



# LAWS OF MALAYSIA

REPRINT

**Act 447**

## **ELECTRICITY SUPPLY ACT 1990**

*Incorporating all amendments up to 1 January 2006*

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**ELECTRICITY SUPPLY ACT 1990**

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**LAWS OF MALAYSIA****Act 447****ELECTRICITY SUPPLY ACT 1990**

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# LAWS OF MALAYSIA

## Act 447

### ELECTRICITY SUPPLY ACT 1990

An Act to provide for the regulation of the electricity supply industry, the supply of electricity at reasonable prices, the licensing of any electrical installation, the control of any electrical installation, plant and equipment with respect to matters relating to the safety of persons and the efficient use of electricity and for purposes connected therewith.

[1 September 1990, P.U. (B) 494/1990]

**BE IT ENACTED** by Seri Paduka Baginda Yang di-Pertuan Agong with the advice and consent of the Dewan Negara and Dewan Rakyat in Parliament assembled, and by the authority of the same, as follows:

#### PART I

#### PRELIMINARY

#### Short title and application

1. (1) This Act may be cited as the Electricity Supply Act 1990.

\*(2) This Act shall apply throughout Malaysia; however the Minister may by order suspend the operation of the whole or any of the provisions of this Act in any State.

#### Interpretation

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

“aerial line” means an electric supply line which is placed above the ground and in open air, and includes service lines;

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\*NOTE—The operation of the whole of the Electricity Supply Act 1990 [Act 447] is suspended in the State of Sarawak with effect from 1 September 1990—see P.U. (A) 272/1990.

“arbitration” means arbitration under and in accordance with section 36;

“area of supply” means the area within which a supply authority or licensee is authorized to generate and/or supply electricity;

“authorized officer” means any public officer or officer of the Commission who is authorized in writing by the Minister for the purposes of this Act;

“authorized person” means a person appointed by the management or the owner of an installation, or by a contractor, acting as an agent for and/or on behalf of the management or owner, to carry out certain duties incidental to the generation, transmission, distribution and utilization of electricity.

Provided that the said person possesses the qualification sprescribed for persons performing those duties, or if no qualifications are prescribed, is competent for the purpose for which he is employed, the burden of proof of competency being on the employer;

“Chairman” means the Chairman of the Energy Commission appointed by the Minister under the Energy Commission Act 2001 [Act 610];

“Commission” means the Energy Commission established under the Energy Commission Act 2001;

“competent person” means a person who holds a certificate of competency issued by the Commission to perform work in accordance with the restrictions, if any, stated in the certificate;

“conductor” means an electrical conductor arranged to be electrically connected to a system;

“consumer” means a person who is supplied with electricity or whose premises are for the time being connected for the purpose of supply of electricity by a supply authority or a licensee;

“conversion” means the conversion of alternating current to direct current or *vice versa* by static or dynamic means;

“danger” means danger to health or to human life or limb from shock, burn, or other injury and includes danger to property, installation or equipment resulting from the generation, transmission, distribution or utilization of electricity;



“dead”, applied to any system or part of a system, means that it is not live or alive;

“dishonestly” has the meaning assigned thereto in the Penal Code [*Act 574*];

“District Land Administrator” has the meaning assigned to “Land Administrator” by section 5 of the National Land Code [*Act 56 of 1965*] and the meaning of “Collector” by section 4 of the Land Ordinance of Sabah [*Sabah Cap. 68*] and for the State of Sarawak, “the Director” by section 2 of the Land Code of Sarawak [*Sarawak Cap. 81*];

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

“equipment” includes any item for such purposes as generation, conversion, transmission, distribution or utilization of electrical energy, such as machines, transformers, apparatus, measuring instruments, protective devices, wiring materials, accessories and appliances;

“extra high voltage” means a voltage normally exceeding 3,000 volts;

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

“generator” means a rotating machine of any type for changing mechanical energy into electrical energy;

“grievous hurt” and “hurt” have the meanings assigned thereto respectively in the Penal Code;

“high voltage” means a voltage normally exceeding 600 volts but not exceeding 3,000 volts;

“installation” means the whole of any plant or equipment under one ownership or, where a management is prescribed, the person in charge of the same management, designed for the supply or use,

or both, as the case may be, of electricity; including prime movers, if any, with all necessary plant, buildings and land in connection therewith, pipe line, supply line and consuming apparatus, if any;

“insulated” means covered or protected by insulating material;

“insulating”, used as an epithet to characterize any substance, means of such size, quality and construction, according to circumstances, as to afford adequate protection from danger;

“licence” means a licence issued under section 9 and includes any licence issued under any other law enforced before the promulgation of this Act;

“licensee” means a person licensed under section 9;

“live” or “alive”, applied to a system or any part of any system, means that a voltage exists between any conductor and earth or between any two conductors in the system;

“mains” means a supply line through which electricity is or can be supplied, whether the line is in use or not;

“main supply line” means any high voltage or extra high voltage supply line for transmitting electricity from a generating station to another generating station or to a substation and includes any building or part of a building used in connection with such supply line;

“management” means the person for the time being placed in charge of an installation;

“Minister” means the Minister for the time being charged with the responsibility for matters relating to the supply of electricity;

“motor” means a motor of any type for the transformation of electrical energy into mechanical energy;

“prescribed”, unless otherwise specified, means prescribed by regulations made under section 53;

“prime mover” means a machine supplying mechanical energy to a generator;

“private installation” means an installation operated by a licensee or owner solely for the supply of energy to and use thereof on the licensee’s or owner’s own property or premises, or, in the case of a consumer, taking electricity from a public installation or supply authority, for use only on the licensee’s or owner’s property or premises;

“private safety” means the obviation of danger to individuals or to private property;

“public installation” means an installation operated by a licensee for the supply of electricity to any person other than the licensee:

Provided that the licensee may use electricity for his own purposes where the use is consistent with the terms of the licence;

“public lamp” means an electric lamp used for the lighting of any street or other public place;

“public safety” means the obviation of danger to the general public, to public property and to streets, railways, airports, ports, canals, docks, wharves, piers, bridges, gasworks and their appurtenances and telegraphic, telephonic and other electrical signalling lines owned or operated by the Federal Government or any State Government;

“Registrar” means the Registrar as defined in the National Land Code;

“reserved land” means land reserved for a public purpose, railway reserves and forest reserves;

“State land” does not include reserved land and alienated land;

“street” includes any way, road, lane, path, square, court, alley, passage or open space, whether a thoroughfare or not, over which the public have a right of way and also the roadway and footway over any public bridge;

“supply authority” means any statutory authority established by an Act of Parliament or any other law to generate and/or supply electricity;

“supply line” means a conductor or conductors or other means of conveying, transmitting or distributing electricity, together with any casing, coating, covering, tube, pipe, insulator or post enclosing, surrounding or supporting the same or any part thereof, or any building or equipment connected therewith for the purpose of transforming, conveying, transmitting or distributing electricity;

“system” means an electrical system in which all the conductors and equipment are electrically or magnetically connected;

“transformation” means the transformation of voltage from lower to a higher voltage or *vice versa*.

## PART II

### ESTABLISHMENT

#### 3. *(Deleted by Act A1116)*

## PART III

### FUNCTIONS, DUTIES AND POWERS OF COMMISSION

#### **Functions and duties**

4. The Commission shall carry out such functions and duties as follows:

- (a) to issue licences under section 9 of this Act;
- (b) to exercise regulatory functions in respect of the service of providing electricity by the licensee including the determination of performance standards and standards of facilities and services and the enforcement thereof;
- (c) to promote competition in the generation and supply of electricity to, *inter alia*, ensure the optimum supply of electricity at reasonable prices;
- (d) to promote the interests of consumers of electricity supplied by licensees in respect of—
  - (i) the prices to be charged and the other conditions of electricity supply;

- (ii) the continuity of electricity supply; and
  - (iii) the quality of the electricity supply services provided;
- (e) to secure that all reasonable demands for electricity are satisfied;
- (f) to secure that licensees are able to finance the carrying on of the activities which they are authorized by their licences to carry on;
- (g) to promote and encourage the generation of electricity with a view to the economic development of Malaysia;
- (h) to regulate the interval and manner in which any electrical installation or equipment shall be inspected;
- (i) to devise the nature of test to be employed and to prescribe minimum qualifications and practical experience for any purpose in the pursuance of this Act;
- (j) to investigate any accident or fire involving any electrical installation;
- (k) to provide, where necessary, for the registration of any installation, electrical contractor, manufacturer and importer, and any competent person;
- (l) to prescribe the minimum standards and specifications and appraise and approve, where necessary, any electrical installation or equipment;
- (la) to promote the efficient use of electricity; and
- (m) to carry on all such other activities as may appear to the Commission requisite, advantageous or convenient for the purpose of carrying out or in connection with the performance of his functions and duties under this Act.

**Authorized officer**

**4A.** The Minister may in writing authorise any public officer or officer of the Commission to exercise the powers of enforcement under this Act.

**Power of entry by warrant or otherwise, inspection, examination, seizure, etc.**

5. (1) An authorized officer may, for the purposes of discharging any of his duties or carrying out any of his functions under this Act or any regulation made thereunder, or otherwise for any of the purposes of this Act or any regulation, enter at any reasonable time upon any land, house or building with or without supply of electricity to inspect and examine any part of an installation or equipment, or for other proper cause.

(2) In every case where information is given on oath to any magistrate that there is reasonable cause for suspecting that there is in any land, house or building any article, thing, book, document, installation or part thereof used or intended to be used in relation to which any offence under this Act has been committed, he shall issue a warrant under his hand by virtue of which any authorized officer or police officer not below the rank of Inspector named or referred to in the warrant may enter the land, house or building at any reasonable time by day or night, and search for and seize or seal any such article, thing, book, document, installation or part thereof:

Provided that if an authorized officer or police officer not below the rank of Inspector is satisfied upon information received that he has reasonable grounds for believing that by reason of delay in obtaining a search warrant, any article, thing, book, document, installation or part thereof used to commit or to be used to commit an offence under this Act is likely to be removed or destroyed, he may enter such land, house or building without a warrant and seize or seal any such article, thing, book, document, installation or part thereof from therein.

(3) An authorized officer or a police officer not below the rank of Inspector making the search may seize any article, thing, book, document, installation or part thereof used or intended to be used or capable of being used for the purpose of committing an offence under this Act and if such article, thing, book, document, installation or part thereof is seized, he shall produce the same before the magistrate, and upon such production the magistrate shall direct the same to be kept in the custody of the authorized officer or the police for the purpose of any investigation or prosecution under this Act.

(4) Any authorized officer or police officer not below the rank of Inspector may in the exercise of his powers under subsection (2) or (3), if it is necessary so to do—

- (a) break open any outer or inner door of the dwelling house or any other premises and enter thereinto;
- (b) forcibly enter the place and every part thereof;
- (c) remove by force any obstruction to entry, search, seizure and removal as he is empowered to effect; and
- (d) detain every person found in the place until the place has been searched.

(5) The authorized officer or police officer not below the rank of Inspector seizing any article, thing, book, document, installation or part thereof under subsection (2) or (3) shall prepare a list of the things seized and forthwith deliver a copy signed by him to the occupier, or his agents or servants present in the premises and if the premises are unoccupied, such authorized officer or police officer shall wherever possible post a list of the things seized on the premises.

(6) An authorized officer shall at all times carry an official identification card or badge in such form as may be prescribed, and no person shall be obliged to admit to his land, house or building any person purporting to be an authorized officer except upon production of the identification card or badge.

### **Powers of investigation**

**6.** (1) The Commission shall have the power to investigate the commission of any offence under this Act or any regulation made thereunder.

(2) The Commission may, in relation to any investigation in respect of any offence committed under this Act or any regulation made thereunder, exercise the special powers in relation to police investigation except that the power to arrest without warrant given by the Criminal Procedure Code [*Act 593*] in any seizable offence may not be exercised by the Commission.

**Admissibility of statement**

7. (1) Notwithstanding the provisions of any written law to the contrary, where a person is charged with an offence under this Act any statement, whether the statement amounts to a confession or not or whether it is oral or in writing, made at any time, whether before or after the person is charged and whether in the course of investigation under this Act or not and whether or not wholly or partly in answer to questions, by the person to or in the hearing of an authorized officer and whether or not interpreted to him by an authorized officer or any other person concerned or not in the case shall be admissible at his trial in evidence and, if the person tenders himself as a witness, any such statement may be used in cross-examination and for the purpose of impeaching his credit:

Provided that—

(a) no such statement shall be admissible or used as aforesaid—

- (i) if the making of the statement appears to the court to have been caused by any inducement, threat or promise having reference to the charge against such person proceeding from the person in authority and sufficient in the opinion of the court to give a person grounds which would appear to him reasonable for supposing that by making it he would gain any advantage or avoid any evil of a temporal nature in reference to the proceedings against him; or
- (ii) in the case of a statement made by the person after his arrest, unless the court is satisfied that he was cautioned in the following words or words to the like effect:

“It is my duty to warn you that you are not obliged to say anything or to answer any question but anything you say, whether in answer to a question or not, may be given in evidence.”; and

(b) a statement made by any person before there is time to caution him shall not be rendered inadmissible in evidence merely by reason of his not having been cautioned if he is cautioned as soon as possible.



**Obstruction, etc. an offence**

8. Any person who—

- (a) refuses any authorized officer or police officer not below the rank of Inspector access to any place;
- (b) assaults, obstructs, hinders or delays any authorized officer or police officer not below the rank of Inspector in effecting any entry which he is entitled to effect under this Act, or in the execution of any duty imposed or power conferred by this Act;
- (c) refuses to give to any authorized officer or police officer not below the rank of Inspector any information relating to an offence or suspected offence under this Act or any other information which may reasonably be required of him and which he has in his knowledge or power to give; or
- (d) knowingly gives false information,

shall be guilty of an offence and on conviction be liable to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding two years or to both.

PART IV

LICENSED AND REGISTERED INSTALLATIONS

**Licence required for use of installations: terms, conditions and contents of licences**

9. (1) Subject to such exemptions as may be prescribed, no person, other than a supply authority, shall—

- (a) use, work or operate or permit to be used, worked or operated any installation; or
- (b) supply to or for the use of any other person electricity from any installation,

except under and in accordance with the terms of a licence expressly authorizing the supply or use, as the case may be.

(2) Licences may be granted by the Commission with the approval of the Minister upon payment of such fees and upon such conditions as appear to be requisite or expedient having regard to the duties imposed by section 4.

(2A) The Commission may, whether a notice has been served or not, levy a surcharge for the late payment of fees due to from a licensee to the Commission, at a rate of one per cent per month or part of a month on such fees or at any other rate as may be prescribed.

(3) No licence shall be capable of being transferred unless the written consent of the Minister has been given.

(4) Licences may be for such periods as the Commission may in each several case approve:

Provided that no licence shall without the express approval of the Minister be for a period exceeding twenty-one years.

(5) The duration of any licence shall be set out therein.

(6) Any licence for a public installation shall set out—

- (a) the area of supply;
- (b) the declared voltage and the variations permitted there from;
- (c) the maximum charges payable by consumers; and
- (d) such other matters as the Commission may consider necessary.

### **Power to enter on and examine land**

**10.** (1) Whenever it appears to the licensee that it will be necessary for him to exercise the powers conferred upon him by this Act in respect of any land other than State land for the purpose of constructing an installation or part of an installation, the licensee or any person authorized by him may, after giving not less than twenty-four hours notice to the occupier thereof, if any, enter upon the land, survey and take levels and do any other acts necessary to ascertain the suitability of the land, in so far as the same may be possible without causing damage or disturbance.

(2) Nothing herein contained shall be deemed to authorize any person to cut down or clear away any vegetation or any fence or other erection or to enter into any building or upon any enclosure attached to any building.

(3) In the case of reserved land, the notice under subsection (1) may be given to the officer or any other person in charge of the reserved land or, in the absence of any such officer or person, to the District Land Administrator.

### **Power to enter on land for purposes of construction**

**11.** (1) Subject to as herein after provided, whenever it is necessary so to do for the purpose of installing any system of distribution of electricity under this Act, a licensee may lay, place or carry on, under or over any land, other than State land, such posts and other equipment as may be necessary or proper for the purposes of the licensed installation, as the case may be, and may take such other action as may be necessary to render the installation safe and efficient, paying full compensation in accordance with section 16 to all persons interested for any disturbance, damage or disability that may be caused thereby and such compensation may include an annual payment for land used for the purpose of the posts or other equipment.

(2) Before entering on any land for the purpose specified in subsection (1), the licensee shall give a notice stating as fully and accurately as possible the nature and extent of the acts intended to be done. The notice shall be substantially in the form set out in the First Schedule and the District Land Administrator shall specify a date upon which the State Authority shall inquire into any objection that may have been made as herein after provided.

(3) The aforesaid notice shall be given—

- (a) in the case of alienated land, to the owner or occupier;
- (b) in the case of reserved land, to the officer or any other person in charge of the reserved land or, in the absence of any such officer or person, to the District Land Administrator,

and may be sent by registered post or be left at the usual or last known place of abode of the person to whom it is to be given or served by the licensee or the District Land Administrator at the expense of the licensee, either in the manner herein before provided or in the manner provided for the service of notices by any written law relating to land in force in the State where the land is situated.

(4) Any of the persons mentioned in subsection (3) may, within fourteen days of the receipt of the notice therein referred to, lodge an objection to the intended acts of the licensee. The objection may be made to the District Land Administrator, either verbally or in writing, and the District Land Administrator shall give notice of the objection to the State Authority and to the licensee.

(5) If no objection is lodged within the time limited for that purpose by subsection (4), the licensee may forthwith enter on the land and do all or any of the acts specified in the notice given under subsection (2).

(6) If an objection is lodged and is not withdrawn before the date fixed for the hearing thereof, the District Land Administrator shall hold an enquiry, giving all parties an opportunity to be heard.

(7) Upon the conclusion of the enquiry the District Land Administrator may either unconditionally or subject to such terms, conditions and stipulations as he thinks fit, make an order authorizing or prohibiting any of the acts mentioned in the notice given under subsection (2). The order shall be substantially in the form set out in the Second Schedule:

Provided that any party who is dissatisfied with the District Land Administrator's order may within twenty-one days after the order appeal against such an order to the State Authority which may then uphold, set aside or vary the order upon such terms, conditions and stipulations as it thinks fit.

(8) The State Authority may, if it thinks fit, in lieu of making an order under subsection (7), direct the acquisition of any land or part of any land included in a notice given under subsection (2).

(9) The decision of the State Authority under this section shall be final.

(10) Notwithstanding any written law relating to land matters, the Registrar—

- (a) upon the production to him of the notice issued by the licensee under subsection (2) together with the statement by the District Land Administrator that no objection had been lodged by any of the persons mentioned in subsection (3); or
- (b) upon the production to him of the original order made under subsection (7) and upon the deposit with him of a certified copy of such order,

shall cause to be made on the register document of title relating to the land affected by the notice or order as the case may be, a note of the existence of the rights under such notice or order.

### **Supply lines and other equipment on State land**

**12.** (1) Subject to the approval of the State Authority and to such conditions as the State Authority may deem proper, a licence may extend to authorizing the licensee to lay, place or carry on, under or over State land, to the extent and in the manner specified in the licence, such supply lines and to erect and maintain in or upon State land such posts and other equipment as may in the opinion of the Commission be necessary or proper for the purposes of the licensed installation, and subject always to the approval of the State Authority, the said authorization may be given or added to at any time during the currency of the licence by endorsement thereon under the seal of the Commission.

(2) All equipment placed in or upon State land which is not removed therefrom within six months, or such longer period as the State Government may permit, after the expiration or early determination of the licence under the authority whereof the same was so placed, shall vest in and become the property of the Government of the State wherein the same is situated.

### **Maintenance, repair and upgrading of installation**

**13.** Whenever it is necessary so to do for the purpose of maintaining, repairing or upgrading any licensed installation or any part thereof, the licensee, or any person authorized by him in that behalf, may

at all reasonable times enter upon any land on, under or over which supply lines have been laid, placed or carried, or upon which posts or other equipment have been erected, and may carry out all necessary repairs, and may, in the course thereof, fell or lop trees, remove vegetation and do all other things necessary to the said purpose, causing as little damage as possible and paying full compensation in accordance with section 16 to all persons interested for any damage that may be caused thereby for which compensation has not already been assessed under section 11.

### **Removal or alteration of supply line, etc.**

14. (1) Where a supply line has been laid, or posts or equipment erected, on any land under section 11, and if any of the persons mentioned in subsection 11(3) desires to use the land in such a manner as to render it necessary or convenient that the line, posts or equipment should be removed to another part of the land, or to land at a higher or lower level, or be altered in form, he may require the licensee, to remove or alter the line, posts or equipment accordingly.

(2) (a) If the licensee omits to comply with the requisition, the person may apply in writing to the State Authority which may, in its discretion, after enquiring into all the facts of the case, reject the application or make an order, either absolutely or subject to certain conditions, for the removal or alteration of the line, posts or equipment. The order shall provide for the payment of the cost of executing the removal or alteration by the licensee or by the person making the application, as the State Authority may consider equitable in the circumstances of the case.

(b) The State Authority may, instead of itself enquiring into a case under this subsection, direct the District Land Administrator to make such enquiry on its behalf and to make recommendations to it.

(3) Whenever the State Authority has made an order for the removal or alteration of any main supply line, the licensee may, instead of removing or altering the supply line, apply to the State Authority to direct the acquisition of such land as is required for the purposes of the line, and the State Authority may direct the acquisition accordingly.

(4) Whenever the State Authority is authorized by this section

to direct the acquisition of any land, the licensed installation shall be deemed to be a work of public utility and any written law relating to land acquisition in force in the State where the land is situated shall be enforced accordingly.

(5) Whenever a supply line has been laid, or posts or equipment erected on State land by a licensee and the land is subsequently alienated to any person, the owner or occupier of the land may, unless the terms of alienation expressly provide otherwise, require the removal of the supply line to another part of the land, or to land at a higher or lower level, or the alteration of the line, posts or equipment, and subsections (1) to (4) shall apply to any such requisition:

Provided that the cost of executing the removal or alteration shall be defrayed by the person making the requisition.

### **Saving of wayleave agreements**

**15.** (1) Nothing in section 11 or section 14 shall—

- (a) affect the right of a licensee to enter into an agreement, commonly known as a wayleave agreement, with the owner or occupier of any land for the purpose of carrying a supply line across the land; or
- (b) affect any such wayleave agreement subsisting at the commencement of this Act.

(2) Notwithstanding any written law relating to land, the Registrar, upon the production to him of the original and the deposit with him of a certified copy of any such wayleave agreement as is referred to in subsection (1), shall cause to be made on the register document of title relating to the land affected by the wayleave agreement a note of the existence of the wayleave agreement.

(3) Where a wayleave agreement relates to land which is a holding included in the Interim Register—

- (a) subsection (2) shall apply as if “Commissioner” and “appropriate folio of the Interim Register” were substituted for “Registrar” and “register document of title” respectively; and

(b) when final documents of title are issued for the land under section 39 of the National Land Code (Penang and Malacca Titles) Act 1963 [Act 518], any note made pursuant to that subsection as varied by paragraph (a) shall (if it is still effective immediately before the issue of those documents) be entered by the Commissioner on the register document of title and shall continue to have effect as if it had been entered under that subsection.

(4) So long as there remains on the register document of title or the appropriate folio of the Interim Register a note made pursuant to subsection (2) or (3), all dealings with the land to which the note relates shall be deemed to be subject to the rights of the licensee under and by virtue of the wayleave agreement in respect of which the note has been made.

(5) Where a note or registration of a wayleave agreement made before 1 January 1966, pursuant to subsection (2) or (3) as then in force remained effective immediately before that date, then, for the purposes of subsection (4)—

- (a) it shall be regarded as a note made pursuant to subsection (2); or
- (b) if it relates to land included as a holding in the Interim Register it shall be entered on the appropriate folio of the Interim Register and shall then be regarded as a note made pursuant to subsection (3).

(6) In this section—

“Commissioner” and “Interim Register” have the meanings assigned thereto respectively by the National Land Code (Penang and Malacca Titles) Act 1963.

## **Compensation**

**16.** (1) The amount of compensation, if any, payable under section 11 or 13 shall be assessed by the District Land Administrator after such enquiry as he shall deem sufficient. The assessment shall be substantially in the form set out in the Third Schedule:

Provided further that no compensation shall be payable by the licensee in respect of any tree within fifty feet of the centre line of any road constructed or maintained by the State Government



or by any local authority unless it is proved that the tree was in existence prior to the construction of the road.

(2) Any person aggrieved with the District Land Administrator's assessment may within twenty-one days after the assessment appeal to the State Authority whose decision shall be final.

**Reduction or cessation of supply: liability**

17. (1) Any licensee may reduce, as he may think fit, the quantity of electricity supplied to any consumer if by reason of any unforeseen circumstances electricity generated is insufficient to enable the full quantity to be conveniently supplied.

(2) Where the quantity of electricity has been reduced as aforesaid—

- (a) no liability shall be incurred by the licensee in respect of any loss or damage caused by the reduction; and
- (b) in appropriate cases, an abatement in the charges for the supply of electricity shall be made in proportion to the reduction made.

(3) Any licensee shall not be liable for any damage to any person or property or for any cessation of the supply of electricity which may be due to unavoidable accident, fair wear and tear or overloading due to unauthorized connection of equipment, or to reasonable requirements of the system, or to defects in any installation not provided by the licensee, but shall be liable only when the damage or cessation is shown to have resulted from negligence on the part of persons employed by the licensee, his agents or servants, as the case may be, or from his faulty construction of the installation.

**Security: suspension of and revocation of licence**

18. (1) Before the issue of any licence the Commission may require such security as the Commission may specify to be furnished for the due observance of the terms and conditions of the licence and of this Act.

(2) A licence may at any time be suspended or revoked by the Commission upon breach of any of the conditions thereof or in default of payment of any moneys accrued due thereunder, or if the licensee ceases to work or operate the installation in respect of which the licence has been granted:

Provided that, where a licence has been suspended or revoked on the ground that the licensee has ceased to work or operate an installation, the licensee may, if he considers that he has suffered or may suffer undue hardship by reason of the suspension or revocation, appeal to the Minister against the suspension or revocation, and the decision of the Minister on the appeal shall be final.

(3) The licensee shall not be entitled to compensation for any loss caused to him by the suspension or revocation of a licence under this section.

(4) Upon termination of a licence, the licensee shall remove his installation and equipment within three months from the date of termination, failing which the licensee shall be liable for all costs whatsoever incurred in the removal thereof and such costs may be recovered from the security deposited (if any) under subsection (1).

### **Restriction of use to specified purposes**

**19.** A licensee 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 so specified.

### **Exemption of equipment from distress and attachment**

**20.** When any electrical equipment belonging to a licensee has been placed in or upon premises not owned or occupied by the licensee, for the purpose of supplying or measuring electricity, such equipment shall not be subject to distress nor be liable to be taken in execution under any process of a court or in any bankruptcy or insolvency proceedings against any person.

### **Registration of installations**

**21.** (1) Before the completion of a new installation, other than an installation belonging to a supply authority, the owner thereof shall forward, in duplicate, to the commission, an application for registration in the prescribed form. The Commission shall cause inspection and tests to be made within the prescribed period and, if the installation satisfies the requirements of this Act, shall issue or cause to be issued a Certificate of Registration in the prescribed form:

Provided that at any time from the date of the commencement of this Act until such date as the Minister may by notification in the *Gazette* appoint it shall be lawful for the Commission at his discretion without causing any inspection or tests to be made to issue in respect of any such installation a provisional Certificate of Registration to be valid for such period and to be subject to such conditions as may be endorsed thereon and any reference in this Act to a Certificate of Registration shall unless the context otherwise requires be deemed to have had effect from such date as the Commission may endorse thereon at the time of issuing the same. Any such provisional Certificate of Registration may be revoked or cancelled by the Commission at any time at his discretion.

(2) No person shall possess or operate an installation, unless the installation is registered on a valid Certificate of Registration.

(3) Certificates of Registration shall be surrendered by the owner or licensee to the Commission for cancellation if the installation is no longer required to be used. Thereafter, if the owner or licensee wishes to operate the installation again, the said installation shall be treated in all respects as if it is a new installation.

(4) A Certificate of Registration may be cancelled in accordance with regulations made under section 53.

(5) Certificates of Registration shall not be transferred without the permission of the Commission.

### **Periodical inspections of installations**

**22.** (1) Subject to any exemption granted under this Act any person who intends to construct, extend or alter any installation shall give notice of the proposed construction, extension or alteration to the

Commission. Such person or a person authorized by him shall submit plans and obtain prior approval from the Commission who may periodically inspect the installation thereof.

(2) In addition to periodical inspections during construction, extension or alteration and final inspections on completion, all installations, while in operation, shall be subject to such periodical inspections as may be prescribed.

(3) The management or person in charge of any installation or the construction, extension or alteration of any installation shall afford full facilities for inspection during working hours.

## PART V

### COMPETENT CONTROL

#### **Persons in charge**

**23.** (1) No installation or electrical plant equipment other than those owned or managed by a supply authority shall be worked or operated except by or under the control of persons possessing such qualifications and holding such certificates as may be prescribed, and no person not possessing the qualifications or holding a certificate as aforesaid shall be in charge of any installation or shall control the operation of any electrical plant or equipment.

(2) Any person who contravenes this section shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit and, if the contravention be continued, to a fine not exceeding one thousand ringgit for everyday or part of a day during which the contravention is continued after conviction.

## PART VA

### EFFICIENT USE OF ELECTRICITY

#### **Minister to determine standards, etc.**

**23A.** The Minister may, from time to time, prescribe the standards, specifications, practices and measures to be adopted and any other matters in respect of the efficient use of electricity.

### **Installation to meet requirements**

**23b.** No person shall use or operate any installation unless the installation meets such requirements as may be prescribed in respect of the efficient use of electricity.

### **Equipment to meet requirements**

**23c.** No person shall manufacture, import, sell or offer for sale or lease any equipment unless the equipment meets such requirements as may be prescribed in respect of the efficient use of electricity.

## PART VI

### SUPPLY BY LICENSEE

#### **Duty to supply on request**

**24.** (1) Subject to the following provisions of this Part and any regulation made thereunder, a licensee shall upon being required to do so by the owner or occupier of any premises—

- (a) give a supply of electricity to those premises; and
- (b) so far as may be necessary for that purpose, provide supply lines or any electrical plant or equipment.

(2) Where any person requires a supply of electricity under subsection (1) he shall give to the licensee a notice specifying—

- (a) the premises in respect of which the supply is required;
- (b) the day on which the supply is required to commence;
- (c) the maximum power which may be required at any time; and
- (d) the minimum period for which the supply is required to be given.

(3) Where a licensee receives from any person a notice under subsection (2) requiring him to give a supply of electricity to any premises and—

- (a) he has not previously given supply of electricity to those premises;

- (b) the giving of the supply requires the provision of supply lines or electrical equipment or plant; or
- (c) other circumstances exist which make it necessary or expedient for him to do so,

the licensee shall, as soon as practicable after receiving that notice, give to the person a notice under subsection (4).

- (4) A notice under this subsection shall—
  - (a) state the extent to which the proposals specified in the notice under subsection (2) are acceptable to the licensee and specify any counter proposals made by the licensee;
  - (b) state whether the prices to be charged by the licensee will be determined by a tariff under subsection 26(1), or by a special agreement under subsection 29(1) and specify the tariff or the proposed terms of the agreement;
  - (c) specify any payment which the person will be required to make under subsection 27(1); and
  - (d) specify any security which the person will be required to give under section 28.
- (5) In this section and in sections 25 to 29 of this Part—
  - (a) any reference to giving a supply of electricity includes a reference to continuing to give such a supply;
  - (b) any reference to requiring a supply of electricity includes a reference to requiring such a supply to continue to be given; and
  - (c) any reference to the provision of a supply line or an item of electrical equipment or plant is a reference to the provision of such a line or item either by the installation of a new one or by the modification of an existing one.

### **Exceptions to duty to supply electricity**

**25.** Nothing in subsection 24(1) shall be taken as requiring a licensee to give a supply of electricity to any premises if—

- (a) (i) the supply of electricity is already being given to the premises by another licensee; and

- (ii) such supply is given whether wholly or partly through the licensee's supply lines and electrical equipment or plant;
- (b) he is prevented from doing so by circumstances beyond his control;
- (c) circumstances exist by reason of which his doing so will or may involve his breach of any regulation under this Act; or
- (d) it is not reasonable in all the circumstances for him to be required to do so:

Provided that this paragraph shall not apply in relation to a supply of electricity which is being given to any premises unless the licensee has given to the occupier or to the owner, if the premises are not occupied, a notice of not less than seven working days of his intention to discontinue the supply of electricity.

### **Power to fix tariffs**

**26.** (1) A licensee may, in relation to the service of supplying electricity, levy such tariffs as may be approved in writing by the Minister from time to time having regard to any condition in the licence which relates to the supply of electricity in different areas and circumstances.

- (2) A tariff fixed by a licensee pursuant to subsection (1)—
  - (a) shall be so framed as to indicate the methods by which and the principles on which the tariffs are to be made as well as the prices which are to be charged; and
  - (b) shall be published in such manner as in the opinion of the licensee will secure adequate publicity for it.
- (3) A tariff fixed by a licensee under subsection (1) may include—
  - (a) a standing charge in addition to the charge for the actual electricity supplied;
  - (b) a charge in respect of the availability of a supply of electricity and such charge may vary according to the extent of supply; and
  - (c) a rent or other charge in respect of any electricity meter or electrical plant or equipment provided by the licensee.

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

### **Licensee may levy surcharge**

**26A.** Notwithstanding any other provisions in this Act, a licensee may levy a surcharge subject to such conditions and at such rates as may be prescribed for late payment of monies due from a consumer to the licensee in respect of the electricity supplied by the licensee.

### **Power to recover expenses**

**27.** (1) Where any supply line or electrical plant or equipment is provided by a licensee pursuant to subsection 24(1), the licensee may require any expenses reasonably incurred to be defrayed by the person requiring the supply of electricity to such extent as is reasonable having regard to the circumstances.

(2) The expenses reasonably incurred in providing any supply line or electrical plant or equipment under subsection (1) include the capitalized value of any expenses likely to be so incurred in maintaining it, if such expenses cannot be recovered by the licensee as part of the tariffs levied by him for the supply.

### **Power to require security**

**28.** (1) A licensee may require any person who requires a supply of electricity pursuant to subsection 24(1) to give him reasonable security for all moneys which may become due to him—

(a) in respect of the electricity supply; or

(b) where any supply line or electrical plant or equipment has to be provided under the same subsection in respect of the provision of such facility,

and if the person fails to give such security, the licensee may, if he thinks fit, refuse to give the supply or to provide the supply line or electrical plant or equipment until the security has been given.



(2) Where the person has not given the security in subsection (1) or the security given by the person has become insufficient, the licensee may by notice require the person, within seven days after the service of the notice, to give him reasonable security for the payment of all moneys which are due to him in respect of the supply and if the person fails to give such security, the licensee may, if he thinks fit, discontinue the supply until security is given.

### **Return of security with interest**

**28A.** Notwithstanding any other provisions in this Act, a licensee shall pay to a person subject to such conditions and at such rates as may be prescribed a sum equivalent to the annual interest on the security given under section 28.

### **Special agreement with respect to supply**

**29.** (1) Notwithstanding anything contained in sections 24 to 28, a person who requires a supply of electricity pursuant to subsection 24(1) may enter into a special agreement with the licensee for the supply on such terms as may be specified in the agreement.

(2) Where any agreement made pursuant to subsection (1) remains effective, the rights and liabilities of the parties to the agreement shall be determined by the agreement and not by the provisions of sections 24 to 28.

(3) Notwithstanding the provisions of subsection (2), subsection 24(2) shall however apply for the purposes of specifying the day on which the supply of electricity is required to commence and the day on which such an agreement ceases to be effective.

### **Determination of dispute**

**30.** (1) Any party to any dispute under sections 24 to 29 regarding a supply of electricity may refer the dispute to the Commission for the decision of the Commission.

(2) The Commission shall determine the dispute and make an order accordingly:

Provided that in a case where the Commission thinks fit the dispute may be determined by an arbitrator to be appointed by the Commission.

(3) The practice and procedure to be followed in the determination of any dispute under subsection (2) shall be such as the Commission may consider appropriate.

(4) Pending the determination of any dispute arising under sections 24 to 29 between a licensee and a person requiring a supply of electricity, the licensee shall continue to give the supply of electricity until the determination of the dispute.

(5) Any order under subsection (2) may include a provision requiring either party to pay the costs or expenses incurred by the Commission or the arbitrator, as the case may be, in determining the dispute.

### **Fixing of maximum prices for reselling electricity**

**31.** (1) This section applies to electricity supplied to premises by a person who is authorized by a licence to supply electricity.

(2) The Commission may from time to time fix the maximum prices at which electricity under this section may be resold and may publish the prices so fixed in such manner as in the opinion of the Commission will secure adequate publicity for them.

(3) Different prices may be fixed for different cases which may be determined by reference to the area, tariff or any other relevant factor.

(4) If any person resells electricity at a price exceeding the maximum price fixed under this section the amount of the excess shall be recoverable by the person to whom the electricity was resold.

### **Charge for supply of electricity to be ascertained by appropriate meter**

**32.** (1) Where a consumer is to be charged for his supply of electricity whether wholly or partly by reference to the quantity of electricity supplied, the supply shall be given through, and the quantity of electricity shall be ascertained by, an appropriate meter.

(2) The meter shall be provided by the licensee, whether by way of sale, hire or loan.

(3) The meter shall be installed on the consumer's premises in a position to be determined by the licensee, unless in certain circumstances it is more reasonable to place it outside the premises or in some other position.

(4) If the consumer refuses or fails to have his supply of electricity through the appropriate meter provided and installed in accordance with subsections (2) and (3) the licensee may refuse to give or may discontinue the supply.

(5) For the purposes of this section a meter is an appropriate meter for use in connection with any particular supply of electricity if it is of a pattern of construction which, having regard to the terms on which the supply is to be charged for, is particularly suitable for such use.

## PART VII

### NOTIFICATION OF ACCIDENT OR FIRE

#### **Serious accidents to be reported. Investigation by the Commission**

**33.** (1) Whenever any accident or fire causing or resulting in loss of life or hurt to any person or serious damage to property has occurred in connection with any installation or electrical plant or equipment, the owner, licensee or supply authority and the management thereof shall report the accident or fire to the Commission by the quickest means available, and subsequently with the least possible delay shall report in writing to the Commission the facts of the matter so far as they are known to them respectively.

(2) The Commission shall, as soon as practicable upon receipt of the first report direct an authorized officer to—

- (a) visit the place where the accident or fire occurred;
- (b) make a preliminary investigation of the circumstances;
- (c) record in writing his findings which may be supported by relevant photographs, upon the investigation;
- (d) be provided with photographs, medical reports or other relevant documents from any person or authority without any payment of fees and such person or authority shall comply with such request thereof;

- (e) forward his report to the Chairman; and
- (f) if there has been any loss of life or there is reason to believe that any person has been fatally injured, send a copy of his finding to the nearest magistrate.

(3) In the event of loss of life or grievous hurt to any person due to any accident or fire in connection with any installation or electrical plant or equipment, no alteration or addition shall, without the consent of the Commission, be made to any part of the installation, plant or equipment which may have contributed to cause the accident or fire nor shall any alteration be made, without that consent, to the site of the accident or fire until the authorized officer has completed his investigation:

Provided that nothing herein contained shall operate to interfere with rescue work or work necessary for the general safety of life or property.

(4) If upon a preliminary investigation under subsection (2) it appears to the authorized officer making the investigation that there is reason to believe that the accident or fire was due to any failure to comply with this Act or any lawful order given by the Commission, or if the authorized officer making such investigation is satisfied that the accident or fire might have been prevented if proper precautions had been taken and observed in the working of any installation or electrical plant or equipment, the Commission may further investigate the circumstances of the accident or fire together with the authorized officer making the preliminary investigation and if in the opinion of the Commission that criminal proceedings should lie against any person, then the Commission shall forward to the Public Prosecutor a copy of the authorized officer's report with the opinion of the Commission on the circumstances and findings.

(5) Any person concerned in any investigation held under this section may be entitled, upon payment of the prescribed fees, to receive a copy of the report, opinion and statement of the Commission in the course of its investigations.

(6) Any person who, without lawful excuse, contravenes or fails to comply with subsections (1) and (3) shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding five thousand ringgit.

PART VIII

ENQUIRY AND ARBITRATION

**Procedure in relation to enquiry and arbitration**

**34.** (1) In the event of any difference of opinion between a licensee and an authorized officer or between the management or owner of any installation or equipment and an authorized officer regarding any matter affecting the construction, erection, maintenance or operation of any installation or equipment, the matter shall be referred to and decided by the Commission.

(2) Any person who feels aggrieved by a decision of the Commission under subsection (1) may apply to the Minister for re-consideration of the matter in dispute. The application shall be made in writing within twenty-one days from the date of the decision of the Commission, or within such further period as the Minister may in special circumstances allow, and shall contain the grounds of grievance.

(3) On receipt of the application, the Minister shall appoint a person as his representative to lead and hold the enquiry into the matter together with two other persons to be nominated by the Minister as assessors. The assessors shall be persons possessing electrical or other special skill and experience drawn from persons not in the service of the Commission.

(4) All questions in the enquiry shall be determined by a majority of the members holding the enquiry.

(5) (a) At the conclusion of the enquiry the person appointed by the Minister under subsection (3) shall forward to the Minister a summary of the evidence together with the decision arrived at, and the Minister shall accept the decision as final and shall in form all persons concerned.

(b) Any person concerned with the matter referred to the Minister under subsection (2) shall be entitled, upon payment of the prescribed fees, to a copy of the summary of evidence and the decision referred to in paragraph (a).

(6) Persons nominated by the Minister to serve as assessors shall be entitled to receive such remuneration as may, from time to time, be prescribed by the Minister.

### **Power of holding enquiry**

**35.** For the purpose of holding enquiries under this Act, the Commission or the person appointed by the Minister under subsection 34(3), as the case may be, shall have power to administer oaths and affirmations and shall be vested with the powers of a first class magistrate for compelling the attendance of witnesses, maintaining order or otherwise duly conducting the said enquiries. Persons summoned to attend any such enquiry shall be legally bound to attend.

### **Arbitration**

**36.** (1) Where any matter is required to be determined by arbitration under this Act, the same shall be determined by a board comprising one or three arbitrators chosen by the parties or, if they are unable to agree, by the Chief Judge.

(2) Each party shall have power to appoint an assessor to sit with the arbitrator, but the arbitrator alone shall have power to decide and make an award. Where more than one arbitrator is appointed, a majority of them may decide and make an award.

(3) The arbitration shall take place at such place within Malaysia as the arbitrator shall decide, and shall, subject to this section, be governed by the Arbitration Act 1952 [Act 93].

(4) The remuneration of an arbitrator appointed by the Chief Judge in accordance with this section shall be fixed by the Chief Judge and the remuneration of an arbitrator chosen by the parties shall be fixed by them. The costs of reference and the award shall be paid by the parties in such proportion as the arbitrator may decide:

Provided that the remuneration and the allowances of an assessor shall be paid by the party against whom the award is made.

## **PART IX**

### **OFFENCES AND PENALTY**

#### **Offences**

**37.** (1) Any person who tampers with or adjusts any installation or part thereof or manufactures or imports or sells any equipment so as to cause or to be likely to cause danger to human life or limb

or injury to any equipment or other property shall be guilty of an offence and for each such offence shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both.

(2) Any person who by any rash or negligent act or omission causes damage to any person or property in respect of any installation or equipment or part thereof shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding three years or to both.

(3) Any person who in any manner dishonestly—

- (a) abstracts electricity;
- (b) consumes electricity;
- (c) uses electricity;
- (d) alters the index of any meter or other instrument used on or in connection with any installation of any supply authority or any licensed installation for recording the output or consumption of electricity; or
- (e) prevents any such meter or instrument from duly recording the output or consumption of electricity,

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

(4) Any person who, in contravention of section 9, uses, works or operates, or permits to be used, worked or operated any installation shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit and to a further fine not exceeding one thousand ringgit for every day or part of a day during which the offence continues after conviction.

(5) Any person who, in contravention of section 9, supplies electricity from an installation to or for the use of any person shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit, and to a further fine not exceeding one thousand ringgit for every day or part of a day during which the offence continues after conviction.

(6) Any licensee who without the express authority from the Commission supplies electricity or lays down any supply line or constructs any electrical work outside the area of supply specified in his licence shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding five thousand ringgit, and any such unauthorized line or work may, after conviction, be removed by order of the Commission, and if such order is not complied with, the reasonable costs of such removal may be recovered from the licensee.

(7) Any licensee who without lawful excuse fails to comply with any term or condition expressed in the licence shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit and, to a further fine not exceeding one thousand ringgit for every day or part of a day during which the offence continues after conviction.

(8) Any person who fails or neglects to register any installation under section 21 shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding twenty-five thousand ringgit and a further fine not exceeding one thousand ringgit for every day or part of a day during which the offence continues after conviction.

(9) Any person who, without due authority, extinguishes or damages any public lamp or damages or defaces any post, bracket or other means of support of a public lamp shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding one year or to both.

(10) Any person who without lawful consent of the supply authority or the licensee, as the case may be, affixes or causes to be affixed any advertisement, bill or notice or any paper against or upon, or otherwise defaces any building, post or bracket or other equipment or the enclosure thereof used for or in connection with any public installation shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding one thousand ringgit.

(11) Any person who wilfully or negligently—

- (a) causes electricity to be diverted from its proper course to be wasted; or



(b) breaks, throws down, causes to fall or damages any supply line, post, pole, or other equipment, installation or any part thereof, as the case may be, connected with the supply of electricity,

shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding three years or to both.

(12) (a) No person shall without the lawful authority of the supply authority or the licensee, as the case may be, undertake any work or engage in any activity in the vicinity of any electrical installation or part thereof in a manner likely to interfere with any electrical installation or to cause danger to any person or property.

(b) Any person who contravenes this section shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding two years or to both.

(13) (a) No person shall install any electrical wiring or extension to existing wiring on any premises without first obtaining the approval in writing from a supply authority or licensee.

(b) Any person who contravenes this section shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding two years or to both.

(14) Any person who damages any meter or other instrument used on or in connection with any licensed installation for recording the output or consumption of electricity shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding two years or to both.

(15) Any person found guilty of any offence against this Act for which no penalty is expressly provided shall, on conviction, be liable to a fine not exceeding five thousand ringgit and, in the case of a continuing offence, to a fine not exceeding five hundred ringgit for every day or part of a day during which the offence continues after conviction.

(16) Whenever any agent or servant in the course of his employment does or omits to do any act the doing or the omission to do of which by his principal or employer would be an offence against this Act, such agent or servant shall be guilty of that offence, and his principal or employer and any person at the time of the act or omission was in charge of the business in respect of which the act or omission occurred shall be guilty of that offence unless the principal or employer or such other person, as the case may be, proves to the satisfaction of the court that he took all reasonable means and precautions to prevent the act or omission.

### **Disconnection of supply of electricity**

**38.** (1) Where any person employed by a licensee finds upon any premises evidence which in his opinion proves that an offence has been committed under subsection 37(1), (3) or (14), the licensee or any person duly authorized by the licensee may, upon giving not less than twenty-four hours' notice, in such form as may be prescribed, cause the supply of electricity to be disconnected from the said premises.

(1A) Notwithstanding any other provisions in this Act, where a police officer not below the rank of Assistant Superintendent applies to a supply authority or a licensee for the disconnection of the supply of electricity to any premises for a period not exceeding one calendar month under section 21A of the Common Gaming Houses Act 1953 [*Act 289*], the supply authority or the licensee or any person authorized by the supply authority or the licensee shall immediately disconnect or cause the supply of electricity to be disconnected from those premises.

(2) If the supply of electricity has been disconnected under subsection (1), it shall not be reconnected until the licensee at his discretion gives permission for reconnection:

Provided that the period of disconnection shall not exceed three months.

(2A) Notwithstanding subsection (2), if the supply of electricity has been disconnected under subsection (1A), it shall not be reconnected without the written permission of a police officer not below the rank of Assistant Superintendent.

(3) The licensee may require the consumer to pay him for the loss of revenue due to the offence committed under subsections 37(1), (3) and (14) and any expenses incurred by the licensee under this section including expenses incurred in respect of the reconnection of electricity supply.

(4) A written statement by an employee of the licensee duly certified by the licensee or any person authorized by the licensee specifying—

- (a) the amount of loss of revenue or the expenses incurred by the licensee; and
- (b) the person liable for the payment thereof,

shall be *prima facie* evidence of the payment that has to be made by the consumer under subsection (3).

(5) The amount stated in the written statement shall, within the period specified in the statement, be due and payable to the licensee and in default of payment such amount shall be recoverable by civil action in a court.

### **Liabilities unaffected**

**39.** Except as provided in sections 17 and 20, nothing contained in this Act shall operate to relieve any licensee or management from any civil or criminal liability arising under this Act.

### **Onus of proof**

**40.** In any prosecution for an offence under subsection 37(3) proof of—

- (a) the existence of artificial means which, either alone or in conjunction with additional artificial means not found, could be used for altering, or facilitating the alteration, of the index of any meter or instrument used for registering the quantity of electricity supplied;
- (b) the existence of artificial means which, either alone or in conjunction with additional artificial means not found, would prevent, or facilitate the prevention of, any meter or instrument from duly registering the quantity of electricity supplied, or would facilitate the dishonest abstraction, consumption, or use of electricity; or

- (c) (i) the fitting of any mechanical or other means to;
- (ii) the absence or removal of any part or connection from; or
- (iii) the interference with any part or connection of,
- any apparatus in the circumstances that the fitting, absence, removal or interference would prevent or facilitate the prevention of any meter or other instrument from duly registering the quantity of electricity supplied, or would facilitate the dishonest abstraction, consumption or use of electricity,

shall be *prima facie* evidence that there has been dishonest alteration of the index of any meter or instrument, or prevention, abstraction, consumption or use of electricity, as the case may be; and

- (A) that the dishonest alteration, prevention, abstraction, consumption or use, as the case may be, has been carried out by—
- (a) the person fitting the artificial, mechanical or any other such part or connection as aforesaid;
- (b) the person removing any such part or connection as aforesaid;
- (c) the person interfering with any such part or connection as aforesaid;
- (d) the consumer using the meter or instrument;
- (e) the person having control of the installation where it is fixed; or
- (f) the occupiers of the premises on which the meter or instrument is installed; or
- (B) that the person or consumer has abetted the offence of the alteration, prevention, abstraction, consumption or use, as the case may be.

### **Compensation for damage**

**41.** (1) Any person who removes, destroys or damages whether wilfully or otherwise, any installation or any part thereof, or any public lamp or any post, bracket or other means of support of a public lamp, or any instrument used in connection with any installation

for recording the output or consumption of electricity, shall, in addition to any penalty to which he may be liable under this Act, be liable to pay full compensation for the damage he has done and the compensation shall be recoverable by civil action or suit before any court.

(2) Without prejudice to subsection (1), any court before which a person is charged with an offence under this Act may assess the compensation payable under this section and may make an order for the payment of the same. Any such order may be enforced as if it were a judgment in a civil action or suit.

### **Prosecution**

**42.** No prosecution shall be instituted for an offence under this Act or any regulations made under this Act except by or with the consent in writing of the Public Prosecutor.

### **Compounding**

**43.** (1) The Chairman may, with the consent in writing of the Public Prosecutor, compound offences under section 8, subsections 37(9), 37(10), 37(12), 37(13), 37(14), 37(15), section 45 and subsection 49(5), or any regulations made under this Act, by collecting from the person reasonably suspected of having committed the offence a sum of money not exceeding fifty per cent of the amount of maximum fine for that offence.

(1A) All sums of moneys received by the Commission under this section shall be paid into and form part of the Consolidated Fund.

(2) The Minister may make rules or regulations to prescribe the method and procedure for compounding such offences.

### **Reward for information**

**44.** In the case of a conviction involving a fine the court imposing the fine may, on the application of the officer conducting the prosecution, direct the payment of any part of the fine but not exceeding one half of such fine in such proportion as the court deems fit to the person who gave the information leading to the conviction.

PART X  
GENERAL

**Precautions in execution of work**

**45.** (1) The execution of all work in connection with the generation or supply of electricity which may affect any street, railway, tramway, river, canal or other waterway or any system of irrigation, drainage or water supply or any telegraph, telephone, radio communications, harbour works or other public or private works, and the erection of any supply line crossing, whether overhead or underground, shall be carried out in the prescribed manner and without prejudice to public or private safety.

(2) Any person who contravenes or fails to comply with this section shall be guilty of an offence under this Act.

**Electrical interference with Government signalling lines**

**46.** (1) If the Commission is satisfied that the working or operation of any installation causes electrical interference with any radio communications, telecommunications, telegraph, telephone or other electrical signalling process or circuit owned or operated by or on behalf of the Federal Government or any State Government, or any supply authority, the Commission shall call upon the owner or licensee to abate the interference, and if, within a period of fourteen days or such longer period as the Commission considers reasonable in any particular circumstances, the interference has not been effectually abated the Commission shall report the matter to the Minister who may in his discretion—

- (a) in the case of a licensed installation, order the suspension of the licence;
- (b) in the case of an unlicensed installation, by order, prohibit the working or operation thereof; or
- (c) in the case of any other installation, by order, prohibit the working or operation of such part thereof which causes the electrical interference,

until arrangements have been made to the satisfaction of the Commission for preventing the recurrence of such electrical interference as aforesaid, and if, in the case of a licensed installation, no such arrangements have been made, then the Minister may order that the licence for the said installation be revoked absolutely.

(2) For any loss caused to a licensee by the suspension or revocation of a licence under this section the licensee may claim compensation from the Federal Government, State Government or any supply authority, as the case may be:

Provided that no claim shall be allowed and no compensation shall be paid where the electrical interference referred to in subsection (1) has been caused by an installation which does not comply with any regulation for regulating electrical interference made under any written law relating to telegraphs for the time being in force.

(3) If the claim be allowed, the compensation shall, unless settled by mutual agreement of the Federal Government, State Government or the supply authority, as the case may be, and the licensee, be determined by arbitration.

### **Precautions against atmospheric electricity**

**47.** Any department of the Federal Government or any State Government or any other consumer taking or using electricity from any installation shall, if the Commission so requires, provide such means for obviating any risk of damage to such installation by atmospheric electricity as may be directed by the Commission or as may be prescribed by regulations under this Act.

### **Restriction of connection with the earth**

**48.** (1) No person shall, in the generation, transmission, supply or use of electricity, permit any part of his supply lines to be connected with the earth except as may be prescribed by regulations under this Act or be expressly permitted by the Commission.

(2) In the event of any breach of subsection (1), the Commission may by written order require the licensee or owner to remove the connection and may prohibit the use of any supply line or works or installation until the order is complied with, and every such order shall be complied with by the person concerned.

**Procedure in case of dangerous defect in installation or part thereof**

**49.** (1) In the event of the Commission finding that there is in any installation or part thereof any defect which in the opinion of the Commission is likely to cause danger the Commission may, by notice in writing served upon the licensee or owner thereof, or if such licensee or owner cannot be found, posted at the place where the installation is located, require the defect to be made good or removed within such period as may be specified in the notice, and in such case the installation or part thereof shall not be operated or used after the expiration of the period specified unless the defect has been made good or removed to the satisfaction of the Commission:

Provided that, if the Commission is of the opinion, that the defect is likely to cause immediate danger, the Commission may, by notice posted or served as aforesaid, forthwith suspend the operation and use of the installation, and if necessary seal the installation or part thereof until the defect is made good or removed. The installation or part thereof shall not be operated or used so long as the notice of suspension remains unrevoked and the seal is not removed by authorized officer.

(2) Every licensee and every management and person in charge of any installation upon being aware of any defect therein which is likely to cause danger shall forthwith make good or remove the defects, and every consumer upon being aware of any defect in any equipment which is likely to cause danger shall forthwith make good or remove the defect, or make a report thereof to the Commission.

(3) If in the opinion of the Commission any defect in an installation in respect whereof a licence is in force is of a nature that it cannot be made good or removed, the Commission shall hold an enquiry and, if the Commission considers it necessary so to do, shall cancel the licence.

(4) The licensee or owner shall not be entitled to compensation for any loss caused to the licensee or owner by the suspension of operation and use of, and the sealing of any installation or part thereof or by the suspension or cancellation of a licence under this section.



(5) Any person who contravenes or fails to comply with subsections (1) and (2) shall be guilty of an offence under this Act.

### **Prohibition of employment of children**

**50.** (1) No licensee or management shall employ or permit to be employed any person under the age of sixteen years in any service involving management of or attendance on or proximity to live equipment not effectively insulated.

(2) Any person who contravenes this section shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding five thousand ringgit.

### **Special powers of emergency**

**51.** (1) The Yang di-Pertuan Agong may on the occurrence of any industrial unrest, strike, lock-out or any other event which gives rise to an emergency or in the interest of public safety, authorize the Commission to—

- (a) suspend the licence of any licensee, take temporary possession of any installation of such licensee and operate it in such manner as the Commission deems fit; or
- (b) withdraw either partially or totally the use of any installation or facility from any person or class of persons or from the public at large.

(2) If any doubt arises as to the existence of an emergency or whether any act done under subsection (1) was in the interest of public safety, a certificate signed by the Yang di-Pertuan Agong and exhibited at such places as the Minister deems fit shall be conclusive proof on the point.

### **Power to declare sources of water**

**52.** (1) The State Authority in any State, may, at the request of the Commission on behalf of any licensee, by order declare any lake, river or waterway or any part thereof to be a source of water for the purposes of the licensee as stipulated in the terms and conditions of his licence and, in making the declaration, the State Authority may impose such conditions and restrictions as it deems fit.

(2) Notwithstanding anything contained in any written law, no person shall dam up or otherwise interfere with any such source of water without first serving on the licensee either personally or by registered post a three months' notice, in such form as may be prescribed, specifying the work he proposes to undertake.

(3) At any time before the expiration of the time specified in the notice the licensee may, if he considers that the work referred to in subsection (2) will materially affect his functions, by notice in writing served on the person, either personally or by registered post—

- (a) prohibit the person from proceeding with the work; or
- (b) attach conditions to the undertaking of the work by the person.

(4) Any person dissatisfied with the action taken by the licensee under subsection (3) may appeal to the State Authority whose decision shall be final.

(5) Any person who—

- (a) dams up or otherwise interferes with any source of water declared under subsection (1) without serving the notice required by subsection (2);
- (b) undertakes any work prohibited under this section; or
- (c) fails to comply with any conditions imposed under this section,

shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding one thousand ringgit, and a further fine not exceeding one hundred ringgit for every day or part of a day during which the offence continues after conviction.

(6) Notwithstanding any declaration made under subsection (1), nothing in this section shall affect any licence granted not less than twenty-five years before the date of the declaration under any written law to divert water from any lake, river or waterway, for the purpose of a public installation, the holder of which has not, in the opinion of the State Authority, made reasonable use, for the purposes of the installation, of the rights arising out of the licence in connection with any lake, river, waterway or part thereof declared to be a source of water.

PART XI

POWER TO MAKE REGULATIONS

**Power to make regulations**

**53.** (1) The Minister may make regulations in respect of any matter which may be prescribed under this Act and in particular—

- (a) the procedures for the Commission in the exercise of its functions, duties and powers under this Act;
- (b) the intervals, times and manner in which any installation or equipment shall be inspected, the notice (if any) to be given in relation to inspections and the preparations to be made by the licensee or any management for inspections;
- (c) the minimum standards and specifications which shall be used in the design, construction, protection and maintenance of installations and equipment, the conditions under which any installation or equipment shall be worked or operated and the prohibition of the use of dangerous equipment;
- (d) the manner in which electricity shall be measured and the standards of measurement which shall be employed and the manner in which electricity is permitted to be or is prohibited from being supplied or used;
- (e) the standards to be adopted for measurement of the dimensions of any installation or equipment;
- (f) the manner of regulation and the limits of variation of the nature, voltage and frequency of the electricity supplied;
- (g) the class or design of wires, fittings and equipment to be used and the manner in which the wires, fittings and equipment shall be erected, fixed, arranged, protected, controlled, inspected, tested and maintained;
- (h) the fees to be paid for licences and Certificates of Registration of installations and any other fee which is required to be prescribed under this Act;
- (i) the form and contents of licences and the conditions to be prescribed, the form and period of validity of Certificates of Registration and the conditions for suspension, extension and revocation of licences and Certificates of Registration;

- (j) the minimum qualifications to be possessed by persons before they may be entrusted with the design, construction, erection, testing, operation, maintenance, repair or alteration of any installation, plant or equipment or with the charge, control or operation of any installation, plant or equipment;
- (k) the nature of tests to be employed for ascertaining whether any person possesses the necessary qualifications prescribed for the purpose of competent control and other purposes, and the issue, suspension or revocation of certificates of competency, and to prescribe fees to be paid for such tests and certificates;
- (l) the registration and classification of wiring contractors, electrical sign contractors, switch board manufacturers and competent persons, and to prescribe fees for such registration;
- (m) the measures to be taken and the equipment to be supplied and used in connection with installations in order to secure public and private safety;
- (n) the precautions to be taken on the relief of any person in the control of any installation, plant or equipment and the manner of notifying to the Commission the names and qualifications of any person placed in the control of any installation and of the operation of any plant or equipment;
- (o) the manner of calculating the capacity of any system, installation, equipment, cable, generator and/or motor;
- (p) the manner of determination of disputes, holding enquiries and arbitration under this Act;
- (q) the form of notices and the manner of service thereof;
- (r) the appraisal and approval, where necessary, of any domestic or other equipment to be manufactured, imported, displayed, sold, advertised, installed or used and to prescribe fees to be paid thereof;
- (s) the provisions for the licensees with respect to matters pertaining to—
  - (i) the inspection of any installation or part thereof;

- (ii) the erection and fixing of public lamps;
  - (iii) the disconnection of supplying of electricity; and
  - (iv) any other matter connected therewith;
- (t) the submission of financial statements and audited reports by the licensees;
  - (u) the manner of execution of works in connection with the generation or supply of electricity without prejudice to public or private safety;
  - (v) the means to be adopted, whether by prohibition or otherwise, to prevent or abate any nuisance likely to arise or arising from the working of any installation, plant or equipment;
  - (w) the fees payable in respect of the inspection, testing and maintenance of consumers' installations and apparatus, of the fixing and testing of meters, and in respect of any other service properly rendered on account of consumers;
  - (x) the regulation of the licensee and consumer relationship such as provisions on the recovery of charges for electricity supply including any surcharges for late payment, the annual interest payable by a licensee to any person for any security given and any rates or conditions connected thereto, connection, disconnection or restoration of supply by the licensee, entry into any premises by the licensee or his authorized officers for purposes related to the supply, connection, disconnection or restoration of supply, entry for purposes of replacing, repairing or altering any electricity line or electrical plant or equipment and the form of any notice required;
  - (xa) the standards, specifications, practices and measures to be adopted and any other matter relating to the efficient use of electricity; and
  - (y) any other matter generally to give effect to the provisions of this Act.

(2) Any regulations made under subsection (1) may prescribe any act in contravention of the regulations to be an offence and may prescribe a fine not exceeding five thousand ringgit or imprisonment for a term not exceeding one year, or both, for such offence.

## PART XII

## MISCELLANEOUS

**Exemptions**

**54.** The Minister may by notification in the *Gazette* exempt from any or all of the provisions of this Act or any regulation made thereunder—

- (a) any installation, or part thereof, owned by or worked by or on behalf of any supply authority;
- (b) any other particular class of installation, plant or equipment,

and may, by similar notification, cancel any exemption so notified.

**Transitional provision and restrictions attached to licences issued prior to this Act**

**55.** (1) Any licence for any private or public installation granted to any person under any written law promulgated prior to this Act shall be deemed to have been granted under this Act and shall remain valid until it is revoked under this Act and the provisions of this Act shall apply to such person as if he were a licensee under this Act.

(2) Notwithstanding anything contained in any licence for a public installation issued under any written law promulgated prior to this Act, no holder of any such licence shall, without the prior approval of the Commission—

- (a) acquire any land or buildings for the purposes of such installation;
- (b) commence any new scheme for the supply of electricity;
- (c) extend any existing installation or area of supply; or
- (d) install any new, or replace any existing plant or equipment for the purposes of such installation.

Failure to comply with this subsection shall render the licensee liable to have his licence revoked at the discretion of the Commission.

**Repeal of Electricity Act 1949 and Electrical Inspectorate Act 1983 and savings in respect thereof**

**56.** (1) The Electricity Act 1949 [*Act 116*] and the Electrical Inspectorate Act 1983 [*Act 277*] are hereby repealed.

(2) Any regulation made under the Electrical Inspectorate Act 1983 shall continue in force until revoked or replaced by regulations made under this Act.

(3) The Minister may, whenever it appears to him necessary or expedient so to do whether for the purpose of removing difficulties or in consequence of the passing of this Act, by order make such modifications to any provision in any regulation in subsection (2) as he may think fit.

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FIRST SCHEDULE

[Subsection 11(2)]

MALAYSIA

STATE OF .....

ELECTRICITY SUPPLY ACT 1990

NOTICE OF INTENTION TO ENTER AND DO WORK ON LAND UNDER SECTION 11

To:

Title or other description of land.....

Take notice that I/we.....of.....being the holder of a licence dated.....under the Electricity Supply Act 1990 am/are desirous of entering the above-mentioned land for the purpose of (here set out as fully and accurately as possible what is intended to be done).

Within fourteen days from the date of receipt of this notice you may lodge an objection either verbally or in writing with the District Land Administrator at .....

The District Land Administrator has appointed ..... as the day upon which objections will be heard.

Unless you lodge an objection within the specified time it will be presumed that you have consented to my/our entering on the land on the terms of this notice.

You will be paid proper compensation for any damage done.

Dated this..... day of .....20.....

.....  
*Licensee*

\_\_\_\_\_



SECOND SCHEDULE

[Subsection 11(7)]

MALAYSIA

STATE OF.....

ELECTRICITY SUPPLY ACT 1990

ORDER OF THE DISTRICT LAND ADMINISTRATOR IN RESPECT OF  
OBJECTION ON THE ENTRY ON LAND

To:

In the matter of an enquiry held under subsection 11(6) of the Electricity Supply Act 1990 between the licensee and the owner of the land situated on Lot No....., Title No....., Mukim.....

An enquiry has been held on.....before ..... the District Land Administrator ..... in the presence of.....on behalf of the licensee and ..... on behalf of the land owner.

After holding the enquiry it is hereby ordered as follows:

\*(a) the licensee is allowed to enter the said land to do the works as specified in the notice issued under subsection 11(2) of the Electricity Supply Act 1990.

\*(b) the licensee is allowed to enter the said land to do the works as specified in the notice issued under subsection 11(2) of the Electricity Supply Act 1990 subject to the following conditions:

- (i)
- (ii)
- (iii)
- (iv)

(state the conditions)

\*(c) the licensee is not allowed to enter the said land to do the works specified in the notice issued under subsection 11(2) of the Electricity Supply Act 1990.

Dated this .....day of .....20.....

.....  
*District Land Administrator*

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\* delete whichever is not applicable.

## THIRD SCHEDULE

[Subsection 16(1)]

MALAYSIA

STATE OF.....

ELECTRICITY SUPPLY ACT 1990

## ASSESSMENT

To:

In the matter of an enquiry for the payment of compensation under section 10\*, 11\* or 13\* of the Electricity Supply Act 1990 between the licensee and the owner of the land situated on Lot No....., Title No. ...., Mukim.....

An enquiry has been held on ..... before ..... the District Land Administrator ..... in the presence of ..... on behalf of the licensee and ..... on behalf of the land owner.

After holding the enquiry it is hereby ordered that the compensation payable by the licensee to the land owner is as follows:

Dated this ..... day of..... 20.....

.....  
*District Land Administrator*

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\* delete whichever is not applicable.

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**LAWS OF MALAYSIA****Act 447****ELECTRICITY SUPPLY ACT 1990**

## LIST OF AMENDMENTS

Amending law	Short title	In force from
P.U. (A) 272/1990	Suspension of the Operation of the Act (Sarawak) Order 1990	01-09-1990
Act A1116	Electricity Supply (Amendment) Act 2001	02-01-2002

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**LAWS OF MALAYSIA****Act 447****ELECTRICITY SUPPLY ACT 1990**

## LIST OF SECTIONS AMENDED

Section	Amending authority	In force from
Long title	Act A1116	02-01-2002
2	Act A1116	02-01-2002
Part II	Act A1116	02-01-2002
3	Act A1116	02-01-2002
Heading of Part III	Act A1116	02-01-2002
4	Act A1116	02-01-2002
4A	Act A1116	02-01-2002
5	Act A1116	02-01-2002
6	Act A1116	02-01-2002
7	Act A1116	02-01-2002
8	Act A1116	02-01-2002
9	Act A1116	02-01-2002
11	Act A1116	02-01-2002
12	Act A1116	02-01-2002
17	Act A1116	02-01-2002
18	Act A1116	02-01-2002
19	Act A1116	02-01-2002
20	Act A1116	02-01-2002
21	Act A1116	02-01-2002
22	Act A1116	02-01-2002

Section	Amending authority	In force from
Part VA	Act A1116	02-01-2002
23A	Act A1116	02-01-2002
23B	Act A1116	02-01-2002
23C	Act A1116	02-01-2002
26A	Act A1116	02-01-2002
28A	Act A1116	02-01-2002
30	Act A1116	02-01-2002
31	Act A1116	02-01-2002
33	Act A1116	02-01-2002
34	Act A1116	02-01-2002
35	Act A1116	02-01-2002
36	Act A1116	02-01-2002
37	Act A1116	02-01-2002
38	Act A1116	02-01-2002
40	Act A1116	02-01-2002
41	Act A1116	02-01-2002
42	Act A1116	02-01-2002
43	Act A1116	02-01-2002
45	Act A1116	02-01-2002
46	Act A1116	02-01-2002
47	Act A1116	02-01-2002
48	Act A1116	02-01-2002
49	Act A1116	02-01-2002
51	Act A1116	02-01-2002
52	Act A1116	02-01-2002
53	Act A1116	02-01-2002
55	Act A1116	02-01-2002

