

ELECTRICITY ACT

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ELECTRICITY ACT

1. Short title

This Act may be cited as the Electricity Act.

2. Interpretation

In this Act—

“authority” means—

- (a) for Port Louis, except as otherwise provided, the Municipal Council of Port Louis and the Board;
- (b) for Curepipe, Quatre Bornes, Beau Bassin-Rose Hill and Vacoas-Phoenix, except as otherwise provided, the municipal councils of those towns;
- (c) elsewhere, and with regard to buildings, lands or other property belonging to the Government, whether situate within the limits of Port Louis or of the townships, the Board;

“Board” means the Central Electricity Board;

“building” means any building and includes the site thereof and any site intended to be used for building;

“consumer” means any authority, company, person or body of persons supplied or entitled to be supplied with electrical energy by the undertakers;

“electric line” means a wire or wires, conductor or other means used for the purpose of conveying, transmitting or distributing electricity with any pole, casing, coating, covering, tube, pipe or insulator enclosing, surrounding or supporting the same or any part thereof, or any apparatus connected therewith for the purpose of conveying, transmitting or distributing energy;

“electro-medical institute” means any premises or part of any premises used for the treatment of the public with X-ray diathermy, or ultraviolet radiations, or where other electro-medical and electro-surgical treatment is administered;

“energy” means electrical energy;

“factory” means—

- (a) any place where persons are employed in manual labour and work is carried on by way of trade for the purpose of gain for—
 - (i) the making or producing of any article or part of any article;
 - (ii) the altering, repairing, ornamenting, finishing, cleaning or washing or the breaking up or demolition of any article; or
 - (iii) the adapting for sale of any article;
- (b) any premises in which persons are employed in manual labour and in which electrical energy is generated, converted or transformed for supply by way of trade or for purposes of traction or of railway, tramway or other means of public conveyance, or for the purpose of any industrial or commercial undertaking or of any public building;

“general supply” means the general supply of energy to ordinary consumers and includes the general supply of energy to the public lamps where the authority is not itself the undertaker;

“generating station” means any station for generating electricity and includes any building and plant used for the purpose, and any site intended to be used for a generating station, but does not include any station for transforming, converting or distributing electricity;

“generation” means the conversion of other forms of energy into electrical energy;

“high voltage” means a voltage normally above 650 volts;

“low voltage” means a voltage not exceeding 250 volts under normal conditions subject, however, to the percentage variation allowed;

“main” means the portion of any conductor which is used or intended to be used for the purpose of giving origin to service lines;

“main transmission line” means all high voltage electric lines transmitting

electricity from one generating station to any other generating station or to a substation (not being a substation used for the sole purpose of giving a supply to the main or mains owned by the same undertaker) together with any step up and step down transformer and switchgear necessary to, and used for, the control of such electric lines, and the buildings or such part thereof as may be required to accommodate such transformer and switchgear;

“medium voltage” means a voltage exceeding 250 volts but not exceeding 650 volts under normal conditions subject, however, to the percentage variation allowed;

“plant” means any machinery, engines, underground cable, high tension overhead lines, substations, pole transformers and switchgear equipment, generating stations, generating station equipment, hydro-electric works including pipe lines and civil engineering works connected with the appropriation, diversion and impounding of water, and includes the site thereof and any site intended to be used for such purposes;

“private generating station” means a station used for supplying energy for the exclusive use of the owner of the station;

“private purposes” means any purposes to which electricity may be applied, not being public purposes;

“private residence” means any building which is not a factory, workshop, electro-medical institute or theatre and includes any part of any such building;

“public purposes” means lighting and any other purpose to which electricity may be applied, in any street or any place belonging to, or subject to the control of, the authority, or any church or any place of worship or any hall or building belonging to, or subject to the control of, the Government or any authority, or any theatre;

“service line” means an electric line connecting a consumer’s wiring with a main for the purpose of supplying energy;

“substation” means any premises or enclosure or part thereof, being large enough to admit the entrance of a person after the apparatus therein is in position, containing apparatus for transforming or converting energy to or from a voltage above medium voltage (other than transforming or converting solely for the operation of switchgear or instruments) with or without any other apparatus for switching, controlling or otherwise regulating energy, and includes the apparatus therein;

“supply of electricity in bulk” means a supply of energy to any authority, company or person authorised to supply electricity for public purposes in accordance with this Act;

“system” means an electrical system in which all the conductors and apparatus are electrically connected to a common source of voltage and includes all the conductors and apparatus and the manner in which they are connected, assembled and used;

“tariff” means a method of charging for electrical energy in which a price is charged according to one single condition such as the number of units metered or the maximum demand, or the number of lighting fixtures on the installation or on which a fixed charge is made, based on a characteristic of the service, with an additional charge or charges for the units consumed;

“telegraph wire” means telegraph, telephone, signal or similar wires, the voltage between any 2 of which or between any one and earth does not exceed 60 volts;

“theatre” means any building or part of a building regularly or frequently used for dramatic, operatic, motion picture or other performance or shows, or which has a stage for such performance used with scenery and other stage appliances;

“transformation” means the converting of one form of electrical energy into another and includes transformation by static transformers or by motor generators or by rotary converters or by any other method;

“use” means the ultimate usage of electrical energy for lighting, power, heating, electrochemical, electro-medical, wireless, testing and any other purpose;

“works” means any electric lines, apparatus, installation and includes any buildings, machinery, engines, matters or things of any description required to make use of or to supply electricity and for the purposes of this Act.

3. Application of Act

(1) This Act shall apply to every authority, company, person or body of persons (in this Act referred to as “the undertaker”) who may, by this or any other Act, be authorised to supply electricity for public and private purposes and to supply electricity in bulk and to the generation, transformation, distribution and use of electrical energy in workshops, factories, electro-medical institutes, theatres, offices, streets, private residences or other places.

(2) This Act, with the exception of sections 2, 3, 23, 46, 47 and 49, shall not apply to private installations or private generating stations.

(3) The consent of the Board in writing, which may be subject to such conditions as it may prescribe, shall be obtained before any private installation or any private generating station may be installed, where the voltage exceeds 250 volts.

4. Permits for supply of electricity

(1) Undertakers wishing to establish undertakings for the supply of electricity for public and private purposes and for the supply of electricity in bulk shall first apply to the Board for a permit (in this Act referred to as “the permit”) to act as undertaker.

(2) The application shall contain a description of the proposed area of supply and such other information as the Board may require.

5. Objections to grant of permit

(1) (a) In the event of the Board considering the application favourably, the applicant shall publish the application in the *Gazette*, and any authority, company, body or person wishing to object to the grant of a permit to the applicant to act as an undertaker shall transmit his objection to the Board in writing by registered post within 14 days of the date of the publication of the application in the *Gazette*, or within such longer period as the Board may prescribe.

(b) Any person who objects to the grant of a permit shall state his reasons for his objection and his interest in the subject matter of the application.

(c) He shall also supply the applicant with a copy of his objection together with his reasons for the objection.

(2) The Board may, where it thinks fit and without assigning any reason, refuse to consider any application.

6. Grant of permit

(1) After consideration of the application and of any objections, the Board may, subject to the approval of the President, refuse to grant a permit or may issue a permit on such terms and conditions as it thinks fit and for such period not exceeding 20 years, as it may specify.

(2) The duration of the permit and the conditions subject to which it is granted shall be specified on the permit.

[S. 6 amended by Act 48 of 1991.]

7. Where Board’s consent is given

(1) Subject to this Act, no person shall commence any undertaking for the supply of

electricity without previously obtaining the President's approval, to be signified by Proclamation in which the area of supply is defined.

(2) The Proclamation shall not issue until the undertaking is certified by the Board to be in a fit condition to commence working.

[S. 7 amended by Act 48 of 1991.]

8. Permit not to be granted to another

Subject to this Act, a permit shall not be granted to any other authority, company, body or person to supply electricity within the area for which a permit has already been granted and has not expired.

9. Permit may be revoked by Board

(1) Where an authority, company, body or person has been granted a permit to supply electricity within a certain area and the President's approval has been obtained, such authority, company, body or person shall, within 12 months of such approval, begin the supply of energy within such area.

(2) Where an undertaker fails to begin the supply of energy within such period or fails to comply with any directions and orders provided for in the permit or any other directions or orders given by the Board, the Board may, with the approval of the President, revoke the permit to the undertaker to supply energy to such area, or may take such other steps as he thinks fit.

[S. 9 amended by Act 48 of 1991.]

10. Tariffs

(1) The maximum price to be charged by undertakers for electricity supplied by them to consumers shall be in accordance with such tariffs as may be fixed by the Board with the approval of the President.

(2) The tariffs fixed under this section may, if the Board thinks fit, vary for different areas.

(3) Tariffs shall be fixed or varied by an order made by the Board and the tariffs so fixed or varied shall have effect on and after such date as may be mentioned in the order.

[S. 10 amended by Act 48 of 1991.]

11. Restriction on undertakers' capital

The undertakers shall not alter the form or amount of their loan or share capital, or fix the terms of issue of new capital proposed to be raised, without the consent in writing of the Board, and undertakers requiring such consent shall furnish to the Board particulars of the amount, purposes, nature and circumstances of such additions, alterations, and such other particulars, as the Board may require.

12. Accounts

(1) The undertakers shall, on or before 25 March in every year, draw up an annual statement of accounts of the undertaking made up to 31 December of the preceding year (or such other date as may be approved in special circumstances by the Board), and such statement of accounts shall be in such form and shall contain such particulars as may be prescribed.

(2) Where the undertakers fail to comply with subsection (1), they shall commit an offence and shall, on conviction, be liable to a fine not exceeding 40 rupees for each day the default continues.

13. Audit of undertakers' accounts

The Board may cause to be made such investigation of the accounts of an undertaker, not being an authority, as it thinks fit at the cost of the undertaker.

14. Accounts, statistics and returns

The undertakers shall furnish the Board at such times and in such form and manner as the Board may order such accounts, statistics and returns as it may require.

15. Undertakers not to establish plant or buildings

The undertakers shall not establish new or extend existing plant and buildings without the consent in writing of the Board, and undertakers requiring such consent shall submit to the Board such information, details, plans and estimates with respect to the proposed works as the Board may require.

16. Power to close generating station

The Board may close any generating station belonging to undertakers, provided it is satisfied that such quantity of electricity as the undertaker would require for the purpose of his undertaking if the station were closed, can be obtained from some other available source designated by the Board, and that such quantity of electricity can be obtained for a period of not less than 7 years on such terms that the cost of the supply on those terms is below the then prevailing cost of generating electricity at the station to such undertakers.

17. Restriction on establishment or extension

(1) No undertaker shall establish a new or extend any existing generating station or main transmission line without the consent of the Board and the undertakers shall, as an alternative to the establishment of a new or extension of an existing generating station or main transmission line, if so required by the Board, enter into and carry into effect arrangements for taking a supply of electricity from some other available source designated by the Board, and the arrangements shall be made on such terms and conditions as may be required by the Board.

(2) The Board shall not refuse its consent to the extension of an existing generating station or main transmission line by any undertakers, or require them to take a supply of electricity from some other available source, if it is proved to its satisfaction that, having regard to all the circumstances of the case, the undertakers are or will be in a position to give a supply of electricity adequate in quantity and regularity to meet the prospective demand of their consumers at a cost not greater than that at which they could give a supply if they obtained a supply of electricity from some other available source designated by the Board, unless the Board determines that such refusal or requirement is necessary in the interests of the general supply of electricity in the district.

18. —

19. Power to lop trees and hedges

(1) Where any tree or hedge obstructs or interferes with the construction, maintenance or working of any main transmission line, or other electric line which is being constructed or is owned by any undertakers, or will interfere with the maintenance or working of such line, the undertakers may give notice to the owner or occupier of the land on which the tree or hedge is growing, requiring him to lop or cut it so as to prevent the obstruction or interference.

(2) Where under subsection (1) a notice is served upon a person who, although the occupier of the land on which the tree or hedge is growing, is not the owner, a copy of the notice shall also be served upon the owner if known.

(3) Where, within 7 days from the giving of notice under subsection (1), the notice is

not complied with and neither the owner nor the occupier of the land gives a counter notice under subsection (4), the undertakers may cause the tree or hedge to be lopped or cut so as to prevent obstruction or interference.

(4) Where within 7 days from the giving of notice under subsection (1), the owner or occupier of the land on which the tree or hedge is growing gives a counter notice to the undertakers objecting to the notice, the matter shall, unless the counter notice, is withdrawn, be referred to the Board which, after giving the parties an opportunity of being heard, may make such order as it thinks just, and any such order may empower the undertakers (after giving such reasonable previous notice to any person by whom such counter notice was given of the commencement of the work as the order may direct) to cause the tree or hedge to be lopped or cut so as to prevent obstruction or interference.

(5) The undertakers shall issue instructions to their officers and servants with a view to securing that trees and hedges shall be lopped or cut in a woodmanlike manner and so as to do as little damage as possible to trees, fences, hedges and growing crops, and shall cause the boughs lopped to be removed in accordance with the directions of the owner or occupier, and shall make good any damage done to the land.

(6) Where for the purpose of the construction or maintenance of any main transmission line or other electric line it is necessary to fell any trees, this section shall apply to the felling of trees in like manner as it applies to the lopping of trees.

20. Protection of telegraph and electric lines

(1) The undertakers shall take all reasonable precautions in constructing, laying down and placing their electric lines and other works and in working their undertakings so as not injuriously to affect, whether by induction or otherwise, the working of any wire or line used for the purpose of telegraphic, telephonic or electric signalling communication, or electric control of railways, or any other purpose, or the current in that wire or line, whether that wire or line is or is not in existence at the time of the laying down or placing of the electric lines or other works.

(2) Before commencing to lay down any line, or do any other work for the supply of electricity whereby any electric or other lines of Government, or any authority, company or person may be injuriously affected, the undertakers shall give such reasonable written notice to Government, or such authority, company or person, as the case may be, as may be prescribed and such notice shall specify the course and nature of the work and be accompanied by such maps and plans as may be necessary.

(3) The Board shall determine whether the undertakers have constructed, laid down or placed their electric lines or other works or worked their undertaking in contravention of this section and whether the working of that wire or line or current therein is or is not injuriously affected thereby, and the Board (unless it is of opinion that the wire or line not having been so in existence at such time as aforesaid has been placed in unreasonable proximity to the electric lines or works of the undertakers) may direct the undertakers to make any alterations in, or additions to, their system so as to comply with this section, and the undertakers shall make those alterations or additions accordingly.

(4) (a) Where the undertakers fail to comply with this section, they shall commit an offence and shall make full compensation to every such owner as aforesaid for any loss or damage which he may incur by reason thereof, and in addition shall be liable for each default to a fine not exceeding 50 rupees and to a fine not exceeding 10 rupees for each day during which the default continues.

(b) Notwithstanding paragraph (a), the undertakers shall not be subject to any such penalty where the case was one of emergency and the undertakers complied with this section so far as was reasonable under the circumstances, or the default was due to the fact that the undertakers were ignorant of the position of the wire or line affected and that ignorance was not owing to any negligence on the part of the undertakers.

21. Alteration of telegraph and electric lines

Where it is necessary, in connection with the construction of any line or the execution of any work by the undertakers, to make an alteration in any telegraph or other electric lines of Government, the Board may make such alteration or consent to the work being performed by the undertakers, under its supervision, and to its satisfaction, and the undertakers may, at the discretion of the Board, be called upon to pay the whole or any portion of the expense incurred.

22. Alteration of type of current

(1) Subject to the permit, the Board may require any undertaker to amend the type of current, frequency or pressure employed by him in his undertaking.

(2) Where on appeal by any undertaker, the Board is satisfied that compliance with the order would entail unreasonable expense, the Board may direct that the order shall not apply to that undertaker, or apply only subject to such conditions as the Board may prescribe.

23. Duties of inspectors

The duties of the inspectors attached to the Board shall be—

- (a) the inspection and testing of the undertakers' electric lines and works and the supply of energy given by them;
- (b) to see that the generation, transformation, distribution and use of electrical energy in factories, workshops, electro-medical institutes, theatres, private residences, and such like places are in accordance with this Act; and
- (c) such other duties in relation to the undertakings as may be required of them under this Act.

24. Supply to premises outside area

(1) Where it is proved to the satisfaction of the Board that the occupier of any premises is desirous of obtaining a supply of electricity from any undertaker within whose area of supply these premises are not situate, the Board may, if the undertakers authorised to supply electricity to such premises consent, by order permit the first mentioned undertakers to give a supply to these premises on such terms and subject to such conditions as the Board thinks fit.

(2) Where in the opinion of the Board a consent required by this section is unreasonably withheld, the Board may proceed as if such consent had been given.

25. Street boxes

(1) (a) Subject to the permit and to any regulations made under this Act, the undertakers may construct in any street such boxes as may be necessary for purposes in connection with the supply of energy, including apparatus for the proper ventilation of the boxes.

(b) No such box or apparatus shall be placed above ground except with the consent of the authority, body or person by whom the street is repairable.

(2) Every such box shall be for the exclusive use of the undertakers and under their sole control, except so far as the Board otherwise orders, and shall be used by the undertakers only for the purpose of leading off service lines and other distributing mains, or for examining, testing, regulating, measuring, directing, transforming or controlling the supply of energy, or for examining or testing the condition of the mains or other portions of the works, or for other like purposes connected with the undertaking, and the undertakers may place therein meters, switches, transformers and any other suitable and proper apparatus for any of the above purposes.

(3) Every such box, including its upper surface or covering, shall be constructed of such materials and shall be constructed and maintained by the undertakers in such manner as not to be a source of danger, whether by reason of inequality of surface or otherwise.

(4) The authority may, with the approval of the Board, prescribe the hours during which the undertakers are to have access to the boxes, and if the undertakers during any hours not so prescribed remove or displace or keep removed or displaced the upper surface or covering of any box without the consent of the authority, they shall commit an offence and shall, on conviction, be liable for each offence to a fine not exceeding 50 rupees and to a fine not exceeding 25 rupees for each day during which the offence continues.

(5) The undertakers shall not be subject to any penalties under subsection (4) where the Court is of opinion that the case was one of emergency and that the undertakers complied with this section so far as was reasonably possible under the circumstances.

26. Undertakers to be responsible for damage

The undertakers shall be answerable for all accidents, damages and injuries happening through their act or default or the act or default of any person in their employment by reason of or in consequence of any undertakers' works, and shall save harmless all authorities, companies, bodies and persons by whom any street is repairable, and all other authorities, companies and bodies collectively and individually, and their officers and servants, from all damages and costs in respect of those accidents, damages and injuries, and occupiers of land for which a wayleave has been granted shall not be answerable for any damage caused to the undertakers' lines thereon or thereunder in the execution of the occupiers' work, where all reasonable precautions were taken by the occupiers of the land to avoid damaging the undertakers' lines.

27. Undertakers not to purchase other undertakings

(1) The undertakers shall not purchase or acquire the undertaking of, or associate themselves with, or make any arrangements with regard to, the supply of electricity to any area, except as otherwise provided, with any authority, company, body or person supplying energy under a permit, unless the undertakers are authorised by the Board to do so.

(2) Where the undertakers, in contravention of this section, purchase or acquire any such undertaking, or associate themselves with or make any arrangement with regard to the supply of electricity to any area with any such authority, company, body or person, the Board may, if it thinks fit, revoke the permit upon such terms as it thinks just.

28. Restrictions on transfers

The undertakers shall not, by transfer or otherwise, divest themselves of any powers, rights or obligations conferred or imposed upon them by this Act or any other enactment, or by permit, otherwise than with the consent in writing of the Board.

29. Systems and mode of supply

Subject to the permit—

- (a) energy shall be supplied by the undertakers only by means of some system approved in writing by the Board and subject to regulations made under this Act;
- (b) the undertakers shall not, without the express consent of the Board, place any electric line above or below ground, except within premises in the sole occupation or control of the undertakers and except so much of any service line as it necessarily so placed for the purpose of supply, but the Board before giving its consent shall give the authority, if any, an opportunity of

being heard; and

- (c) the undertakers shall not permit any part of any circuit to be connected with earth except so far as may be necessary for complying with regulations made under this Act, unless the connection is for the time being approved by the Board and is made in accordance with the conditions, if any, of that approval.

30. Remedying of system and works

(1) Where the Board is satisfied—

- (a) that the undertakers are supplying energy otherwise than by means of a system which has been approved by the Board or (except in accordance with the permit or with the approval of the Board) have permitted any part of their circuits to be connected with earth or have placed any electric line above ground;
- (b) that any electric lines or works of the undertakers are defective so as not to be in accordance with the regulations of the Board; or
- (c) that any work of the undertakers or their supply of energy is attended with danger to the public safety, or injuriously or otherwise affects any telegraph or telephone line of the Government,

the Board may, by order, specify the matter complained of and require the undertakers to abate or discontinue it within such period as is therein limited in that behalf, and if the undertakers fail to comply with the order, they shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50 rupees for every day during which the default continues.

(2) The Board may also, if it thinks fit, by the same or any other order, forbid the use of any electric line or work as from such date as may be specified in that behalf until the order is complied with, or for such time as may be so specified, and if the undertakers made use of any such electric line or work while its use is forbidden, they shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100 rupees for every day during which the default continues.

31. Injuring works with intent

Any person who unlawfully and maliciously cuts or injures any electric line or work with intent to cut off any supply of electricity shall commit an offence and shall, on conviction, be liable to imprisonment for a term not exceeding 4 years.

32. Offences involving electricity

(1) Any person who, in any manner, without lawful authority or excuse, the proof of which shall lie on him—

- (a) abstracts, consumes or uses energy;
- (b) destroys, breaks down, damages, tampers with, renders useless, or alters the index of any meter or other instrument used on or in connection with any installation set up by the Board for recording the input, output or consumption of energy; or
- (c) prevents any such meter or other instrument from duly recording the input, output or consumption of energy,

shall commit an offence and shall, on conviction, be liable to imprisonment for a term not exceeding 2 years and to a fine not exceeding 5,000 rupees.

(2) In any proceedings against a consumer under subsection (1)—

- (a) the fitting of any device to, the absence of any part from, and the interference with, any installation set up for recording the input, output or consumption of energy; or
- (b) the absence of, or interference with, any seal affixed to any meter,

shall be evidence that the consumer was himself responsible for—

- (i) the abstraction, consumption or use of energy;
- (ii) the alteration of the index of any meter or instrument;
- (iii) the prevention of any meter from duly recording the input, output or consumption of energy,

unless the consumer proves to the satisfaction of the Court that he has not been privy to any of the acts specified in paragraphs (a) and (b).

33. – 45. —

46. Penalties

For any breach of this Act or of a regulation made under this Act, for which no special penalty is provided, the penalty shall be a fine not exceeding 200 rupees and a penalty not exceeding 100 rupees for each day during which the offence continues, or, in default of payment, imprisonment for a term not exceeding one month.

47. Legal proceedings

The Board or any inspector may enter prosecutions for offences committed under this Act or under any regulation made under it, and all penalties, fees, expenses and other money recoverable under this Act, the recovery of which is not likewise specially provided for, may be recovered summarily.

48. Appeals to President

Any undertaker may appeal to the President against any decision of the Board or any inspector under this Act.

[S. 48 amended by Act 48 of 1991.]

49. Regulations

The President may make such regulations as he thinks fit for—

- (a) specifying the limits within which and the conditions under which a supply of electricity is to be compulsory or permissive;
- (b) ensuring a proper and sufficient supply of electrical energy;
- (c) securing the safety of the public;
- (d) the coordination and improvement of the supply of electricity generally;
- (e) the testing, certification and all other matters connected with meters, and the payment of fees and rental charges;
- (f) the carrying out of the duties of the undertakers and consumers in relation to the supply and use of electricity;
- (g) the generation, transformation, distribution and use of electrical energy in factories, workshops, electro-medical institutes, theatres, private residences and such like places;
- (h) minimising any interference with the electric lines, wireless stations and apparatus of Government departments, or of any authority, company or

person; and

- (i) the purposes of this Act.

[S. 49 amended by Act 48 of 1991.]
