



**PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA**

**SRI LANKA ELECTRICITY (AMENDMENT)
ACT, No. 31 OF 2013**

[Certified on 07th August, 2013]

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*Sri Lanka Electricity (Amendment)
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L.D.—O. 21/2009.

AN ACT TO AMEND THE SRI LANKA ELECTRICITY
ACT, NO. 20 OF 2009

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows :—

1. This Act may be cited as the Sri Lanka Electricity (Amendment) Act, No. 31 of 2013. Short title.

2. Section 2 of the Sri Lanka Electricity Act (hereinafter referred to as the “principal enactment”) is hereby amended, by the repeal of subsection (1) of that section, and the substitution therefor of the following subsection :— Amendment of section 2 of Act, No. 20 of 2009.

“(1) The Public Utilities Commission of Sri Lanka (hereinafter referred to as the “Commission”) established by the Public Utilities Commission of Sri Lanka Act, No. 35 of 2002, shall exercise, perform and discharge all the powers, functions and duties as are conferred on or assigned to the Commission by or under this Act.”.

3. The following new section is hereby inserted immediately after section 2 of the principal enactment and shall have effect as section 2A of that enactment :— Insertion of new section 2A in the principal enactment.

“Delegation of powers, duties and functions of the Commission. 2A. (1) (a) The Commission may delegate any of its powers, duties and functions conferred on or assigned to it by or under this Act, to any officer of the Commission for a specific purpose and period as may be determined by the Commission.

(b) The Commission may delegate any power conferred on it by items 3, 4, 5 and 6 of Schedule 1 of the Act to any Divisional Secretary.

(2) The officer to whom any power, duty or function is delegated under subsection (1) shall exercise, perform or discharge such power, duty or function, subject to such directions as may be given to such officer by the Commission.

(3) The Commission shall notwithstanding any delegation made under subsection (1), have the authority to exercise, perform or discharge any power, duty or any function so delegated.”.

Amendment of
section 8 of the
principal
enactment.

4. Section 8 of the principal enactment is hereby amended by the substitution for the words “provided that such person shall be required”, of the words “provided that where such person is a company incorporated under the Companies Act, No. 7 of 2007, such person shall be required”.

Amendment of
section 9 of the
principal
enactment.

5. Section 9 of the principal enactment is hereby amended as follows :—

- (1) by the insertion immediately after subsection (1) of that section, the following new subsection :—

“(1A) Notwithstanding the provisions of paragraph (c) of subsection (1), the eligibility requirement specified in that paragraph shall not be applicable to a company which, on the date of the coming into force of this Act, is operating a plant to generate electricity over and above the generation capacity of 25MW, having a valid power Purchase Agreement executed with the Ceylon Electricity Board and which is in operation on the date preceding the date of the coming into force of this Act :

Provided that the non applicability of the eligibility requirements in respect of a company as provided for by this subsection, shall be in operation only during the period of duration of the Power Purchase Agreement referred to in that subsection.”; and

- (2) in paragraph (c) of subsection (3) of that section, by the substitution for the words “the Government holds more than”, of the words “the Government or a public corporation holds more than”.

6. The following section is hereby inserted immediately after section 9 of the principal enactment and shall have effect as section 9A of that enactment :—

Insertion of new section 9A in the principal enactment.

“Statutory exemptions.

9A. (1) The Commission may, having regard to :—

- (a) the process adopted for generation of electricity ;
- (b) the quantity of electricity proposed to be generated ;
- (c) the number of persons among whom the electricity generated is to be distributed ;
- (d) the location of the plant to be used for the generation of electricity ; and
- (e) any other criteria that the Commission may consider appropriate,

by Order published in the *Gazette*, exempt any person or category of persons from the requirement of obtaining a licence for the generation or distribution of electricity, where such person engages in community based electricity generating project on a non-commercial basis.

(2) The period for which such exemption is granted and the terms and conditions which such exemption shall be subject to, shall be as specified in such Order.

(3) The Commission may withdraw an exemption granted to any person or category of persons under subsection (1), where such person or category of persons :—

- (a) have acted in violation of any term or condition subject to which the exemption was granted ; or
- (b) commences to generate or distribute electricity on a commercial basis.

(4) Where an exemption granted under this section is withdrawn, the Commission shall by notice published in such manner as the Commission considers appropriate, disclose the names of the person or category of persons whose exemption is being withdrawn and notify the persons affected by such withdrawal, of the same.”.

Amendment of
section 10 of the
principal
enactment.

7. Section 10 of the principal enactment is hereby amended as follows :—

- (1) in subsection (1) of that section, by the substitution for the words “on an application made for an exemption by Order published in the Gazette, exempt”, of the words “on application made for that purpose, exempt”;
- (2) by the repeal of subsection (2) of that section and the substitution therefor of the following subsection :—

“(2) The Commission shall issue to every person or category of persons to whom an exemption under subsection (1) is granted, a Certificate of Exemption which shall be subject to such terms and conditions and be effective for such period, as shall be specified therein.”.

- (3) by the addition at the end of that section, of the following new subsection :—

“(3) Within one week of the issue under subsection (2) of a Certificate of Exemption to any person or category of persons, it shall be the duty of the Commission to publish by a notice in the *Gazette*, the names of all such persons or category of persons, as the case may be, to whom a Certificate of Exemption was issued :

Provided that, if no Notice as required above is published in the *Gazette* within the period stipulated, the Certificate of Exemption granted under subsection (2) shall be null and void and of no force or avail in law.”.

- (4) by the substitution for the marginal note to that section, of the following marginal note :—

“Exemption
granted on
application.”.

8. Section 18 of the principal enactment is hereby amended by the insertion immediately after paragraph (b) of that section, of the following new paragraph :—

Amendment of
section 18 of the
principal
enactment.

“(bb) requiring the licensee, where such licensee seeks to distribute electricity to owners of condominium parcels in any Condominium Property or Semi Condominium Property, to enter into an agreement with the management corporation of such Condominium Property or the Semi Condominium Property, as the case may be, established under the Apartment Ownership Law, No. 11 of 1973, for the supply of electricity to such owners, authorizing such management corporation to recover service charges and monthly charges from all such owners for the consumption of electricity ;”.

Amendment of
section 19 of the
principal
enactment.

9. Section 19 of the principal enactment is hereby amended as follows :—

- (1) by the repeal of subsection (1) of that section and the substitution therefor of the following :—

“(1) A licence shall be capable of being assigned either in whole or part if it includes a condition authorizing such assignment.”;

- (2) by the insertion immediately after subsection (3) of that section, of the following new subsection :—

“(3A) The Minister shall, where he is satisfied that the Commission had complied with the requirements imposed by subsection (3) and that such purported assignment does not contravene the provisions of subsection (6) of this section, grant his consent for such assignment.”.

Amendment of
section 22 of the
principal
enactment.

10. Section 22 of the principal enactment is hereby amended as follows :—

- (1) in subsection (1) of that section by the substitution for the words and figure “under section 10” of the words and figures “under sections 9A and 10”;

- (2) by the addition at the end of that section, of the following new subsection :—

“(3) The Commission shall by notice published in the *Gazette*, publish the names of all persons or category of persons whose exemption is revoked under paragraph (a) or the name of any person out of any category of persons whose exemption withdrawn under paragraph (b), of subsection (1) of this section.”.

11. Section 27 of the principal enactment is hereby amended as follows :—

Amendment of
section 27 of the
principal
enactment.

- (1) by the repeal of subsection (1) of that section and the substitution therefor of the following subsection :—

“(1) Where any electrical line or electrical plant is provided by the distribution licensee for the purpose of connect and supply of electricity to any person requiring a supply of electricity under section 25, the licensee may require any expenses reasonably incurred in providing the line or plant or the connect and supply of electricity to the person concerned, to be defrayed by such person, to such extent as is allowed by the conditions of the distribution licence.”; and

- (2) by the insertion immediately after subsection (1) of that section, of the following new subsections :—

“(1A) Where any person who requires a supply of electricity under section 25 but has not sufficient means to defray the expenses incurred by the distribution licensee under subsection (1), such person may request the distribution licensee to connect and supply the electricity to the premises concerned, on the basis of recovering such expenses in reasonable monthly instalments along with the tariff and any other charges levied by the distribution licensee, as per the standard tariff agreement.

(1B) Where the distribution licensee is satisfied that a person as referred to in subsection (1A) has not the sufficient means to defray in total the expenses incurred by the licensee, prior to providing the line or plant or connect and supply of electricity

to the premises concerned, such person shall be required to enter into an agreement with the distribution licensee relating to the manner in which the expenses would be defrayed by him to the distribution licensee, before the line or plant or connect and supply of electricity to the premises is been attended to by the distribution licensee.

(1c) The information required by the distribution licensee for the purpose of being satisfied as provided for in subsection (1B), that a person has not the sufficient means to defray any expenses incurred by such licensee, shall be based on such guidelines as shall be prescribed.”.

Amendment of
section 39 of the
principal
enactment.

12. Section 39 of the principal enactment is hereby amended as follows :—

- (1) by the insertion immediately after subsection (2) of that section, of the following new subsection :—

“(2A) In mediating and resolving any dispute under subsection (2), the Commission may where it considers it expedient to do so, refer such dispute for purpose of resolution to a Panel of Mediators consisting of three persons appointed by the Commission, one of whom shall be either a member of the Commission or a member of the staff of the Commission or a public officer, who shall function as the Chairman of such Panel. The Panel of Mediators shall make every endeavour to resolve the dispute referred to it and bring about a settlement among the parties to the dispute and conclude its deliberations within the time, as shall be specified by the Commission.”; and

- (2) in subsection (3) of that section, by the substitution for the words “by rules made under the Public

Utilities Commission of Sri Lanka, No. 35 of 2002 and this Act.”, of the words “by rules made under this Act.”.

13. Section 43 of the principal enactment is hereby repealed and the following section is substituted therefor :—

Replacement of section 43 of the principal enactment.

“Provision of new generation plant or the extension of any existing plant.

43. (1) Subject to the provisions of section 8 of this Act, no person shall proceed with the procuring or operating of any new generation plant or the expansion of the generation capacity of an existing plant, otherwise than in the manner authorized by the commission under this section.

(2) A transmission licensee shall, based on the future demand forecast as specified in the Least Cost Long Term Generation Expansion Plan prepared by such licensee and as amended after considering the submissions of the distribution and generation licensees and approved by the Commission, submit proposals to proceed with the procuring of any new generation plant or for the expansion of the generation capacity of an existing plant, to the Commission for its written approval :

Provided however where on the day preceding the date of the coming into force of this Act :—

- (a) an approval of the Cabinet of Ministers had been obtained to develop a new generation plant or to expand the generation capacity of an existing generation plant ; or

- (b) a permit had been issued to generate electricity through renewable energy resources by the Sri Lanka Sustainable Energy Authority established by the Sri Lanka Sustainable Energy Authority Act, No. 35 of 2007 under section 18 of that Act, as a consequence of which the development of a new generation plant or the expansion of the generation capacity of an existing generation plant, has become necessary,

the approval obtained or the permit issued, as the case may be, shall be referred to the Commission for its approval. The Commission shall, having considered the request made along with any supporting documents annexed thereto and on being satisfied that the necessary Cabinet approval had been obtained or a permit had been issued by the Sustainable Energy Authority, as the case may be, prior to the coming into force of this Act, grant approval to the transmission licensee to proceed with the procuring of the new generation plant or the expansion of the generation capacity of its existing plant, as the case may be.

- (3) Where a person who is issued with a licence under section 13 of this Act to generate electricity of less than 25MW in capacity, proposes to expand its generation capacity of its generation plant as a consequence of which the generation of electricity would exceed 25MW in capacity, the approval of the

Commission under subsection (1) for such proposal shall not be granted, unless such person is a person who is qualified under subsection (1) of section 9 of this Act, to be issued with a generation licence.

(4) Upon obtaining the approval of the Commission under subsection (2), the transmission licensee shall in accordance with the conditions of its transmission licence and in compliance with any rules that may be made by the Commission relating to procurement, call for tenders by notice published in the *Gazette*, to develop a new generation plant or to expand the generation capacity of an existing generation plant, as the case may be, as shall be specified in the notice :

Provided however, subject to the provisions of subsection (6) of this section, the requirement to submit a tender on the publication of a notice under this subsection shall not be applicable in respect of any new generation plant or to the expansion of any existing generation plant that is being developed :—

- (a) in accordance with the Least Cost Long Term Generation Expansion Plan duly approved by the Commission and which has received the approval of the Cabinet of Ministers on the date preceding the date of the coming into force of this Act and is required to be operated at least cost ;
- (b) on a permit issued by the Sri Lanka Sustainable Energy Authority, established by the Sri Lanka

Sustainable Energy Authority Act, No. 35 of 2007 under section 18 of that Act for the generation of electricity through renewable energy sources and required to be operated at the standardized tariff and is governed by a Standardized Power Purchase Agreement approved by the Cabinet of Ministers ; or

- (c) in compliance with the Least Cost Long Term Generation Expansion Plan duly approved by the Commission having received the prior approval of the Commission, for which the approval of the Cabinet of Ministers has been received on the basis of :—

(i) an offer received from a foreign sovereign Government to the Government of Sri Lanka, for which the approval of the Cabinet of Ministers have been obtained ; or

(ii) to meet any emergency situation as determined by the Cabinet of Ministers during a national calamity or a long term forced outage of a major generation plant, where protracted bid inviting process outweigh the potential benefit or procuring emergency capacity required to be provided by any person at least cost.

(5) Upon the close of the tender, the transmission licensee shall through a properly

constituted tender board, recommend to the Commission for its approval, the person who is best capable of :—

- (a) developing the new generation plant or the expansion of the generation capacity of an existing generation plant, as the case may be, as specified in the notice published in the *Gazette* under subsection (4), in compliance with the technical and economic parameters of the transmission licensee ;
- (b) selling electrical energy or electricity generating capacity at least cost ; and
- (c) meeting the requirements of the Least Cost Long Term Generation Expansion Plan of the transmission licensee duly approved by the Commission,

along with the draft Power Purchase Agreement, describing the terms and conditions of such purchase.

(6) Notwithstanding the fact that :-

- (a) an exemption from the submission of a tender is granted to any person under paragraphs (a), (b) or (c) of the proviso to subsection (4) ; or
- (b) a new generation plant or an expansion of the generating capacity of an existing generation plant is being developed in accordance with the Least Cost Long Term Generation Expansion Plan duly approved by the Commission, by a person who had obtained the approval

of the Cabinet of Ministers and which approval is force on the date of the coming into operation of this Act,

the transmission licensee shall be required to negotiate with the person concerned to satisfy itself, that such person is capable of developing the new generation plant or the expansion of the generating capacity of an existing generation plant, as the case may be, in compliance with the technical and economical parameters of the transmission licensee and is capable of selling electrical energy or electricity generating capacity at least cost, and forward its recommendations for approval to the Commission, along with the draft Power Purchase Agreement or the draft Standardized Power Purchase Agreement, as the case may be, describing the terms and conditions of such purchase.

(7) The Commission shall be required on receipt of any recommendations of the transmission licensee under subsection (5) or subsection (6), as the case may be, to grant its approval at its earliest convenience, where the Commission is satisfied that the recommended price for the purchase of electrical energy or electricity generating capacity meets the principle of least cost and the requirements of the Least Cost Long Term Generation Expansion Plan and that the terms and conditions of such purchase is within the accepted technical and economical parameters of the transmission licensee.

(8) For the purpose of this section-

“Least Cost Long Term Generation
Expansion Plan” means a plan

prepared by the transmission licensee and amended and approved by the Commission on the basis of the submissions made by the licensees and published by the Commission, indicating the future electricity generating capacity requirements determined on the basis of least economic cost and meeting the technical and reliability requirements of the electricity network of Sri Lanka which is duly approved by the Commission and published in the *Gazette* from time to time; and

“Standardized Power Purchase Agreement” means an agreement entered into by the transmission licensee for the purchase of electrical energy or electricity generating capacity, generated using renewable energy resources under a permit issued by the Sri Lanka Sustainable Authority, established by the Sri Lanka Sustainable Energy Authority Act, No. 35 of 2007, under section 18 of that Act.”.

14. Section 50 of the principal enactment is hereby amended as follows :-

Amendment of
section 50 of
the principal
enactment.

(1) in subsection (1) of that section :-

- (a) by the substitution in paragraph (a) of that subsection, for the words “apparatus : or”, of the words “apparatus;”;
- (b) in paragraph (b) of that subsection, for the words “a licensee,”, of the words “a licensee; or”; and

- (c) by the insertion immediately after paragraph (b) of that subsection, of the following new paragraph :-

“(c) intentionally or negligently:-

- (i) alters the quantity of electricity as registered on any meter used for measuring the quantity of electricity supplied to any premises by a distribution licensee; or
- (ii) prevents any meter from duly registering the quantity of electricity supplied through that meter,”;

- (2) by the insertion immediately after subsection (1) of that section, of the following new subsection:-

“(1A) Where any person is prosecuted for an offence under paragraph (c) of subsection (1), a certificate issued by the distribution licensee to the effect that—

- (i) the meter was in the custody or under the control of the person being prosecuted; and
- (ii) there is clear proof that the meter has been tampered causing an alteration of the register of the quantity of electricity registered on such meter and therefore preventing the meter from duly registering such usage,

shall be admissible in evidence and shall be *prima facie* proof of the matters contained therein.”; and

- (3) by the insertion immediately after subsection (4) of that section, of the following new subsection:—

“(4A) Where any person is convicted of an offence under paragraph (c) of subsection (1) of this section, the distribution licensee may discontinue the supply of electricity to the premises of the person convicted and remove the meter in respect of which the offence was committed and thereafter keep the same in safe custody, until the Commission authorizes the licensee to dispose of it. However in the event that the unpaid dues are recovered by the distribution licensee, the distribution licensee shall, within a reasonable period of time, restore the supply of electricity that was disconnected.”.

- 15.** Section 57 of the principal enactment is hereby repealed and the following section substituted therefor :-

Replacement of section 57 of the principal enactment.

“Minister to ensure compliance.

57. The Minister shall, in giving his concurrence as required under subsection (1) of section 13, subsection (1) of section 20, subsection (1) of section 22 and subsection (1) of section 38, as the case may be, of this Act, act in accordance with such criteria as shall be prescribed.”.

- 16.** Section 61 of the principal enactment is hereby amended as follows :—

Amendment of section 61 of the principal enactment.

- (1) by the insertion immediately after the definition of the expression “Central Environmental Authority”, of the following new definition :-

“Ceylon Electricity Board” means the Ceylon Electricity Board established by the Ceylon Electricity Board Act, No. 17 of 1969;”;

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- (2) in the definition of the expression “electrical plant”, by the substitution for paragraphs (a), (b) and (c) of that definition, of the following paragraphs :—

“(a) an electrical line ; or

(b) an electrical appliance under the control of a consumer;”;

- (3) in the definition of the expression “high voltage lines”, by the substitution for the words “not more than 33 kilovolts”, of the words “not less than 33 kilovolts”; and

- (4) by the insertion immediately after the definition of the word “notice”, of the following new definitions:—

“Power Purchase Agreement” means an agreement entered into by the transmission licensee with a generation licensee for the purchase of bulk electrical energy or bulk electricity generating capacity, exclusively for the purpose of selling electrical energy to distribution licensees;

Amendment of
Schedule I of the
principal
enactment.

17. The Schedule I of the principal enactment is hereby amended as follows :—

- (1) in item 3 of that Schedule—

(a) by the substitution for paragraph (3) of that item, of the following paragraph :—

“(3) Where paragraphs (1) or (2) applies and-

(a) the licensee has made all reasonable efforts to secure the grant of a way leave ; and

(b) such efforts have been unsuccessful,

the Divisional Secretary of the administrative district in which the land, over which the way leave is being requested for or from which an electrical line which is installed is requested to be removed, as the case may be, shall within six weeks of an application being made in that behalf by the licensee concerned, and :-

- (i) upon holding an inquiry after giving an opportunity to the owner or occupier of the land concerned, of being heard ; and
- (ii) on being satisfied that it is necessary or expedient for the licensee to install and keep installed an electrical line on, under or over the land of the owner or occupier concerned, in order to carry on the activities which the licensee is authorized by its licence to carry on,

may either unconditionally or subject to such terms, conditions and stipulations as such Divisional Secretary considers appropriate, authorize the licensee or prohibit the licensee, as the case may be, from carrying on the activities mentioned in paragraph (1) or (2).

(3A) Where upon the conclusion of an inquiry the Divisional Secretary is

satisfied that the acquisition of the way leave has become necessary for the purpose of carrying on the activities authorized by the licence of the licensee, the Divisional Secretary shall, within six weeks of an application being made by the licensee in that behalf, make his recommendations pertaining to the same, to the Commission. The Commission shall, on being satisfied that it is necessary or expedient, to acquire the land or to install and keep installed an electrical line on, under or over the land concerned in order to carry on the activities which the licensee is authorized to carry on under the licence, recommend to the Minister the acquisition of the same. Thereupon the Minister shall approve the acquisition by Order published in the *Gazette* and the way leave shall thereupon be deemed to be required for a public purpose and be acquired under the Land Acquisition Act and transferred to the licensee. Any amount payable for such acquisition, shall be paid for by the licensee.”; and

- (b) by the omission of paragraph (5) of that item ;
and

(2) in item 6 of that Schedule :—

- (a) in paragraph (4) of that item, by the substitution for the words “twenty one days” and for the words “may cause”, of the words “seven working days” and of the words “shall cause” respectively ; and

- (b) in paragraph (5) of that item, by the substitution for the words “twenty one days” and for the words “to the Commission.”, of the words “seven working days” and of the words “to the Commission or to a person appointed by the Commission for that purpose, respectively.”.

18. The Schedule II of the principal enactment is hereby amended as follows :—

Amendment of
Schedule II of
the principal
enactment.

- (a) by the repeal of paragraph (5) of item 1 of that Schedule and substitute the following :—

“(5) If a tariff customer:—

- (a) has not, within the requisite period, paid all charges due to a distribution licensee in respect of the supply of electricity to any premises, or the provision of any electricity meter, electric line or electrical plant for the purposes of that supply;
- (b) has failed to comply with a notice from the licensee requiring him or her to cease using any appliance which unduly or improperly interferes with the supply of electricity by the licensee to any other consumer; or
- (c) has failed to pay the monthly instalments due for the requisite period under the agreement entered into under subsection (1B) of section 27 of the Act or any other charges which the customer has agreed to make to the distribution licensee,

the distribution licensee may, at the end of the requisite period cut off the supply to the premises, or to any other premises occupied by the customer, by such means as the licensee thinks fit and recover any expenses incurred in so doing from the customer.”.

- (b) in paragraph (1) of item 5 of that Schedule, by the substitution for the words and figures “subject to the provisions of item 8, any officer authorized by a distribution licensee may enter any premises to” of the words “Notwithstanding the provisions in item 8(1)(a) of Schedule 11 any officer authorized by a distribution licensee as may be prescribed by regulations may enter any premises from 8 a.m. to 5 p.m.”;
- (c) in item 6 of that Schedule—
 - (i) in paragraph (1), by the substitution for the words and figures “subject to item 8, enter the premises” of the words “enter the premises from 8 a.m. to 5 p.m.”; and
 - (ii) in paragraph (2), by the substitution for the words and figures “subject to item 8, enter the premises” of the words “enter the premises from 8 a.m. to 5 p.m.”;
- (d) in paragraph (1) of item 8 of that schedule, by the substitution for the words “under this Act shall not” of the words “under this Act except under the provisions of item 5 and item 6 of the schedule II shall not”.

Amendment of
Schedule III of
the principal
enactment.

19. Schedule III of the principal enactment is hereby amended by the omission of item 8 of that Schedule.

Sinhala text to
prevail in case
of inconsistency.

20. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

Retrospective
effect.

21. The amendments made to the principal enactment by the provisions of this Act, shall be deemed for all purposes to have come into force, on April 8, 2009.

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