

No. S 51

**CONSTITUTION OF BRUNEI DARUSSALAM
(Order made under Article 83(3))**

ELECTRICITY ORDER, 2017

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CONSTITUTION OF BRUNEI DARUSSALAM
(Order made under Article 83(3))

ELECTRICITY ORDER, 2017

In exercise of the power conferred by Article 83(3) of the Constitution of Brunei Darussalam, His Majesty the Sultan and Yang Di-Pertuan hereby makes the following Order —

PART I

PRELIMINARY

Citation, commencement and long title

1. (1) This Order may be cited as the Electricity Order, 2017 and shall commence on a date to be appointed by the Minister, with the approval of His Majesty the Sultan and Yang Di-Pertuan, by notification published in the *Gazette*.

(2) Different dates may be appointed under subsection (1) for different provisions of this Order or for different purposes of the same provision.

(3) The long title of this Order is “An Order to provide for the regulation and control of the generation, transmission, distribution and use of electricity, and to create criminal offences in connection therewith”.

Interpretation

2. In this Order, unless the context otherwise requires —

“apparatus” means any electrical apparatus, equipment or accessory and includes all apparatuses, machines, consuming devices and fittings in which one or more conductors are used or of which they form a part;

“authorised officer” means any person appointed under section 4(1);

“cable detection work” means any work of detecting or locating any electricity cable;

“code of practice” means a code issued or approved by the Authority under section 13;

“consumer” means a person —

(a) to whom electricity is supplied and sold for consumption on that person’s own premises; or

(b) whose premises are for the time being connected to any system for the purpose of purchasing a supply of electricity for consumption on that person's own premises;

“distribute” means to convey electricity by means of a distribution system —

(a) from a main intake station to a distribution substation; or

(b) from an electrical plant or a distribution substation to the electrical installation serving the premises of a consumer or, where such premises are not served by an electrical installation, from an electrical plant or a transmission substation directly to such premises;

“distribution system” means a system of interconnected electric lines, electrical plants and substations used by a distribution licensee to distribute electricity;

“electric line” means any line which is used for carrying electricity for any purpose and includes —

(a) any support for the line, that is to say, any structure, pole or other thing in, on, by or from which the line is or may be supported, carried or suspended;

(b) any apparatus connected to the line for the purposes of carrying electricity;

(c) any wire, cable, tube, pipe or other similar thing (including its casing or coating) which surrounds or supports, or is surrounded or supported by, or is installed in close proximity to, or is supported, carried or suspended in association with, the line; and

(d) any electricity cable;

“electrical installation” means any appliance, wire, fitting or other apparatus placed in, on, over or under any premises and used for or for purposes incidental to the conveyance, control or use of electricity supplied or intended to be supplied by an electricity licensee or any other person, and includes a supply installation and any addition, alteration, and repair to an electrical installation, but does not include —

(a) any electric line, supply line or electrical plant of an electricity licensee;

(b) any appliance, wire, fitting or apparatus connected to and beyond any electrical outlet which is installed for the purpose of connecting electrical appliances, fittings or apparatuses and at which fixed wiring terminates; and

(c) any appliance, wire, fitting or apparatus which is placed in, on, over or under any premises owned or occupied by a transmission licensee which is not used for the consumption of electricity on the premises or solely for the purposes incidental to the conveyance or control of electricity so consumed;

“electrical plant” means any plant, equipment, apparatus or appliance used for, or for purposes connected with, the supply of electricity;

“electrical or supply installation licence” means a licence granted by the Authority under section 32;

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

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

(b) the cleaning or painting of any electrical installation;

“electrical worker” means any person whose trade or occupation requires or includes the personal performance by him of electrical work or a person who is otherwise competent or qualified to perform personally electrical work;

“electrical worker licence” means a licence granted by the Authority under section 47;

“electricity” means electrical power when generated, transmitted, supplied or used for any purpose except the transmission of any communication or signal;

“electricity licence” means a licence granted or extended by the Authority under section 8;

“electricity system” means a system comprising the transmission system, distribution system and generating stations connected directly or indirectly to the transmission and distribution system;

“generate” means to produce electricity by means of a generating station for the purpose of giving a supply to any premises or enabling a supply to be so given;

“high voltage” means a voltage exceeding 1000V a.c. or 1500V d.c. between conductors, or 600V a.c. or 900V d.c. between each conductor and Earth;

“low voltage” means a voltage not exceeding 1000V a.c. or 1500V d.c. between conductors, or 600V a.c. or 900V d.c. between each conductor and Earth;

“Minister” means the Minister of Energy and Industry in the Office of the Prime Minister;

“supply installation” means the whole of any plant or apparatus in an installation owned or managed by a person for the provision of electricity [other than electricity used for the transmission of any communication or signal] solely for his own use, including any machine supplying mechanical energy to a generator, with all necessary related plant, buildings and land, supply lines and consuming apparatuses, if any;

“transmission system” means a system of interconnected electric lines, electrical plants and substations used by a transmission licensee to transmit electricity;

“transmit” means to convey electricity by means of a transmission system —

(a) from an electrical plant to a transmission substation; or

(b) from one electrical plant to another or from one transmission substation to another.

PART 2

ADMINISTRATION

Administration of Order

3. (1) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, by notification published in the *Gazette*, appoint such person or body as he thinks fit to be the Authority for the purpose of carrying this Order into effect.

(2) The Authority shall be responsible for the administration of this Order, either generally or for any particular Part or provision of this Order or for any particular regulations made thereunder, and may in the notification specify the extent of and manner in which that responsibility is to be exercised.

Authorised officers

4. (1) The Minister may, by notification published in the *Gazette*, appoint such number of authorised officers to carry into effect any specific provisions of this Order or of any regulations made thereunder.

(2) Every authorised officer appointed under subsection (1) shall —

(a) be furnished by the Authority with an official identification card of his appointment as an authorised officer or officer, as the case may be; and

(b) when exercising any power under this Order, on demand, produce the identification card of his appointment to the person affected by the exercise of those powers.

PART 3

LICENSING OF ACTIVITIES RELATING TO ELECTRICITY

Prohibition on unauthorised activities relating to electricity

5. (1) No person shall engage in the —

(a) generation of electricity;

(b) transmission of electricity; or

(c) distribution of electricity,

unless he is authorised to do so by an electricity licence granted under section 8 or is exempted under section 7.

(2) Any person who contravenes subsection (1) is guilty of an offence and liable on conviction to a fine not exceeding \$500,000 and, in the case of a continuing offence, to a further fine not exceeding \$12,500 for every day or part thereof during which the offence continues after conviction.

Application for licence, extension or exemption

6. (1) An application for an electricity licence, an extension to an electricity licence or an exemption under this Part shall be —

(a) made in writing to the Authority and shall be in such form as may be determined by the Authority; and

(b) accompanied by the prescribed fee and the payment of such fee, if any, as may be prescribed and such information and documents as may be determined by the Authority.

(2) In determining whether to grant or extend an electricity licence to or for a particular person, the Authority shall consider the following —

(a) the ability of that person to finance the carrying on of the particular activity;

(b) the experience of that person in carrying on the activity, and his ability to perform the duties which would be imposed on that person under this Order and the electricity licence, if granted;

(c) whether or not that person is related to any electricity licensee or any person granted an exemption under section 7.

Exemption

7. (1) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, by order published in the *Gazette*, exempt any person or class of persons from complying with section 5(1)(a) for any specified period —

(a) generally or to such an extent as may be specified in the order; and

(b) unconditionally or subject to such conditions as may be specified in the order.

(2) An exemption order shall, unless previously revoked, continue in force for such period as may be specified in the order.

(3) In granting an exemption under this section, the Authority shall act in a manner so as not to discriminate between members of a particular class.

(4) Without prejudice to the generality of subsection (1)(b), the conditions imposed under that subsection may require any person carrying on any activity in pursuance of the exemption —

(a) to comply with any direction given by the Authority as to such matters as are specified in the exemption order or are of a description so specified;

(b) to do or not to do such things as are specified in the exemption order or are of a description so specified, except in so far as the Authority consents to his doing or not doing them; and

(c) to refer for determination by the Authority such questions arising from or under the exemption order as are specified in the order or are of a description so specified.

Electricity licences

8. (1) The Authority may, with the approval of the Minister, grant or extend an electricity licence, unconditionally or subject to such conditions as the Authority may impose and specify in the licence, and revocably or irrevocably as specified therein, authorising any person to —

- (a) generate electricity;
- (b) transmit electricity;
- (c) distribute electricity for or on behalf of a distribution licensee.

[2] Every electricity licence granted or extended under this section shall be in writing and shall continue in force, unless revoked or suspended in accordance with this Part, for such period as may be specified in the electricity licence.

[3] An electricity licence may include any restriction or condition (whether or not relating to the activities authorised by the electricity licence) which appears to the Authority to be requisite or expedient.

[4] Without prejudice to the generality of subsections [1] and [3], an electricity licence may include any condition —

- (a) requiring the electricity licensee —
 - (i) to pay to the Authority a fee on the grant of the electricity licence or to pay to it periodic fees during the currency of the licence or both, of such amount as may be determined by or under the licence;
 - (ii) to enter into any agreement or arrangement on specified terms or on terms of a specified type relating to its trading or operation or for the connection to or use of any electric line or plant owned or operated by the electricity licensee or the other party to the agreement or arrangement;
 - (iii) to observe, with such modification or exemption as may be approved by the Authority, specified codes of practice;
 - (iv) to maintain specified financial accounting records and prepare financial accounts according to specified principles;
 - (v) to appoint, at such intervals and on such terms as the Authority may direct, an independent technical auditor for the purposes specified in the condition;

- (vi) to prepare for approval by the Authority guidelines regarding the procedures the licensee must follow in the event of any public emergency;
 - (vii) to do or not to do such things as are specified in the electricity licence or are of a description so specified;
 - (viii) where the electricity licensee is a transmission licensee, to carry out any work related to the development of a transmission system; and
 - (ix) where the electricity licensee is a distribution licensee, to carry out any work related to the development of a distribution system or the supply of electricity to any premises;
- (b) controlling or fixing prices to be charged for the services provided by a transmission licensee including —
- (i) the fixing of prices or the rate of increase or decrease in prices;
 - (ii) the fixing of a maximum price or maximum rate of increase or minimum rate of decrease in the maximum price;
 - (iii) the fixing of an average price or an average rate of increase or decrease in the average price;
 - (iv) the setting of pricing policies or principles;
 - (v) the setting of prices with reference to a general price index, the cost of production, a rate of return on assets employed or any specified factor; and
 - (vi) the setting of prices with reference to the quantity, location, period or other specified factors relevant to the activities authorised by the licence;
- (c) in the case of a transmission licensee —
- (i) imposing controls and restrictions, directly or indirectly, on the creation, holding or disposal of shares in the licensee or its shareholders or of interests in the undertaking of the licensee or any part thereof; and
 - (ii) imposing restrictions on the carrying on by the licensee of any trade or business which is not related to the activity

which the licensee is authorised by its electricity licence to carry on; and

(d) which provides for any one or more of the conditions specified in the electricity licence to cease to have effect at such times and in such manner and circumstances as may be specified in or determined by or under the condition.

(5) The Authority shall in writing notify an applicant for the grant or extension of an electricity licence of its decision to grant or refuse to grant or extend the licence and, in the case of a decision to refuse to grant or extend the licence, the reasons for its decision.

Restriction on transfer of electricity licence

9. (1) No electricity licence shall be transferable to any other person without the approval in writing of the Authority.

(2) Any purported transfer of an electricity licence shall be void.

Modification of conditions of electricity licence

10. (1) Subject to this section, the Authority may modify the conditions of an electricity licence.

(2) The Authority shall not modify any condition of an electricity licence unless the Authority is satisfied that the modification is requisite or expedient.

(3) Before making any modification to the conditions of an electricity licence under this section, the Authority shall give notice to the electricity licensee concerned and other electricity licensees likely to be affected by the proposed modification –

(a) stating that the Authority proposes to make a modification in the manner specified in the notice;

(b) stating the reasons why the Authority proposes to make the modification, including whether the need for the modification was the subject of a prior representation made by a third party or the electricity licensee concerned; and

(c) specifying the period from the date of the giving of the notice (not being less than 28 days) within which written representations with respect to the proposed modification may be made.

(4) Where the Authority receives any written representation under subsection (3), the Authority shall consider such representation and may –

(a) reject the representation; or

(b) withdraw or amend the proposed modification in accordance with the representation or otherwise,

and, in either event, it shall thereupon issue a direction in writing to the electricity licensee concerned requiring that effect be given to the proposed modification specified in the notice, if any, or to such modification as may be subsequently amended by the Authority, within a reasonable time.

(5) Any electricity licensee who is aggrieved by a decision of the Authority under subsection (4) may, within 14 days of the receipt by it of the direction of the Authority, appeal to the Minister whose decision shall be final.

(6) The Authority shall not enforce a direction given under subsection (4) —

(a) during the period referred to in subsection (3)/*(c)* unless the electricity licensee concerned consents to the modification referred to under subsection (3)/*(a)* taking effect before the end of such period; and

(b) whilst the appeal of any electricity licensee is under consideration by the Minister.

(7) If no written representation is received by the Authority within the period specified in subsection (3)/*(c)* or if any written representation made under that subsection is subsequently withdrawn, the Authority may forthwith carry out the modification as specified in the notice given under that subsection.

Revocation or suspension of electricity licence

11. (1) Subsection (2) applies if the Authority is satisfied that —

(a) an electricity licensee has gone into compulsory liquidation or voluntary liquidation other than for the purpose of amalgamation or reconstruction;

(b) any circumstance specified in an electricity licence that gives rise to the Authority's power to revoke or suspend the licence exists;

(c) an electricity licensee has not complied with any direction or requirement issued by the Authority under section 12;

(d) an electricity licensee is no longer in a position to operate in conformity with this Order or the conditions of its licence; or

(e) the public interest or security of Brunei Darussalam requires.

(2) The Authority may, by notice in writing and without any compensation revoke an electricity licence or suspend an electricity licence for such period as the Authority thinks fit.

Enforcement

12. If the Authority is satisfied that an electricity licensee is contravening, or is likely to contravene or has contravened any condition of its electricity licence, any code of practice or other standard of performance applicable to the licensee, any provision of this Order or any direction (including a direction under paragraph (a)) issued by the Authority to or applicable to the electricity licensee, the Authority may by notice in writing to the electricity licensee do one or more of the following —

(a) direct the electricity licensee to do or not do such things as are specified in such direction;

(b) require the electricity licensee to provide a performance bond, guarantee or any other form of security on such conditions as the Authority may determine.

Codes of practice

13. (1) The Authority may issue or approve one or more codes of practice and other standards of performance for the regulation of activities and conduct in the electricity industry.

(2) A code of practice issued or approved under this section may be modified by the Authority in accordance with the relevant code of practice by notice published in such manner as will secure adequate publicity.

(3) If any provision in any code of practice issued or approved by the Authority is inconsistent with the regulations, such provision, to the extent of the inconsistency —

(a) shall have effect subject to such regulations; or

(b) having regard to such regulations, shall not have effect.

(4) Any code of practice issued or approved by the Authority under this section shall be deemed not to be subsidiary legislation.

(5) In this section, a reference to code of practice shall include a standard of performance.

Direction by Authority

14. (1) The Authority may give directions for or with respect to codes of practice and other standards of performance and procedures to be observed by licensees and other persons —

(a) to ensure the reliability of the supply of electricity to the public;

(b) to ensure the security of the electricity system;

(c) to maintain the voltage or reactive flow of power through the transmission system and distribution system; or

(d) in the interests of public safety.

(2) Any person who fails to comply with any direction given under subsection (1) is guilty of an offence.

Compliance with codes of practice

15. (1) Every electricity licensee shall comply with the codes of practice and other standards of performance issued or approved under section 13 and directions given under section 14.

(2) No licensee shall allow electricity to be generated, transmitted or supplied otherwise than in accordance with any applicable code of practice or other standards of performance specified in the conditions of its electricity licence, the regulations or any direction given by the Authority or any regulations made under this Order.

Exclusion of liability of Authority

16. Notwithstanding the grant of any electricity licence, the Authority shall not be liable in any circumstance for any loss, damage or cost sustained by any person as a result of any default, negligence, breach or other wrongful act or omission of any electricity licensee or any agent or employee of the electricity licensee.

Duties of electricity licensees

17. (1) It shall be the duty of a generation licensee to develop and maintain a reliable, efficient, coordinated and economical system of electricity generation in accordance with the such applicable codes of practice and other standards of performance as may be issued or approved by the Authority under section 13.

(2) It shall be the duty of a transmission licensee —

(a) to develop and maintain a reliable, efficient, coordinated and economical transmission system in accordance with such applicable codes of practice and other standards of performance as may be issued or approved by the Authority under section 13;

(b) to provide non-discriminatory access to its transmission system for the supply and use of electricity in accordance with this Order and its transmission licence.

(3) It shall be the duty of an electricity licensee to ensure that it will not do or not omit to do any act which will adversely affect, directly or indirectly, the security and stability of the electricity supplied by it or by any other person to consumers.

Recovery of charges

18. (1) Subject to subsection (2), if a distribution licensee has good cause to disconnect a consumer from the electricity system, including the failure of the consumer to pay an account, the distribution licensee may disconnect the consumer from the electricity system.

(2) A distribution licensee shall not disconnect the supply of electricity to any residential premises by reason of failure by the consumer to pay an account for that supply if the failure occurs through lack of sufficient income of the consumer and of any other person normally resident on the premises supplied until —

(a) the distribution licensee has offered to advise the consumer about optional methods of arranging payment of the account; and

(b) the consumer —

(i) refuses or fails to accept that offer of advice within the period (being not less than 7 days) specified by the distribution licensee in each case; or

(ii) accepts the offer of advice, but refuses or fails to take any reasonable action to pay the account within the period (being not less than 7 days) specified by the distribution licensee.

(3) Subject to this section, if a consumer has not, on the due date, paid all charges due from him to a distribution licensee, the licensee may —

(a) in accordance with its licence disconnect that consumer from the distribution system;

(b) discontinue the supply of electricity to the premises, or any other premises occupied by the consumer by such other means as the licensee thinks fit; and

(c) recover any expenses incurred in so doing from the consumer.

(4) Where a distribution licensee has disconnected the supply of electricity to any premises in consequence of any default on the part of a consumer, the licensee shall reconnect the supply of electricity to the consumer within a reasonable time if the consumer in default has —

(a) made good the default;

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

(c) given such security as the distribution licensee may reasonably require.

(5) Where a distribution licensee receives any payment from a consumer and the consumer has not, in making the payment, indicated to the distribution licensee the charges in respect of which the payment is to be made, the licensee may apportion the payment received to pay such charges in such proportion and manner as it may determine.

PART 4

MATTERS RELATING TO ELECTRICITY LICENSEES

Works by electricity licensee

19. (1) Subject to the provisions of this Order, a generation licensee, transmission licensee or distribution licensee may, for any purpose connected with the carrying on of the activities authorised by or required under its electricity licence —

(a) install under, over, in, on, along or across any land, premises, street or bridge and inspect, maintain, adjust, repair, alter, replace or remove —

(i) any electric line or electrical plant;

(ii) any structure for housing or covering any such line or plant; and

(iii) any meter, switch and any other suitable and proper apparatus, for the purpose of leading off service lines and other distributing conductors or of examining, testing,

measuring, directing or controlling the supply of electricity or of testing the conditions of the mains and other portions of the works; and

(b) execute any work requisite for or incidental to the purposes of any work falling within paragraph *(a)*, including for those purposes —

- (i) excavating any land, street or drain;
- (ii) tunnelling or boring under any land, street, sewer or drain;
- (iii) removing or using all earth and materials in or under any land, street, sewer or drain;
- (iv) erecting, placing or installing equipment, apparatus and other electrical plant in or under any land, building, street or bridge; and
- (v) erecting, placing or installing poles on any land or street.

(2) A licensee referred to in subsection (1) shall obtain the written approval of the Authority —

(a) before issuing a notice under subsection (7); or

(b) in the case of an emergency specified in subsection (7), before carrying out any work, if the work to be carried out under this section is in relation to any matter specified in subsection (1)/*(a)*/*(i)*, *(ii)* or *(iii)* which is owned or operated by another electricity licensee.

(3) The right of a licensee to carry out any work in accordance with this section shall have effect notwithstanding any agreement which prohibits the carrying out of the work.

(4) All such works, including the upper surface or covering thereof, shall be constructed of such materials and maintained by the licensee referred to in subsection (1) in such manner as not to be a source of danger, whether by reason of inequality of surface or otherwise; and when such licensee lays any electric line that is liable to touch any main, pipe, line or other service, the conducting portion of the electric line shall be effectually insulated.

(5) The licensee referred to in subsection (1) shall pay compensation to any person who suffers any damage or loss of value to his property as a result of any work performed by the licensee under subsection (1) of such amount as may be agreed between the licensee and the person, and such compensation may include an annual payment for the use of any land or immovable property for the licensee's purpose.

(6) The licensee referred to in subsection (1) shall not acquire any right other than that of user only in respect of any land or property under, over, in, on, along or across which the licensee installs any electric line or electrical plant or executes any work under this section.

(7) Except in the case of an emergency arising from any fault in any electric line or electrical plant, the licensee referred to in subsection (1) shall, before entering any land for the purpose specified in subsection (1), give 14 days' written notice to the owner or occupier of the land, stating as fully and accurately as possible the nature and extent of the work to be carried out.

(8) Subject to subsection (9), the owner or occupier of the land who is given a notice under subsection (7) shall comply with the notice and do all things necessary to facilitate the carrying out of the work specified in the notice.

(9) The owner or occupier of the land may, within 14 days of the receipt of the notice referred to in subsection (7), lodge a written objection with the Authority and the Authority shall specify the date by which an inquiry into such objection shall be made.

(10) If no objection is lodged within the period specified in subsection (9), the licensee may enter on the land and do all or any of the works specified in the notice.

(11) Where an objection lodged under subsection (9) is not withdrawn before the date fixed for an inquiry into the matter under that subsection, the Authority shall hold an inquiry, giving each party an opportunity to be heard.

(12) Upon the conclusion of the inquiry, the Authority may authorise, either unconditionally or subject to such conditions and stipulations as it thinks fit, the carrying out of any of the works specified in the notice given under subsection (7).

(13) The decision of the Authority under subsections (2) and (12) shall be final.

(14) The licensee referred to in subsection (1) shall do as little damage as possible in the exercise of the powers conferred by subsection (1) and shall, as soon as practicable, make good any damage done in the exercise of those powers.

(15) Where any dispute arises as to whether a licensee referred to in subsection (1) has sufficiently made good any damage done in the exercise of the powers conferred by subsection (1), the dispute —

(a) may be referred to the Authority by either party; and

(b) on such a reference, shall be determined by the Authority whose decision shall be final and conclusive between the parties.

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

(17) A licensee referred to in subsection (1) shall not, when exercising the powers conferred by subsection (1), be liable for or required to pay any person any fee, charge or expense for the right to enter or use any land or premises.

(18) A licensee referred to in subsection (1) shall not, without the approval in writing of a Government authority or statutory authority, enter or use any land or premises belonging to the Government authority or statutory authority for the purpose of exercising the powers conferred by subsection (1).

Savings of wayleave agreements

20. Nothing in section 19(1) and (9) shall —

(a) affect the right of a electricity licensee to enter into an agreement, commonly known as a wayleave agreement, with the owner or occupier of any land for the purpose of laying, placing, carrying or erecting any supply installation or electrical plant used for the supply of electricity on the land;

(b) affect any such wayleave agreement subsisting immediately before the date of commencement of this Order;

(c) affect the right of a electricity licensee to negotiate the use of land or facilities belonging to the State or any other person.

Power to fell trees etc.

21. (1) Where, in the opinion of an electricity licensee, there is at any time danger or suspected danger that any tree or vegetation near the licensee's installation or plant may obstruct or interfere with the supply of electricity or cause damage to such installation or plant, the licensee may cause the tree or vegetation to be felled or dealt with in such other manner as will, in its opinion, avert the danger.

(2) Where any tree or vegetation, which has been felled or dealt with under subsection (1), was in existence before the electricity licensee's installation or plant was placed, erected or installed, the licensee shall, subject to subsections (3) and (4), pay to any person adversely affected such sum as may be agreed between the licensee and the person, or in the absence of agreement, such sum as the Authority may determine.

(3) No further compensation shall be paid for the felling, lopping or clearing of any tree or vegetation where the action is necessary for the maintenance of an electricity licensee's installation or plant and the tree or

vegetation has grown or has been allowed to grow since the payment of compensation under subsection (2).

(4) No compensation shall be payable by an electricity licensee under subsection (2) in respect of any tree or vegetation within 20 metres of the centre line of any road constructed or maintained by the Government or by any public authority unless it is proved that the tree or vegetation was in existence prior to the construction of the road.

(5) Where the owner or occupier of any land fells, lops or clears any tree or vegetation adjacent to an electricity licensee's installation or plant, the owner or occupier shall give the licensee 14 days notice in writing of his intention to do so and shall take such reasonable precautions as the licensee may require for the protection of such installation or plant.

(6) If any such owner or occupier fails to give notice under subsection (5) or having given notice fails to take any such reasonable precautions as the electricity licensee may have required, he shall be liable to pay the licensee any cost and expense incurred by the licensee for any damage caused to any such installation or plant, subject to the Authority's approval in the case of any dispute.

(7) If any tree or vegetation is felled, lopped or cleared upon land adjacent to an electricity licensee's installation or plant, it shall be presumed until the contrary is proved that the tree or vegetation was felled, lopped or cleared by the owner or occupier of the land or by his employees or agents acting as such.

Entry upon premises by electricity licensee for purposes of exploration

22. (1) Subject to this section and without prejudice to any other right of entry, a person authorised in writing by a transmission or distribution licensee may, at any reasonable time, enter upon and survey any premises for the purpose of ascertaining whether the premises would be suitable for use for any purpose connected with the carrying on of the activities which the licensee is authorised by its electricity licence to carry on.

(2) A person authorised to enter upon any premises under this section shall not demand to do so as of right unless —

(a) 7 days notice of the intended entry has been given to the occupier; and

(b) if required to do so, he has produced evidence of his authority.

(3) The power to survey premises conferred by this section includes the power to search and bore for the purposes of ascertaining the nature of the subsoil, but works may not be carried out on the premises for this purpose unless —

(a) notice of the proposed works is included in the notice given under subsection (2); and

(b) where premises are held by any Government authority or statutory authority which objects to the works on the ground that the carrying out of the works would be seriously detrimental to the carrying on of its undertaking, the Minister gives his approval.

[4] Where any person exercises any power conferred by this section, the licensee by whom he was authorised shall make good any damage done to the premises.

(5) An electricity licensee shall not, without the approval in writing of a Government authority or statutory authority, authorise any person to enter or use any premises belonging to the Government authority or statutory authority for the purpose of exercising the powers conferred by subsection (1).

Entry during continuance of supply

23. A person authorised by a distribution licensee to enter upon any premises may, at all reasonable times, on the production of some duly authenticated document showing his authority, enter any premises to which a supply of electricity is being given for any of the following purposes —

(a) inspecting any electric line or electrical plant belonging to the licensee;

(b) ascertaining the register of any electricity meter;

(c) removing, inspecting or re-installing any such meter or installing any substitute meter; and

(d) carrying out all other works necessary to maintain the supply of electricity.

Entry during discontinuance of supply

24. (1) Where —

(a) a distribution licensee is authorised by this Order or its electricity licence to disconnect or discontinue the supply of electricity to any premises;

(b) a person occupying premises supplied with electricity by a distribution licensee ceases to require such a supply; or

(c) a person entering into occupation of any premises previously supplied with electricity by a distribution licensee does not require such a supply,

any person authorised in writing by the distribution licensee may at all reasonable hours, on production of some duly authenticated document showing his authority, enter the premises for the purposes of disconnecting the supply or removing any electrical plant, electric line or electricity meter, as the case may be.

(2) Subject to section 28, the person so authorised by a distribution licensee shall not enter any dwelling-house in actual occupation without 6 hours previous notice to the occupier, unless the occupier has given his consent to the entry.

Entry for replacing, repairing or altering electric line or electrical plant

25. (1) Any person authorised by an electricity licensee in writing may, after 7 days notice to the occupier of any premises or to the owner of any premises which are unoccupied, at all reasonable times, on production of some duly authenticated document showing his authority, enter the premises for the purpose of —

(a) placing a new electric line or electrical plant in the place of or in addition to any existing line or plant which has already been lawfully placed and which belongs to that licensee; or

(b) maintaining, inspecting, repairing, removing or altering any such existing line or plant.

(2) In the case of an emergency arising from any fault in any electric line or electrical plant, entry may be made under subsection (1) without the notice required by that subsection, but the notice shall then be given as soon as possible after the occurrence of the emergency.

Relocation of installation

26. (1) Where an installation has been laid under or upon any land by an electricity licensee and the owner or occupier of the land desires to use the land in a manner which renders it necessary or convenient to move such installation, the owner or occupier may request the licensee to move the installation accordingly.

(2) An electricity licensee may, at the request of the owner or occupier of any premises under or upon which any installation of the licensee is situated, relocate the installation if the licensee is satisfied that such relocation is reasonable and the owner or occupier complies with such conditions as the licensee may impose, including conditions relating to the payment by the owner or occupier of all costs and expenses necessary for the relocation.

(3) Where an installation has been laid under or upon any land by an electricity licensee and the installation is no longer in use by the occupier of the land or any other person for the purpose of the transmission or supply of

electricity, the licensee may at its own volition, or at the reasonable request of the owner of the land, remove the installation from the land at the expense of the electricity licensee.

(4) For the purposes of this section, “owner” includes any person having a leasehold interest in the land or premises with an unexpired term of not less than 7 years.

Electrical plant not fixtures and not subject to distress

27. Any electrical plant, electric line, electricity meter, appliance, accessory, fitting and appurtenance owned or let for hire or lent to a consumer by an electricity licensee and which has been affixed or fastened to any part of the premises —

(a) shall continue to remain the property of that licensee and shall be deemed not to be a fixture, and shall not vest in the owner of the premises; and

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

Power to discontinue supply of electricity in emergency etc.

28. (1) Where an electricity licensee is of the opinion that immediate action is necessary on the occurrence of any emergency, in the interest of public safety or in order to avoid undue interference with the efficient supply of electricity to other consumers or for such other reasons affecting public interest, the licensee —

(a) may forthwith discontinue the supply of electricity to any person;

(b) shall immediately thereafter give notice in writing of the discontinuance to the person.

(2) An electricity licensee shall not be liable for any loss or damage caused to any person by such discontinuance of the supply of electricity to the person.

Emergency plans

29. (1) The Authority may require an electricity licensee to prepare and file with the Authority such emergency plans in accordance with, and as may be specified in its licence.

(2) The Authority may, with the approval of the Minister, direct an electricity licensee to implement an emergency plan prepared by that licensee on one or more occasions and with such modifications as the Minister may consider necessary.

Sharing of installation, plant or system

30. (1) The Authority may direct any electricity licensee to co-ordinate and cooperate, in such manner and on such terms as the Authority may specify, with any other person, in the use or sharing of any installation, plant or system, or part thereof, used for supply of electricity.

(2) Any person who fails to comply with any direction under subsection (1) is guilty of an offence.

Precautions in execution of work

31. The execution of work by an electricity licensee under this Order which may affect any street, river, canal, or other waterway or any system of irrigation, drainage or water supply or any electricity, harbour works or other public or private works, and the erection of any installation or plant used for electricity whether over, on or under the ground shall be carried out in a lawful manner having regard to the safety of any person or property.

PART 5

ELECTRICAL AND SUPPLY INSTALLATIONS, CABLE DETECTION WORK AND ELECTRICAL WORKERS

Licence required for use or operation of electrical or supply installation etc.

32. (1) No person shall —

(a) use, work or operate or permit to be used, worked or operated any electrical or supply installation; or

(b) supply to or for the use of any other person electricity from any electrical or supply installation,

except under and in accordance with the terms of an electrical or a supply installation licence granted by the Authority under this section authorising such use, work, operation or supply.

(2) An electrical or a supply installation licence may be granted under this section on the payment of such fee, if any, as may be prescribed.

(3) An electrical or a supply installation licence shall not be transferred without the approval of the Authority.

(4) An electrical or a supply installation licence shall be subject to such conditions as may be prescribed and to such further conditions, if any, as may be imposed and endorsed on the licence by the Authority.

(5) An electrical or a supply installation licence may be for such period as the Authority may approve.

(6) In every electrical or supply installation licence, there shall be specified as may be appropriate —

(a) the installation area;

(b) the declared voltage frequency and the variations permitted thereon; and

(c) such other matters as the Authority may consider desirable.

(7) The Authority may, in its discretion, require that, before the grant of any electrical or supply installation licence, such security as it may specify shall be furnished to ensure the due observance of the conditions of the licence and of the provisions of this Order.

(8) An electrical or a supply installation licence may be surrendered by the licensee to the Authority for cancellation if the electrical or supply installation is no longer required to be used.

(9) Where the licensee wishes to operate the electrical or supply installation after the surrender of the licence, the installation shall be treated in all respects as if it were a new electrical or supply installation.

Notice to electricity licensee to cut off supply

33. (1) Where any person operates an electrical or a supply installation without an electrical or a supply installation licence —

(a) the Authority may by written notice direct any electricity licensee to forthwith discontinue the supply of electricity to that electrical or supply installation; and

(b) the electricity licensee shall, upon receipt of the notice, immediately comply with the notice.

(2) Where the Authority has directed an electricity licensee to discontinue a supply of electricity under subsection (1), the licensee may discontinue the supply until all expenses incurred by the licensee are fully paid by the person operating the electrical or supply installation.

Supply lines and other apparatus on State land

34. (1) Subject to the approval of the Commissioner of Land and to such conditions as he may impose, an electrical or a supply installation licence may authorise the licensee to lay, place or carry on, under or over any State land to the

extent and in the manner specified in the licence, such supply lines, and to erect and maintain in or on the State land such posts and other apparatuses as may, in the opinion of the Authority, be necessary or proper for the purposes of the electrical or supply installation.

(2) Any authorisation under subsection (1) may be given or added to at any time during the currency of the licence by endorsement thereon.

(3) All apparatuses placed in or upon any State land which is not removed therefrom within 6 months, or such longer period as the Commissioner of Land may permit, after the expiration or earlier determination of the licence under the authority of which the apparatus was so placed, shall vest in and become the property of the Government.

Existing electrical or supply installation

35. All electrical and supply installations which have been operated or the construction of which has been completed or has begun on or before the date of commencement of this Order shall be subject to this Order.

Exemption of certain electrical or supply installation

36. The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, by notification published in the *Gazette*, exempt from all or any of the provisions of this Part —

(a) any electrical or supply installation owned and operated by an electricity licensee, the Government or any statutory authority;

(b) any electrical or supply installation used exclusively for domestic purposes; and

(c) such other electrical or supply installations as the Authority may consider desirable.

Control by electrical worker

37. (1) A person granted an electrical or a supply installation licence shall employ or appoint such class or classes of electrical workers as the Authority may direct to operate or to be in charge of or to control any electrical or supply installation and no other person shall operate or be in charge of or control the electrical or supply installation.

(2) Any person who contravenes subsection (1) is guilty of an offence and liable on conviction to a fine not exceeding \$10,000, imprisonment for a term not exceeding 12 months or both and, in the case of a continuing offence, to a further fine not exceeding \$250 for every day or part thereof during which the offence continues after conviction.

Inspection of electrical or supply installation

38. (1) A person granted an electrical or a supply installation licence shall cause all electrical or supply installations owned or operated by him to be inspected at such intervals as the Authority may consider necessary.

(2) An inspection referred to in subsection [1] shall be carried out by such class or classes of electrical workers as the Authority may direct.

(3) On completion of the inspection, a certificate as to the fitness of the electrical or supply installation for licensing purposes shall be issued by the electrical worker who carried out the inspection.

Restriction of use to specified purpose

39. (1) A person granted an electrical or a supply installation licence who is, by the conditions of his licence, restricted to using or supplying electricity for specified purposes only, shall not use or supply electricity for any purpose other than those specified.

(2) Any person who contravenes subsection [1] is guilty of an offence.

Procedure in case of defect in electrical or supply installation

40. (1) Every electrical worker appointed to operate or to be in charge of or to control any electrical or supply installation and every person granted an electrical or a supply installation licence who becomes aware of a defect in any electrical or supply installation shall forthwith make good or remove the defect or make a report thereon to the Authority.

(2) Where a report is made to the Authority under subsection (1), the Authority may by notice —

(a) posted on the premises where the electrical or supply installation is installed or working; or

(b) served on the person granted an electrical or a supply installation licence or the electrical worker who is appointed to operate or to be in charge of or to control the electrical or supply installation, as the case may be,

require the defect to be made good or removed within such period as may be specified in the notice, and the electrical or supply installation shall not be operated or used after the expiration of that period unless the defect has been made good or removed to the satisfaction of the Authority.

(3) If the Authority is of the opinion that the defect is likely to cause immediate danger, the Authority may, by notice posted or served in the manner

specified in subsection (2), forthwith suspend the operation and use of the electrical or supply installation until the defect is made good or removed, and the electrical or supply installation shall not be operated or used so long as the notice of suspension remains in force.

(4) The Authority shall not be liable for the loss or damage caused to any person –

(a) by the suspension of the operation and use of any electrical or supply installation under this section; or

(b) by the suspension or revocation of an electrical or a supply installation licence under section 41.

(5) Any person who contravenes subsection (1), (2) or (3) is guilty of an offence.

Suspension and revocation of electrical or supply installation licence

41. An electrical or a supply installation licence may at any time be suspended or revoked by the Authority –

(a) on breach of any of the conditions of the licence or for non-compliance with any of the provisions of this Order;

(b) in default of payment of any money due; or

(c) if the licensee ceases to work or operate any electrical or supply installation in respect of which the licence was granted.

Entry upon premises

42. (1) Subject to subsection (2), an authorised officer may, in the performance of his functions and duties under this Order, enter upon any premises in or upon which any electrical or supply installation may be, at all reasonable hours of the day and at any time when the electrical or supply installation is in operation.

(2) No person shall be obliged to admit into his premises any person purporting to be an authorised officer except upon production of identification card or badge.

Authority not liable for operation of electrical or supply installation

43. Notwithstanding the grant of an electrical or a supply installation licence, the Authority shall not be responsible for the operation or maintenance of any electrical or supply installation or for any injury to any person or damage to anything by reason of operating or omitting to operate or maintaining or omitting to maintain any electrical or supply installation.

Cable detection work to be carried out before earthworks

44. (1) Subject to subsection (2), no person other than an electricity licensee shall commence or carry out, or cause or permit the commencement or carrying out of, any earthworks within the vicinity of any low voltage electricity cable which belongs to or which is under the management or control of an electricity licensee unless the person has caused cable detection work to be carried out by a licensed cable detection worker.

(2) Nothing in subsection (1) shall prohibit a person from commencing or carrying out any earthworks where he has reasonable cause to believe that it is necessary to do so in the interest of public or private safety except that the person shall, not more than 7 days after the earthworks have been commenced or carried out, give to the electricity licensee notice in writing stating the nature and extent of those earthworks.

(3) No person other than a licensed cable detection worker or an electricity licensee shall commence or carry out any cable detection work within the vicinity of any low voltage electricity cable belonging to or under the management or control of the licensee where such cable detection work is commenced or carried out in connection or combination with or in relation to any earthworks carried out or to be carried out.

(4) Any person who contravenes subsection (1) or (3) is guilty of an offence and liable on conviction to a fine not exceeding \$10,000, imprisonment for a term not exceeding 12 months or both.

Carrying out of earthworks within vicinity of high voltage electricity cable

45. (1) Subject to this section, no person other than an electricity licensee shall commence or carry out, or cause or permit the commencement or carrying out of, any earthworks within the vicinity of any high voltage electricity cable which belongs to or which is under the management or control of an electricity licensee unless the person —

(a) has given to the electricity licensee not less than 7 days notice in writing of the date on which it is proposed to commence the earthworks;

(b) has obtained from the electricity licensee the necessary information on the location of such high voltage electricity cable and has consulted the electricity licensee on the steps to be taken to prevent the high voltage electricity cable from damage while the earthworks are being carried out; and

(c) has caused cable detection work to be carried out by a licensed cable detection worker in order to confirm the location of the high voltage electricity cable.

(2) No person other than a licensed cable detection worker shall commence or carry out any cable detection work within the vicinity of any high voltage electricity cable which belongs to or which is under the management or control of an electricity licensee.

(3) The Authority may, if it thinks fit, modify the period for which a notice under subsection (1)(a) is to be given to an electricity licensee.

(4) It shall be the duty of the person who carries out any earthworks referred to in subsection (1) to —

(a) comply with all reasonable requirements of the electricity licensee for the prevention of damage to the high voltage electricity cable;

(b) ensure that reasonable precautions are taken when carrying out such earthworks to prevent any damage to the high voltage electricity cable; and

(c) allow the electricity licensee reasonable access to the work site for the purpose of inspecting or taking any necessary measures to protect the high voltage electricity cable.

(5) It shall be the duty of the electricity licensee to whom a notice under subsection (1)(a) has been given to —

(a) promptly inform the person who has given him the notice of the location of the high voltage electricity cable and to provide the person with any other information as may be necessary to enable him to ascertain the exact location of the high voltage electricity cable;

(b) advise the person who has given him the notice on the precautions to be taken to prevent damage to the high voltage electricity cable; and

(c) take all such measures at the work site as may be reasonable and necessary for the protection of the high voltage electricity cable from damage and, in so doing, the electricity licensee shall have regard to the potential risks and dangers that can arise from any damage to the high voltage electricity cable.

(6) Nothing in subsection (1) shall prohibit a person from commencing or carrying out any earthworks where he has reasonable cause to believe that it is necessary to do so in the interest of public or private safety except that the person shall, not more than 7 days after the earthworks have been commenced or carried out, give to the electricity licensee notice in writing stating the nature and extent of those earthworks.

[7] Any person who contravenes subsection (1) or (4) is guilty of an offence and liable on conviction to a fine not exceeding \$100,000, imprisonment for a term not exceeding 5 years or both.

[8] Any person who contravenes subsection (2) is guilty of an offence and liable on conviction to a fine not exceeding \$10,000, imprisonment for a term not exceeding 12 months or both.

[9] Subject to subsection (10), in any proceedings for an offence under subsection (7), it shall be a defence for the person charged to prove that —

(a) he took all reasonable steps to discharge his duty under subsection (1) or (4), as the case may be; or

(b) he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

[10] If in any proceedings for an offence under subsection (7), the defence involves acting on information supplied by an electricity licensee, the person charged shall not, without leave of the court, be entitled to rely on that defence unless, within 14 clear days before the hearing, he has served on the prosecutor a notice in writing giving such information as was then in his possession identifying or assisting in the identification of the person who supplied him with the information.

Powers of Authority in relation to cable detection work

46. (1) The Authority may —

(a) grant a cable detection work licence permitting a person to perform such cable detection work as is specified in the licence and suspend, cancel, alter, extend, renew or replace any such licence;

(b) classify any cable detection work licence in such manner as it may determine;

(c) specify the nature of the cable detection work in respect of which a cable detection work licence is granted and restrict such work to any type or class of cable detection work;

(d) specify the circumstances or manner in which licensed cable detection workers may perform or carry out cable detection work;

(e) impose any terms, conditions or restrictions on any cable detection work licence;

(f) require any electricity licensee to conduct approved courses of training, including refresher courses, and provide for examinations for cable detection workers; and

(g) keep a register of licensed cable detection workers.

(2) No person other than a licensed cable detection worker shall be entitled to recover in any court any charge, fee or remuneration for any cable detection work carried out by the person.

Licensing of electrical worker

47. (1) Subject to subsection (2), no person shall —

(a) carry out or caused to be carried out any electrical work, unless he holds a valid electrical worker licence;

(b) advertise or otherwise holds himself out as an electrical worker, or as a licensed electrical worker, or as a person competent or qualified by any written law to perform or carry out electrical work, unless he holds a valid electrical worker licence; or

(c) engage knowingly any person who is not a licensed electrical worker to carry out any electrical work.

(2) The Authority may —

(a) issue an electrical worker licence permitting a person to carry out such electrical work as is specified in the licence and suspend, cancel, alter, extend, renew or replace any such licence;

(b) classify any electrical worker licence in such manner as it may determine;

(c) specify the nature of the electrical work in respect of which an electrical worker licence is issued and restrict such work to any type or class of electrical work or any type or class of electrical installation;

(d) specify the circumstances or manner in which licensed electrical workers may carry out electrical work; or

(e) attach any exemption to or impose any condition on any electrical worker licence.

(3) Any person who contravenes subsection (1) is guilty of an offence.

(4) Notwithstanding any provision in this section, but subject to any other written law, it shall not be unlawful for —

(a) a person to replace any lamp that is connected in his own electrical installation;

(b) a person to replace any fuse in his own electrical installation similar to that of a household;

(c) an officer or employee of the Authority to carry out personally any electrical work in the course of his employment or in the discharge of his duties as such officer or employee;

(d) the Authority to do any act or thing on or in connection with its own electrical installation;

(e) a person, other than an electrical worker, whose trade or occupation normally includes the performance of work on any appliance, plant or machinery driven, or operated by, or incorporating any electrical installation, to carry out that work in the normal course of his trade or occupation or for purposes incidental thereto, so long as he does not carry out work on any part or circuit which is, or may be, connected to a source of electricity supply; and

(f) a trained person to carry out any work in accordance with the written instructions of the licensed electrical worker in charge of the relevant electrical installation.

[5] In subsection [4](f), a “trained person” means any employee who is —

(a) recognised by his employer and the licensed electrical worker in charge of the relevant electrical installation to have the necessary knowledge and experience to avoid danger; and

(b) capable of carrying out the work specified in the written instructions of the licensed electrical worker.

PART 6

OFFENCES

Offences relating to electrical or supply installations

48. (1) Any person who supplies electricity to any premises without an electrical or a supply installation licence is guilty of an offence and liable on conviction to a fine not exceeding \$50,000, imprisonment for a term not exceeding 3 years or both.

(2) Any person who wilfully tampers with or adjusts any electrical or supply installation or any part thereof so as to cause or to be likely to cause

danger to human life or damage to any property is guilty of an offence and liable on conviction to imprisonment for a term not exceeding 5 years.

(3) Any person who, by rash or negligent act or omission committed or omitted in respect of any electrical or supply installation or any part thereof under his control, causes hurt to any person or damage to any property is guilty of an offence and liable on conviction to a fine not exceeding \$10,000, imprisonment for a term not exceeding 3 years or both.

(4) Any person who contravenes section 32(1) is guilty of an offence and liable on conviction to a fine not exceeding \$10,000, imprisonment for a term not exceeding 3 years or both and, in the case of a continuing offence, to a further fine not exceeding \$250 for every day or part thereof during which the offence continues after conviction.

(5) Any licensee of a supply installation who without express authority from the Authority supplies electricity or lays down any supply line or constructs any electrical works outside the installation area specified in his licence is guilty of an offence and liable on conviction to a fine not exceeding \$10,000, imprisonment for a term not exceeding 3 years or both.

(6) Any such unauthorised line or works may be removed by order of the Authority, and the reasonable cost of such removal may be recovered from the licensee.

(7) Any licensee of an electrical or a supply installation who, without lawful excuse, fails to comply with any condition in his licence is guilty of an offence.

Restoration of supply without consent

49. Any person who, without the consent of an electricity licensee, restores a supply of electricity to any premises where such supply has been discontinued by the electricity licensee in the exercise of its powers under this Order is guilty of an offence and liable on conviction to a fine not exceeding \$10,000, imprisonment for a term not exceeding 3 years or both and, in the case of a continuing offence, to a further fine not exceeding \$250 for every day or part thereof during which the offence continues after conviction.

Damage to property of electricity licensee

50. (1) Any person who wilfully removes, destroys or damages any electrical plant or electricity cable in the transmission network belonging to or under the management or control of an electricity licensee or hinders or prevents the electrical plant or electricity cable from being used or operated in the manner in which it is intended to be used or operated is guilty of an offence and liable on conviction to a fine not exceeding \$10,000, imprisonment for a term not exceeding 3 years or both.

(2) Notwithstanding subsection (1), any person who, in the course of carrying out any earthworks, damages or suffers to be damaged any high voltage electricity cable in the transmission network belonging to or under the management or control of an electricity licensee is guilty of an offence and liable on conviction to a fine not exceeding \$1 million, imprisonment for a term not exceeding 5 years or both.

(3) Where an offence under subsection (2) is committed by any person acting as the agent or servant of another person, or being otherwise subject to the supervision or instructions of another person for the purposes of any employment in the course of which the offence was committed, that other person shall, without prejudice to the liability of the first-mentioned person, be liable under that subsection in the same manner and to the same extent as if he had personally committed the offence unless he proves to the satisfaction of the court that the offence was committed without his consent or connivance or that it was not attributable to any neglect on his part.

(4) Any person may apprehend any other person if the other person within his view commits an offence under this section and shall, on such apprehension without unreasonable delay, hand over the person so apprehended to a police officer.

(5) In any proceedings for an offence under subsection (2), it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(6) In any proceedings for an offence under subsection (2), the defence involves acting on information supplied by a licensed cable detection worker, the person charged shall not, without leave of the court, be entitled to rely on that defence unless he has, within 14 clear days before the hearing, served on the prosecutor a notice in writing giving such information as was then in his possession identifying or assisting in the identification of the licensed cable detection worker.

Falsely pretending to be employee of Authority or electricity licensee

51. Any person who seeks to obtain entry to any premises by falsely pretending to be an employee of the Authority or an electricity licensee is guilty of an offence.

Unauthorised use of electricity

52. (1) Any person who —

(a) dishonestly or fraudulently abstracts, uses or consumes, or dishonestly or fraudulently diverts or causes to be diverted, any electricity supplied by an electricity licensee;

(b) without the written consent of the electricity licensee, supplies for consideration any other person with any electricity supplied to him for any purpose by the electricity licensee; or

(c) alters or tampers with any meter supplied by an electricity licensee,

is guilty of an offence and liable on conviction to a fine not exceeding \$50,000, imprisonment for a term not exceeding 3 years or both and, in the case of a continuing offence, to a further fine not exceeding \$250 for every day or part thereof during which the offence continues after conviction.

(2) Where any person is prosecuted for an offence under subsection (1)(b) –

(a) the possession by him of any device for altering the index of any meter or for preventing any meter from duly registering the quantity of electricity supplied by an electricity licensee;

(b) the existence of any hole on the meter cover of any meter supplied by an electricity licensee; or

(c) the existence of any damage to the seal which is fastened to the outer cover of any meter to ensure that the cover is not removed, opened, dislodged or otherwise tampered with,

when the meter is in the custody or under the control of the person, shall be *prima facie* evidence that the person has altered or tampered with the meter.

Obstructing licensee in performance of duties

53. Any person who at any time molests, or without cause, hinders or obstructs, any employee, agent or contractor of an electricity licensee in the performance of his duties or anything which he is respectively authorised, empowered or required to do under this Order is guilty of an offence.

Making of false statement

54. (1) Any person who, when giving information to the Authority or making any application under or for the purposes of any provision of this Order, makes any statement which he knows to be false in a material particular, or who recklessly makes any statement which is false in a material particular, is guilty of an offence.

(2) Any person who –

(a) wilfully or fraudulently procures or attempts to procure for himself or for any other person any licence under this Order by making or producing or causing to be made or produced any false or fraudulent representation or declaration either verbally or in writing; or

(b) knowingly aids or assists therein,

is guilty of an offence.

Jurisdiction of court

55. Notwithstanding any provision to the contrary in the Criminal Procedure Code (Chapter 7), a Court of a Magistrate shall have jurisdiction to try any offence under this Order and shall have power to impose the full penalty or punishment in respect of any offence under this Order.

Offences by body corporate

56. Where an offence under this Order has been committed by a company, firm, society or other body of persons, any person who, at the time of the commission of the offence, was a director, manager, secretary or other similar officer or a partner of the company, firm, society or other body of persons or was purporting to act in any such capacity, is guilty of that offence and liable to be proceeded against and punished accordingly unless he proves that —

(a) the offence was committed without his consent or connivance; and

(b) he had exercised all such due diligence to prevent the commission of the offence as he ought to have exercised, having regard to the nature of his functions in that capacity and to all the circumstances.

General penalties

57. Any person guilty of an offence under this Order for which no penalty is expressly provided is liable on conviction to a fine not exceeding \$10,000, imprisonment for a term not exceeding 12 months or both and, in the case of a continuing offence, to a further fine not exceeding \$250 for every day or part thereof during which the offence continues after conviction.

Composition of offences

58. (1) The Authority may, in its discretion, compound any offence under this Order which is prescribed as a compoundable offence by collecting from a person reasonably suspected of having committed the offence a sum not exceeding \$2,000.

(2) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make regulations to prescribe the offences which may be compounded.

(3) On payment of such sum of money, no further proceedings shall be taken against such person in respect of the offence.

PART 7

GENERAL

Serious accidents to be reported and investigated

59. (1) When any accident causing or resulting in loss of life or hurt to any person or serious damage to property has occurred in connection with any electrical or supply installation, or any other installation, the owner of the premises concerned and the person granted a licence under Part 5 for the installation shall —

(a) report the accident to the Authority by the quickest means available; and

(b) subsequently with the least possible delay, report in writing to the Authority the facts of the matter so far as the facts are known.

(2) Any authorised officer shall as soon as practicable after receipt of the first report —

(a) visit the place where the accident occurred;

(b) make a preliminary investigation of the circumstances;

(c) record in writing his findings upon such investigation;

(d) forward his report to the Authority; and

(e) if there has been any loss of life or there is reason to believe that any person has been seriously injured, send a copy of his findings to the Public Prosecutor.

(3) In the event of loss of life or grievous hurt to any person due to any accident arising from the use or operation of or caused by any electrical or supply installation or other installation, no alteration or addition shall, without the approval of the Authority, be made to any part of the installation which may have contributed towards the cause of the accident or to the site of the accident until investigations have been completed.

(4) Nothing in subsection (3) shall operate to interfere with rescue work or other work necessary for the general safety of life or property.

(5) If upon a preliminary investigation under subsection [2](b) —

(a) it appears to the Authority that there is reason to believe that the accident was due to any failure to comply with the provisions of this Order or due to neglect to obey any lawful order given by the Authority; or

(b) the authorised officer investigating the accident is satisfied that the accident might have been prevented if proper precautions had been taken and observed in the operation or working of the electrical or supply installation or other installation,

the Authority shall hold an inquiry into the nature and cause of the accident with the assistance, if considered necessary by the Authority, of one or more persons of electrical or other special skill or experience to be nominated by the Authority as assessors.

(6) At the conclusion of the inquiry held under subsection (5), a copy of the findings taken at the inquiry together with the opinion of the Authority shall be forwarded to the Public Prosecutor.

(7) Any person who, without lawful excuse, contravenes subsection (1) or (3) is guilty of an offence.

Powers of arrest

60. (1) Any police officer or any person authorised in writing by the Authority generally or in any particular case may arrest any person committing within his view or who he has reason to believe has committed any offence punishable under this Order if —

(a) the name and address of the person are unknown to him;

(b) the person declines to give his name and address; or

(c) there is reason to doubt the accuracy of the name and address given.

(2) A person arrested under this section, unless his name and address are correctly ascertained, shall within 48 hours of the arrest be brought before a Magistrate or be released upon signing a bond with or without surety to appear before a Magistrate.

(3) The person brought before a Magistrate under subsection (3) may —

(a) be ordered to be detained until he can be tried; or

(b) if required by the Magistrate, be released upon signing a bond, with or without surety, to appear before a Court of a Magistrate.

Appeal to Minister

61. (1) A person aggrieved by —

(a) any decision of the Authority in the exercise of any discretion vested in it by or under this Order;

(b) anything contained in any code of practice or standard of performance issued or approved by the Authority under section 13; or

(c) any direction issued by the Authority under this Order,

may appeal to the Minister, together with adequate details of the grounds for the appeal.

(2) Unless otherwise provided in this Order, an appeal under subsection (1) shall be lodged within 14 days of the receipt of the decision or direction of, or the issue or approval of the code of practice or standard of performance by, the Authority.

(3) Any person who has lodged an appeal under subsection (1) shall provide such information as may be required by the Minister in such manner and within such period as may be specified by the Minister.

(4) Unless —

(a) otherwise provided in this Order; or

(b) the appeal is against the imposition or the amount of a financial penalty,

an appeal under subsection (1) shall not suspend the effect of the decision, direction, code of practice or standard of performance to which the appeal relates.

(5) The Minister may determine an appeal under this section by confirming, varying or reversing any decision or direction of the Authority or by amending any code of practice or standard of performance issued or approved by the Authority.

(6) The decision of the Minister shall be final.

Service of documents

62. [1] Any notice, order or document required or authorised by this Order to be given or served on any person, and any summons issued by a court in connection with any offence under this Order may be served on the person —

(a) by delivering it to him or to some adult member or employee of his family at his last known place of residence;

(b) by leaving it at his usual or last known place of residence or business in an envelope addressed to him;

(c) by affixing it to some conspicuous part of his last known place of residence;

(d) by sending it by registered post addressed to him at his usual or last known place of residence or business; or

(e) where the person to be served is a body corporate —

(i) by delivering it to the secretary or other like officer of the body corporate at its registered or principal office; or

(ii) by sending it by registered post addressed to the body corporate at its registered or principal office.

(2) Any notice, order, document or summons sent by registered post to any person in accordance with subsection (1) is deemed to be duly served on the person at the time when the notice, order, document or summons would, in the ordinary course of post, be delivered and in proving service of the notice, order, document or summons, it shall be sufficient to prove that the envelope containing the same was properly addressed, stamped and posted by registered post.

Recovery of fees and penalties

63. Any fee or financial penalty to be paid to the Authority under this Order may be recovered by it in any court of competent jurisdiction as if it were a simple contract debt.

Liability of electricity licensee due to continuous interruption of electricity supply

64. (1) An electricity licensee shall be liable to pay compensation to any person who is affected by an interruption of electricity supply, of a sum calculated in accordance with such formulae, and compensated in such form and manner, as the Authority may determine.

(2) Subsection (1) applies where —

(a) the person is carrying on a trade, profession or business; and

(b) the interruption of electricity supply —

(i) exceeds such continuous period as the Authority may determine; and

(ii) resulted from the incapacity of the electricity licensee.

(3) For the avoidance of doubt, the acceptance of any compensation under subsection (1) shall be without prejudice to the person's right to bring a civil

action against the electricity licensee for any loss or damage caused to any person or his property by such interruption of electricity supply to the person.

Keeping of register

65. (1) The Authority shall, at such location and in such form as it may determine, maintain a register for the purposes of this Order.

(2) Subject to any direction under subsection (3), the Authority shall cause to be entered in the register —

(a) the provisions of every licence or exemption granted to any person under Part 3 and the details of every licence or exemption revoked;

(b) the details of any modification to the conditions of an electricity licence; and

(c) any other matters as the Authority thinks fit.

(3) If it appears to the Minister that the entry of any provision or detail in the register would be against the public interest, he may direct the Authority not to make the entry in the register.

(4) The register shall be available for inspection by the public during such hours and subject to the payment of such fee, if any, as may be prescribed by the Authority.

Effect of direction

66. (1) The obligation to comply with any direction made by the Authority is a duty owed to any person who may be affected by a contravention of it.

(2) Where a duty is owed by virtue of subsection (1) to any person, any breach of the duty which causes that person to sustain loss or damage shall be actionable at the suit or instance of that person.

(3) In any proceedings brought against any person under subsection (2), it shall be a defence for him to prove that he took all reasonable steps and exercised all due diligence to avoid contravening the relevant direction.

(4) Without prejudice to any right which any person may have under subsection (2) to bring civil proceedings in respect of any contravention of any relevant direction, compliance with any such direction shall be enforceable by civil proceedings by the Authority for an injunction or for any other appropriate relief.

Regulations

67. (1) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make regulations for or in respect of every purpose which is considered by the Minister necessary or convenient to be prescribed for carrying out the provisions of this Order.

(2) Without prejudice to the generality of subsection (1), the Minister may make regulations for or in respect of all or any of the following matters —

(a) the prescribing of purposes for which the supply of electricity may be used;

(b) the prevention of misuse or use of electricity;

(c) the prevention of misuse of, or damage to, apparatus and works belonging to a licensee in connection with the generation, transmission or supply of electricity;

(d) the regulation and use of electricity meters and the prohibition of interference with, or damage to such meters or seals affixed thereto;

(e) the prohibition of interference with, or damage to, electric appliances supplied by a licensee and plates or marks thereon;

(f) the regulation of the installation of electrical installations and alterations thereto and the submission of plans and specifications in respect thereof;

(g) the prescribing of materials of which conduits, pipes, cables and other apparatus and fittings for use in connection with the supply of electricity shall be made, and of the size, shape, fitting, arrangement, connection, workmanship, examination, testing, position and method of cleaning them;

(h) the prescribing of the types of electric appliances to be used and the prohibition of the use of certain types thereof;

(i) the regulation of the installation of electric appliances and the removal or transfer thereof;

(j) the prescribing of the methods of charging consumers for electricity in the event of any meter becoming out of order;

(k) the prescribing of conditions applicable to a contract between the electricity licensee and consumer;

(l) in relation to cable detection work licences —

- (i) the class or classes of the licences, the form and duration of such licences, the terms and conditions upon and the circumstances in which such licences may be granted, held, suspended, cancelled, altered, extended, renewed or replaced and the fees payable in respect thereof;
 - (ii) the qualifications and other requirements to be satisfied by applicants for such licences, the examination or testing of such applicants, the fees payable in respect of such examination or testing and the circumstances in and conditions on which such applicants may be exempted from such examination or testing; and
 - (iii) the duties and responsibilities of licensed cable detection workers;
- (m) in relation to electrical or supply installations —
- (i) the intervals, times and manner at or in which any electrical or supply installation shall be inspected, the notice (if any) to be given in relation to inspections and the preparations to be made by the licensees of such installations and the management for such inspections;
 - (ii) the control of standards for electrical machinery, electric lines, wiring, fittings, accessories, appliances, consuming devices, control and protective gears associated with the generation, transmission, distribution and application of energy and the manner in which such machines, lines, wiring, fittings and apparatus shall be erected, fixed, protected, inspected, tested and maintained;
 - (iii) the approval and control of electrical apparatuses, appliances, equipment and materials with the object of securing their safety in service and the prohibition of the use, sale or hire of all electrical apparatuses, appliances, equipment and materials which are in the opinion of the Authority unsafe;
 - (iv) the fees to be paid for electrical or supply installation licences and any other fees which are required to be prescribed;
 - (v) the forms and contents of, and the conditions to be prescribed in electrical or supply installation licences and the conditions for suspension, extension and revocation of such licences and the manner in which applications for such licences shall be made; and

(vi) the means to be adopted, whether by prohibition or otherwise, to prevent or abate any nuisance or pollution likely to arise or arising from the working of any electrical or supply installation or apparatus;

(n) in relation to electrical worker licences —

(i) the class or classes of the licences, the form and duration of such licences, the terms and conditions upon and the circumstances in which such licences may be granted, held, suspended, cancelled, altered, extended, renewed or replaced and the fees payable in respect thereof;

(ii) the qualifications and other requirements to be satisfied by applicants for such licences, the examination or testing of such applicants, the fees payable in respect of such examination or testing and the circumstances in and conditions on which such applicants may be exempted from such examination or testing; and

(iii) the register to be kept of all electrical worker licences issued under this Order, the particulars to be entered in the register and the publication of the names of licensees;

(o) the protection of the public from dangers arising from the generation, transmission or supply of electricity, from the use of electricity supplied from the installation, maintenance or use of any electric line or electrical plant; and the elimination or reduction of risks of personal injury, or damage to property or interference with its use arising therefrom;

(p) the prohibition of the supply or transmission of electricity except by means of a system approved by the Authority;

(q) the prescribing of the form of notice to be given to the Authority of accidents and of failures of the supply or transmission of electricity; and

(r) the prescribing of fees and charges and their method of payment for the purposes of this Order.

[3] The Authority may in making any regulations provide that any person who contravenes the regulations is guilty of an offence and liable on conviction to a fine not exceeding \$10,000, imprisonment for a term not exceeding 12 months or both and, in the case of a continuing offence, to a further fine not exceeding \$250 for every day or part thereof during which the offence continues after conviction.

Repeal

68. The Electricity Act (Chapter 71) is repealed.

Transitional provision

69. All acts done by the Department of Electrical Services under the repealed Act immediately before the date of commencement of this Order shall continue to remain valid and applicable as though done by the Authority under this Order, until such time as invalidated, revoked, cancelled or otherwise determined by the Authority.

Made this 13th. day of Ramadhan, 1438 Hijriah corresponding to the 8th. day of June, 2017 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY
THE SULTAN AND YANG DI-PERTUAN
BRUNEI DARUSSALAM