of the Public Utility, a report on its activities during the year containing such information and in such form as the Minister may require.

System Operator's functions

28. The System Operator shall

- (a) conduct dispatch in accordance with the dispatch code;

- (b) establish such technical arrangements as may be necessary to
 - (i) enable the Minister effectively to monitor dispatch to determine whether the System Operator is in compliance with such merit order as may be determined in accordance with the Codes; and
 - (ii) provide the Minister, the Public Utility and independent power producers with access to real time information concerning dispatch; and
- (c) ensure that any information concerning dispatch that it provides to one independent power producer is also made available to every other independent power producer whose generation capacity is included in the dispatch activity, unless the information relates to the particular independent power producer or is otherwise not relevant to the other independent power producers.

System Operator's departure from merit order

29.(1) Subject to subsection (3), where the Minister

- (a) is satisfied that the System Operator has dispatched generation or storage capacity to the electricity system in a manner that does not comply with the merit order; and
- (b) determines that the System Operator should compensate consumers of electricity for such dispatch,

the Minister may make a claim for compensation on behalf of consumers.

(2) A claim under subsection (1) shall be

- (a) delivered in writing to the System Operator within 3 months from the date on which the information on which the claim is based was provided by the System Operator to the Minister; and
- (b) supported by evidence.

(3) Notwithstanding subsection (1), the obligation to compensate consumers shall not arise where the System Operator satisfies the Minister that the departure from the merit order was due to technical exigencies relating to the reliability of the supply of electricity or the stability of the electricity system.

(4) Any compensation provided to consumers pursuant to subsection (1) shall be absorbed by the System Operator and shall not be passed on to or otherwise recovered from consumers.

System Operator to plan for major system failure

30.(1) The System Operator shall develop and maintain a plan for restoring the electricity system to normal operating levels in the event of a major system failure.

(2) Where there is a major system failure, the System Operator shall as soon as practicable

- (a) inform the Minister of the status of the electricity system;
- (b) seek to have the system restored to normal operating levels taking into account safety, reliability and economy; and
- (c) coordinate the bringing back online of any apparatus forming part of the system that may have ceased to be available to the system,

and shall provide regular status updates to the Minister until the electricity system is restored to normal operating levels.

(3) The System Operator shall

- (a) conduct an investigation into the causes of a major system failure; and
- (b) submit to the Minister, within 30 days of the system being restored to normal operating levels, a report on the matter which shall include
 - (i) its findings on the causes of the failure;
 - (ii) an assessment of the cost associated with the failure;
 - (iii) the measures taken to restore the system; and

(iv) the measures to be taken to avoid a recurrence of the failure.

(4) For the purposes of this section, “major system failure” means a system failure that

- (a) has not been planned by the System Operator;
- (b) affects at least 1 000 customers; and
- (c) lasts at least 2 hours.

Audit of System Operator’s activities

31.(1) The Minister shall cause the dispatch activities and related operations of the System Operator to be independently audited annually.

(2) The System Operator shall facilitate the audit and provide such access to information as the auditor may require to complete the audit within such period as may be specified by the Minister.

Licensees to cooperate and comply with System Operator's directions

32. A licensee shall

- (a) give such assistance and provide such information to the System Operator as may be necessary to enable the System Operator to prepare the dispatch code pursuant to section 48; and
- (b) comply with any direction of the System Operator relating to dispatch or any other activity related to the functions of the System Operator.

Where Public Utility is System Operator

33.(1) Where the Public Utility is the System Operator, the Public Utility shall, in accordance with this section, separate its dispatch activities from its other activities including those relating to generation, storage, transmission, distribution and sale of electricity.

- (2) In furtherance of the separation referred to in subsection (1)
- (a) the Public Utility shall establish a discrete department for dispatch, the head of which department shall report directly to the Public Utility's board of directors;
 - (b) the Public Utility shall keep its accounts and records in relation to dispatch separate from other accounts and records; and
 - (c) the Minister may, require the Public Utility to make such additional arrangements as the Minister considers appropriate to establish further the separation.

PART VI

POWERS, OBLIGATIONS AND RESTRICTIONS IN RESPECT OF ELECTRICITY SUPPLY

Power to break up streets etc.

- 34.(1)** Subsections (2) to (9) apply to
- (a) the Public Utility; and
 - (b) any other licensee, where the Minister so provides in his licence.
- (2) Subject to subsections (3) and (4) and to the terms and conditions of his licence, a licensee may, for the purpose of supplying electricity or for any matter related to such purpose
- (a) open and break up any street, road, bridge or pavement;
 - (b) open and break up any sewer, drain or tunnel within, under or along any street, road, bridge or pavement;
 - (c) lay down pipes, conduits, machinery and other apparatus; and
 - (d) do such other things as the licensee considers necessary or expedient in connection with paragraphs (a) to (c).

(3) A licensee shall not undertake an activity referred to in subsection (2) unless the licensee

(a) gives to the Chief Technical Officer, 21 days' written notice of his intention to undertake the activity; and

(b) obtains the consent of the Chief Technical Officer for the activity.

(4) Where a licensee intends to undertake an activity referred to in subsection (2), the licensee shall give to the owners or occupiers of the premises that are likely to be affected by the activity, 7 days' written notice of his intention to undertake the activity.

(5) Notwithstanding subsections (3) and (4), where an emergency arises, the licensee may commence an activity referred to in subsection (2) without complying with subsections (3) and (4) but shall as soon as possible after

(a) the necessity for the activity arises; or

(b) the activity begins,

notify the persons referred to in subsections (3) and (4) of the activity.

(6) Where the owners or occupiers referred to in subsection (4) cannot be identified or located after the licensee makes reasonable efforts so to do, the licensee shall publish notice of the activity referred to in subsection (2) in at least 2 daily newspapers and the owners or occupiers shall be taken to have been thereby notified.

(7) A licensee shall

(a) fence any portion of any street, road, bridge or pavement that is broken up; and

(b) provide adequate warning devices to indicate the fact of disrepair.

(8) A licensee shall, without unnecessary delay, restore to the satisfaction of the Chief Technical Officer, any streets, roads, bridges, pavements, sewers and like structures that the licensee disturbs pursuant to subsection (2).

(9) Where a licensee

- (a) fails to fence or provide adequate warning devices; or
- (b) delays in making restoration,

as required by subsection (7) or (8), as the case maybe, the Chief Technical Officer may carry out the necessary work and recover from the licensee, all reasonable expenses incurred in carrying out the work.

(10) A person who, without reasonable excuse, hinders or obstructs an employee or agent of a licensee in the conduct of an activity pursuant to this section is guilty of an offence and is liable, on summary conviction, to a fine of \$5 000 or to imprisonment for 12 months or both.

(11) Nothing in this Act authorizes a licensee to carry out an activity referred to in subsection (2) in respect of a street, road, bridge or pavement or a sewer, drain or tunnel within, under or along any street, road, bridge or pavement, that is not repairable by the Chief Technical Officer, without the consent of the person by whom it is repairable.

(12) In this section and in section 36 “Chief Technical Officer” means the Chief Technical Officer in the Ministry responsible for Works.

Power to alter positions of pipes and wires

35.(1) Subsections (2) and (3) apply to

- (a) the Public Utility; and
- (b) any other licensee, where the Minister so provides in his licence.

(2) Subject to this Act, the *Utilities Regulation Act*, Cap. 282 and his licence, a licensee may alter the position of any pipes or wires that

- (a) are under or upon any street or place that the licensee is authorized to break up; and
- (b) may interfere with the exercise of the powers of the licensee under this Act.

- (3) A licensee shall
- (a) prior to altering the position of any pipes or wires, make or secure such compensation to the owner of the pipes or wires; and
 - (b) comply with such conditions as to the mode of making the alterations referred to in paragraph (a),
- as may, prior to the commencement of the alterations, be agreed upon by the licensee and the owner of the pipes or wires.
- (4) Any dispute with respect to the compensation or conditions referred to in subsection (3) shall be referred to the Commission for determination.
- (5) Any other person may, in the same manner as that provided for a licensee in subsections (2) and (3), alter the position of any pipes or wires of a licensee that
- (a) are under or upon any street or place that the person is authorized to break up; and
 - (b) may interfere with the lawful exercise of any power vested in the person.

Restrictions on works above ground

- 36.(1)** Notwithstanding anything in this Act, a licensee shall not, without the consent of the Chief Technical Officer, place an electric line above ground and along, over or across a street.
- (2) Where a licensee contravenes subsection (1), the Chief Technical Officer may
- (a) require the licensee forthwith to remove the electric line placed contrary to that subsection; or
 - (b) remove the electric line and recover from the licensee, the expense of such removal.

(3) Where a licensee places an electric line above ground in any position, a magistrate may, on the application of the Chief Technical Officer, where the magistrate is satisfied that the line is, or is likely to become, dangerous to the public, order the removal of the line by such person and upon such terms as the magistrate thinks fit.

Restrictions on placement of electric lines etc.

37.(1) Where

- (a) an electric line or other work is laid down or erected in, over, along, across or under a street for the purpose of supplying electricity, or in any other position for such purpose, in such a manner as not to be entirely enclosed within a building or buildings; or
- (b) an electric line or other work laid down or erected as described in paragraph (a) is used for the purpose of supplying electricity otherwise than in pursuance of a licence,

the Minister may, where he thinks fit, by written notice to be served upon the person who owns, uses or is entitled to use the electric line or other work, require that the line or other work be continued and used only in accordance with such conditions and subject to such measures for the protection of the public and the telecommunications network as the Minister may determine.

(2) Where a person fails to comply with the conditions or measures referred to in subsection (1), the Minister may require the person to remove the electric line or work.

(3) Subsection (1) does not apply to an electric line or other work laid down or erected by an owner or occupier of premises in order for electricity generated upon the premises to be supplied to another part of the premises.

Restrictions on use of electric lines

38.(1) Where an electric line or other work is used for the supply of electricity in such a manner as adversely to affect the telecommunications network or

telecommunications service, the Minister may, by written notice to be served upon the person who owns, uses or is entitled to use the electric line or work, require that the supply be continued only in accordance with such conditions and measures for the protection of the network and service as the Minister may determine.

(2) Where a person fails to comply with the conditions or measures referred to in subsection (1), the Minister may require the supply of electricity through the electric line or other work forthwith to be discontinued.

(3) Subsection (1) does not apply to an electric line or other work laid down or erected and used for the supply of electricity in accordance with a licence.

Service of section 37 or 38 notice

39.(1) A notice authorized to be served upon a person pursuant to section 37 or 38 may be served

(a) personally; or

(b) by

(i) courier service;

(ii) post;

(iii) facsimile;

(iv) electronic mail; or

(v) such other method as may be prescribed by the Minister by Order.

(2) A notice served by post shall be deemed to have been served at the time when the letter containing the notice would be delivered in the usual course of post, and in proving such notice, it shall be sufficient to prove that the letter containing the notice was properly addressed and put into the post.

Penalty for failure to comply with section 37 or 38 notice

40.(1) A person who, without reasonable excuse, fails to comply with the requirements of a notice served upon him pursuant to section 37 or 38 is guilty of an offence and is liable, on summary conviction, to a fine of \$10 000.

(2) A magistrate may, in addition to any fine imposed pursuant to subsection (1), order the removal of any electric line or other work specified in the notice, by such person and upon such terms as the magistrate thinks fit.

Protection of property of State, licensees and service providers

41.(1) A licensee shall not lay down an electric line or do any other work for the supply or use of electricity whereby the telecommunications network or the pipes or other works of the State or of other licensees or service providers are or may be adversely affected.

(2) Before an electric line is laid down or any work is done within 9 feet of any part of the telecommunications network or of the pipes or other works of the State or of other licensees or service providers (other than the repairs or the laying of connections with mains where the direction of the electric lines so laid down crosses the lines of the telecommunications network or the pipes or other works of other service providers, at right angles at the point of shortest distance and continues the same for a distance of 6 feet on each side of such point), the licensee shall, not more than 28 nor less than 7 business days before commencing such work, give written notice to the Minister or the other licensees or service providers affected, as the case may be, specifying the course and nature of the work including the gauge of any electric lines.

(3) The licensee shall comply with any reasonable requirements, whether general or specific, as may be made by the Minister or the other licensees or service providers, as the case may be, for the purpose of preventing the telecommunications network or the pipes or works of the State or of the other licensees or service providers from being adversely affected by the work.

- (4) Any dispute with respect to a requirement referred to in subsection (3), between the licensee and the Minister or the other licensees or service providers, shall be referred to a judge in Chambers for determination.
- (5) A licensee who contravenes subsection (1), (2) or (3) is guilty of an offence and is liable, on summary conviction, to a fine of \$1 000 for every day during which the contravention continues or, where telecommunications or the supply of water or gas is wilfully interrupted, \$5 000 for every day on which such interruption continues.
- (6) It is a defence to a charge under subsection (5) for a person to prove that
- (a) the immediate execution of the works was required to avoid an accident or was otherwise a work of emergency; and
 - (b) the person forthwith served on the Minister or on the other licensees or service providers affected, as the case may be, written notice of the execution thereof, stating the reason for executing the works without previous notice.
- (7) For the purposes of this section, the telecommunications network or the pipes or works of the State or of other licensees or service providers shall be deemed to be adversely affected by a work where telecommunications or the supply of water or gas by means of such pipes or works is, whether by induction or otherwise, in any manner affected by the work or by any use made of the work.

Use of electricity

- 42.(1)** Subject to section 44, a licensee shall not control or interfere with the manner in which the electricity the licensee supplies is used.
- (2) No person shall
- (a) use the electricity supplied to him for any purpose; or
 - (b) deal with the electricity in any manner, so as to unduly or improperly interfere with the electricity supplied to another.

(3) Any dispute arising out of subsection (1) or (2) between a licensee and a person entitled to be supplied with electricity under this Act shall be referred to the Commission for determination.

Power of entry, inspection etc.

43.(1) The Public Utility may, at any reasonable time, enter any premises to which he supplies or has supplied electricity, to

- (a) inspect the electric lines, meters, capacitors, fittings, works and apparatus for the supply of electricity, belonging to the licensee;
- (b) ascertain the quantity of electricity consumed or supplied; or
- (c) remove any electric lines, meters, capacitors, fittings, works or apparatus belonging to the licensee, where a supply of electricity is no longer required or the licensee is authorized to discontinue the supply of electricity to the premises.

(2) A licensee shall repair any damage caused by an entry or inspection or the removal of anything pursuant to subsection (1).

Discontinuation of electricity supply

44. Notwithstanding anything contained in the *Utilities Regulation Act*, Cap. 282 where a person fails or refuses to pay a charge for electricity or any other sum payable by him to a licensee in respect of the supply of electricity to him, or engages in an act capable of affecting the safety, reliability, security or correct recording of the supply of electricity, the licensee may discontinue the supply of electricity and for the purpose, cut or disconnect any electric line or other work through which the electricity may be supplied until

- (a) the charge or other sum, together with any expenses incurred by the licensee in so cutting off the supply of electricity, is fully paid; and
- (b) all requirements for the safe restoration of an accurately metered supply of electricity are met.

Electric lines not subject to distress in certain cases

45. Electric lines, meters, capacitors, fittings, works or apparatus belonging to a licensee and placed on premises not in the possession of the licensee for the purpose of supplying electricity shall not be subject to removal or disconnection by a landlord or to distress or any other remedy of a landlord for rent of the premises against any person in whose possession the premises may be.

Damaging work with intent to cut off supply

46. A person who, without lawful excuse

- (a) damages an electric line or other work with intent to cut off a supply of electricity; or
- (b) tampers with an electric line or other work and the tampering results in the disruption of service or the incorrect measurement or recording of the amount of electricity used, or impacts on safety,

is guilty of an offence and is liable, on summary conviction, to a fine of \$50 000 or to imprisonment for 2 years or both.

Unlawful abstraction or use of electricity

47. A person who unlawfully abstracts, uses or consumes, diverts or causes to be diverted any electricity supplied by the Public Utility is guilty of an offence and is liable, on summary conviction, to a fine of \$50 000 or to imprisonment for 2 years or both.

PART VII

CODES

Codes

- 48.**(1) Subject to the approval of the Minister
- (a) the Public Utility shall issue a grid code;
 - (b) the System Operator shall issue a dispatch code; and
 - (c) an operator of a microgrid shall issue a microgrid code,
- within such period as may be specified by the Minister.
- (2) The Minister shall, before approving the issue of a code under subsection (1)
- (a) make the code available for public comment; and
 - (b) consult with the Chief Electrical Officer and the Commission on the content of the code and any comments on it.
- (3) The Minister may, within such period as the Minister considers appropriate, require a person who issues a code to review and revise the code to take account of changes in the electricity system and sector.
- (4) Subsections (1) and (2) apply to the revision of a code as those sections apply to the original code.
- (5) The Minister shall cause the Codes and any revision of the Codes to be published in such manner as he considers appropriate.
- (6) Subsection (1)(c) does not apply to the Public Utility, where the Public Utility operates a microgrid that is connected to the public grid.

Compliance with Codes

- 49.** Any person to whom the Codes apply shall comply with the Codes.

Chief Electrical Officer to verify technical compliance with Codes

50.(1) Where the Chief Electrical Officer is satisfied that the electrical wiring and installations at any premises or facility or any apparatus is safe and complies with the relevant code, the Chief Electrical Officer shall certify that the premises, facility or apparatus is fit to be connected to a grid.

(2) The Public Utility or an operator of a microgrid shall not connect any premises, facility or apparatus to the grid unless it has been certified by the Chief Electrical Officer as fit to be connected to the grid.

PART VIII

ELECTRICITY SYSTEM BENEFIT FUND

Establishment of Fund

51.(1) There is established a fund to be called the Electricity System Benefit Fund.

(2) There shall be paid into the Fund any moneys voted for the purpose by Parliament or received from any other source for the purposes of the Fund.

Application of Fund's resources

52. The resources of the Fund shall be utilized

- (a) to promote energy efficiency, energy resiliency and energy security;
- (b) to increase the penetration of renewable energy in the electricity sector;
- (c) to conduct research and development on the electricity system and the electricity sector;
- (d) to conduct technical studies for the prudent regulation of the electricity system; and
- (e) for such other purpose as the Minister may by Order prescribe.

Administration of Fund

- 53.(1)** The Fund shall be administered by the Accountant-General under the control and direction of the Minister.
- (2) The Accountant-General may invest all moneys in the Fund which are not immediately required in an interest-bearing account.
- (3) The Accountant-General shall
- (a) maintain adequate financial and other records of the Fund;
 - (b) prepare a statement of accounts on the Fund for each financial year;
and
 - (c) cause an audit of the Fund to be conducted at least every 3 years,
and the cost of the audit shall be paid from the Fund.

PART IX

DECOMMISSIONING

Decommissioning

- 54.(1)** A licensee or registrant shall not decommission his generation system or storage system or a part of his system without making a reasonable effort to mitigate the impact of the decommissioning on the environment.
- (2) Where the installed capacity of the generation system or storage system of a licensee exceeds the amount set out in paragraph 3 of the *First Schedule* and the licensee has submitted a decommissioning plan to the Minister pursuant to section 9(2), the licensee
- (a) shall not decommission the system without the written approval of the Minister; and
 - (b) shall decommission the system in accordance with the plan.

- (3) A licensee shall
 - (a) revise his decommissioning plan every 3 years to take into account any changes in circumstances which, in accordance with good industry practice, require changes in the scope or cost or another attribute of the plan; and
 - (b) submit the revisions to the Minister.
- (4) Notwithstanding subsection (3), a licensee shall not, without the written approval of the Minister, materially amend a decommissioning plan which has been previously approved by the Minister.

Decommissioning Fund

- 55.(1)** There shall be established a Decommissioning Fund to finance the decommissioning operations of licensees.
- (2) The Minister and each licensee shall agree on
 - (a) the amount of the licensee's contribution to the Decommissioning Fund; and
 - (b) the manner in which and time at which the licensee shall submit his contribution to the fund.
 - (3) The Minister shall establish an interest-bearing escrow bank account in a currency agreed upon by the Minister and the licensee for the purpose of depositing contributions to the Decommissioning Fund.
 - (4) A licensee shall, in accordance with his agreement pursuant to subsection (2), deposit contributions into the account and notify the Minister when a deposit is made.
 - (5) A licensee shall provide the Minister with a guarantee in respect of any shortfall which may accrue between his contribution to the Decommissioning Fund and the actual cost of his decommissioning operations.

- (6) The guarantee referred to in subsection (5) shall be in such form as may be required by the Minister.

PART X

ELECTRICITY APPEALS TRIBUNAL

Electricity Appeals Tribunal

- 56.(1)** There shall be established a tribunal to be called the Electricity Appeals Tribunal.
- (2) The *Second Schedule* applies to the constitution of the Tribunal and otherwise in relation to the Tribunal.
- (3) Subject to this Act, the Tribunal may regulate its own procedure and may make rules for the purpose.

Appeals to Tribunal

- 57.(1)** A person aggrieved by a decision of the Minister under this Act may, within 14 days of notification of the decision and in such form and manner as the Tribunal may require, appeal to the Tribunal against the decision.
- (2) The filing of an appeal against a decision under subsection (1) does not operate as a stay of the decision unless the Tribunal so determines.
- (3) The Tribunal may, upon an appeal against a decision, confirm, modify or reverse the decision or any part of the decision.

PART XI

MISCELLANEOUS

Non-power attributes and renewable energy certificates

58.(1) The property in all non-power attributes of electricity generated from a renewable energy source in Barbados is vested in the State.

(2) The Minister may make regulations for the registration of non-power attributes and the issue of renewable energy certificates in respect of such attributes.

(3) In this section,

“non-power attributes” means the environmental, social and other characteristics, exclusive of energy, capacity, reliability and any other electrical power service attribute, associated with the generation of electricity from a renewable energy source;

“renewable energy certificate” means a tradable certificate representing the property in the non-power attributes associated with at least one megawatt-hour of electricity generated from a renewable energy source.

Disaggregation of rates and tariffs

59. The Commission shall, within 180 days after the commencement of this Act, disaggregate and make available for public inspection, all rates and tariffs charged for electricity services.

Confidential information

60.(1) A person involved in the administration of this Act shall treat as confidential information received in the discharge of his functions.

(2) Subsection (1) does not apply where the disclosure of the information is

(a) necessary for the proper administration of this Act;

- (b) authorized by the person who provided the information; or
- (c) made pursuant to an order of the court.

(3) Where a person claims that confidential information made available or to be made available by or on behalf of the person, whether in writing or otherwise, is information the disclosure of which would be injurious to the interest of the person and the Minister

- (a) is satisfied that the claim is justified; and
- (b) is not of the opinion that disclosure of the confidential information is necessary for the proper administration of this Act,

the Minister shall take reasonable steps to ensure that the confidential information is not, without the consent of that person, disclosed.

(4) A person who discloses information contrary to this section is guilty of an offence and is liable, on summary conviction, to a fine of \$50 000 or to imprisonment for 2 years or both.

Administrative penalties for certain contraventions

61.(1) Where the Minister is satisfied that a licensee or registrant has

- (a) contravened
 - (i) a term or condition of his licence;
 - (ii) the Codes; or
 - (iii) this Act or any regulations made under this Act; or
- (b) failed to comply with a direction of the Minister under this Act,

and the contravention or failure does not constitute an offence, the Minister may, where no other penalty is provided under this Act for the contravention or failure, impose on the person a penalty of \$5 000.

- (2) The Minister shall not impose an administrative penalty on a person under this Act without first giving the person written notice of imposition of the administrative penalty.
- (3) The notice referred to in subsection (2) shall
- (a) specify the nature of the act constituting the contravention and the penalty to be paid; and
 - (b) require the person to pay the penalty to the Minister within 10 days of the date of the notice.
- (4) A person who is in receipt of an administrative penalty notice shall pay the amount of the penalty to the Minister and comply with any additional requirement contained in the notice on or before the date specified in the notice.
- (5) An administrative penalty may be recovered as a debt due to the Government.

Section 22 of Cap. 282 not to apply to certain licensees

- 62.** For the avoidance of doubt, section 22 of the *Utilities Regulation Act*, Cap. 282 shall not apply in respect of a licensee other than a person who
- (a) holds a licence in respect of generation at utility scale, transmission, distribution or dispatch; or
 - (b) is otherwise an independent power producer.

Physical development plan to be considered

- 63.** A person exercising functions under this Act shall specifically consider the physical development plan for Barbados in determining the physical location of renewable and other generation and storage systems, taking into account the potential for electrification through the development of grid modernization and climate resilient infrastructure.

Affiliate transaction rules

64. The Minister may make rules to govern the relationship of licensees that are affiliates.

Regulations

65.(1) The Minister may make regulations generally for giving effect to this Act, and in particular in relation to

- (a) the fees to be paid under this Act;
- (b) the establishment and regulation of microgrids; and
- (c) the supply of electricity to electric vehicles.

(2) Where regulations made under this Act create an offence, the regulations may provide for a penalty of a fine of \$50 000 or imprisonment for 2 years or both, on summary conviction in respect of the offence.

Amendment of Schedules

66. The Minister may by Order amend the *First* and *Second Schedules*.

Consequential amendments

67. The enactments specified in the Column 1 of the *Third Schedule* are amended to the extent specified opposite in Column 2.

Repeal of Act 2013-21 and transitional provision

68.(1) The *Electric Light and Power Act, 2013* (Act 2013-21) is repealed.

(2) Notwithstanding subsection (1), the Orders saved by section 35 of the *Electric Light and Power Act, 2013* (Act 2013-21), and the *Electric Light and Power (Fees) Regulations, 2017* (S.I. 2017 No. 73)

- (a) shall continue in force to the extent that they were in force prior to the commencement of this Act; and

(b) may be amended or revoked by the Minister as if they had been made under this Act.

(3) Notwithstanding section 8

(a) an existing licence that was valid immediately before the commencement of this Act shall be deemed to have been issued under this Act and continue in force until it expires or is suspended or revoked, or a new licence is issued to the licensee; and

(b) for as long as the Orders described in subsection (1) continue in force, the Public Utility shall not be held to be in breach of section 8 and shall be treated for the purposes of this Act as if it were a licensee under this Act.

(4) Nothing in subsection (2) or (3) shall restrict any right given to, or remove any obligation imposed on, the Public Utility or the holder of an existing licence under this Act; and this Act shall prevail where there is a conflict between this Act and

(a) the Orders described in subsection (1); or

(b) an existing licence.

(5) In this section,

“existing licence” means a licence issued under section 6 of the *Electric Light and Power Act, 2013* (Act 2013-21);

“Orders” means

(a) the Orders set out in the *First, Second and Third Schedules* to the *Electric Light and Power Act, Cap. 278* which was repealed by the *Electric Light and Power Act, 2013* (Act 2013-21); and

(b) the *Electric Light and Power Order, 1981* (S.I. 1981 No. 216).

FIRST SCHEDULE

(Sections 8, 9, 12, 54 and 66)

CAPACITY THRESHOLDS

1. The installed capacity for the purpose of section 8(2)(a) is 10 kilowatts.
2. The cumulative installed capacity for the purpose of section 8(2)(b) is 50 kilowatts.
3. The installed capacity for the purpose of section 9(2)(c) and section 54(2) is 500 kilowatts.
4. The cumulative installed capacity for the purpose of section 12(1) is 500 kilowatts.

SECOND SCHEDULE*(Sections 56 and 66)***ELECTRICITY APPEALS TRIBUNAL**

1. The Electricity Appeals Tribunal shall comprise 5 persons appointed by the Minister by instrument in writing from among persons qualified and experienced in Economics, Accounts, Engineering or Law or in any other area which, in the opinion of the Minister, is relevant to the discharge of the functions of the Tribunal.
2. The Minister shall appoint from among the members of the Tribunal, a person to be Chairman and another to be Deputy Chairman, of the Tribunal.
3. A member of the Tribunal shall, subject to paragraphs 6 and 7, hold office for a term of 3 years but is eligible for reappointment.
4. A member of the Tribunal shall be paid such remuneration as the Minister determines.
- 5.(1) The Minister may by instrument in writing appoint a person to act temporarily in the place of a member of the Tribunal where the member is temporarily absent or unable to act.
(2) A person appointed to fill a vacancy created by the death, resignation or removal from office of a member shall hold office only for the unexpired term of the member.
6. A member of the Tribunal
 - (a) may resign his office by instrument in writing addressed to the Minister, and transmitted through the Chairman in the case of a member other than the Chairman; and

- (b) shall cease to be a member from the date the Minister receives the instrument, unless another date is specified in the instrument.
- 7.** The Minister may by instrument in writing revoke the appointment of a member of the Tribunal where the Minister is satisfied that the member is
- (a) incapacitated physically or mentally to such an extent as to impair his ability to perform his functions or otherwise unable or unfit to perform his functions; or
- (b) guilty of serious misconduct in relation to his functions.
- 8.** The appointment, resignation, death or removal from office of a member of the Tribunal shall be notified in the *Official Gazette*.
- 9.** Three members of the Tribunal shall constitute a quorum.
- 10.** The Minister may by instrument in writing appoint a person to perform the functions of Secretary to the Tribunal.
- 11.(1)** The Tribunal shall meet at such places and times and on such days as the Tribunal determines necessary or expedient for the transaction of business.
- (2) The Chairman, or in his absence, the Deputy Chairman, shall preside at meetings of the Tribunal.
- (3) Where the Chairman and the Deputy Chairman are absent from a meeting, the members present shall elect a member from among their number to preside at the meeting.
- (4) Decisions of the Tribunal shall be by a majority of votes, and where the voting is equal, the person presiding at the meeting shall, in addition to an original vote, have a casting vote.
- 12.** All decisions taken or documents prepared by the Tribunal may be signified under the hand of the Chairman, any other member of the Tribunal authorized to act in that behalf or by the Secretary of the Tribunal.

THIRD SCHEDULE

(Section 67)

CONSEQUENTIAL AMENDMENTS

Column 1	Column 2
<i>Enactments</i>	<i>Amendments</i>
1. <i>Utility Regulation Act, Cap. 282.</i>	<p>In section 24A, delete the definition of “public grid” and substitute the following:</p> <p style="padding-left: 40px;">“ “public grid” means the physically connected generation, transmission and distribution systems used for the supply of electricity to the public;”.</p>
2. <i>Fair Trading Commission Act, Cap. 326B</i>	<p>1. In section 2(1), by deleting the definitions of “independent power producer” and “public grid” and substitute the following:</p> <p style="padding-left: 40px;">“ “independent power producer” means a person, other than an electric utility, who owns or operates, on a commercial basis, a facility for the generation or storage of electricity primarily for supply to the public, whether through the public grid or otherwise;</p> <p style="padding-left: 40px;">“public grid” means the physically connected generation, transmission and distribution systems used for the supply of electricity to the public;”.</p>

Third Schedule - (Cont'd)

CONSEQUENTIAL AMENDMENTS - (Cont'd)

Column 1	Column 2
<i>Enactments</i>	<i>Amendments</i>
2. <i>Fair Trading Commission Act, Cap. 326B - (Cont'd)</i>	<p>2. In section 4</p> <p>(a) in subsection (1), delete paragraph (c) and substitute the following:</p> <p style="padding-left: 40px;">“(c) discharge the functions with which it is charged under the <i>Electricity Supply Act, 2023</i> (Act 2023-).”;</p> <p>(b) in subsection (4A), delete paragraph (c) and substitute the following:</p> <p style="padding-left: 40px;">“(c) a licensee under the <i>Telecommunications Act, Cap. 282B</i> or the <i>Electricity Supply Act, 2023</i> (Act 2023-).”;</p> <p>(c) in subsection (5), delete paragraph (d) and substitute the following:</p> <p style="padding-left: 40px;">“(d) in the <i>Electricity Supply Act, 2023</i>, (Act 2023-).”;</p> <p>(d) in subsection (6), delete the words “the <i>Electric Light and Power Act, 2013</i>, Act 2013-21” and substitute the words “the <i>Electricity Supply Act, 2023</i> (Act 2023-)”.</p>

Third Schedule - (Concl'd)

CONSEQUENTIAL AMENDMENTS - (Concl'd)

Column 1	Column 2
<i>Enactments</i>	<i>Amendments</i>
2. <i>Fair Trading Commission Act, Cap. 326B - (Concl'd)</i>	<p>3. In section 5(1), delete the words “the <i>Electric Light and Power Act, 2013</i>, Act 2013-21” and substitute the words “the <i>Electricity Supply Act, 2023</i> (Act 2023-)”.</p> <p>4. In section 6(3)(a), delete subparagraph (iii) and substitute the following:</p> <p style="padding-left: 40px;">“(iii) such provisions of the <i>Electricity Supply Act, 2023</i>, (Act 2023-) as relate to the functions of the Commission; and”.</p>