

**A BILL
ENTITLED**

AN ACT to Repeal the *Electric Lighting Act*,
Electricity (Frequency Conversion) Act and
Electricity Development Act; to consolidate
and modernise the laws relating to the
generation, transmission, distribution,
dispatch and supply of electricity; and for
connected matters.

BE IT ENACTED by The Queen's Most Excellent Majesty,
by and with the advice and consent of the Senate and House of
Representatives of Jamaica, and by the authority of the same, as
follows:-

PART I. Preliminary

**Short title
and com-
mencement.**

1. This Act may be cited as the Electricity Act, 2015, and shall come into operation on a day to be appointed by the Minister by notice published in the *Gazette* (hereinafter called the "appointed day").

**Interpre-
tation.**

2. (1) In this Act, unless the context otherwise requires

"Codes" mean the generation code, transmission code, distribution codes, supply code and dispatch code;

"generation" means the production of both useful heat and electrical power from a single generating source;

"dispatch activities" means the activities involved in the central management and direction of generating plants and other sources of supply to the system in order to achieve the optimal safety, reliability and economic supply of electricity;

"dispatch code" the rules made by the Office, with the approval of the Minister, to govern dispatch activities;

"dispatch licensee" means a person holding an electricity licence to

conduct dispatch activities;

“distribution code” means the rules made by the Office, with the approval of the Minister, to govern the distribution system and activities relating thereto;

“distribution licensee” means a person holding an electricity licence to establish, maintain and operate a distribution system;

“distribution system” means the low voltage lines, electrical plant and meters used to deliver electricity from substations to consumers and which operate below 69,000 volts;

“electricity licence” means a licence granted under this Act to do one or more of the following with respect to electricity, namely ó

- (a) generation;
- (b) transmission;
- (c) distribution;
- (d) dispatch;
- (e) supply,

and includes any existing licence;

“energy efficiency” or “energy conservation” means the use of less energy to accomplish the same task or satisfy the same need, by the application of changing technology or patterns of usage;

“existing licence” means a licence referred to in section 50;

“generation code” means the rules made by the Office, with the approval of the Minister, to govern generation activities in the electricity sector;

“generation licensee” means a person having an electricity licence issued by the Minister to conduct the activity of generating electricity in

Jamaica;

“Government Electrical Regulator” means the entity responsible for regulating the work of electrical inspectors;

“independent power producer” means a licensee that owns or operates facilities for the generation of electricity for use primarily by the public, and that is not the Single Buyer;

“interconnection” means the connection of a transmission or distribution line between the generation assets of a generation licensee or a self generator and the transmission system or the distribution system respectively ;

“licensee” means the holder of an electricity licence;

“local authority” means

- (a) in relation to the parishes of Kingston and St. Andrew, the Council of the Kingston and St. Andrew Corporation as constituted under the Kingston and St. Andrew Corporation Act;
- (b) in relation to any other parish, the Parish Council of that Parish as constituted under the Parish Councils Act; or
- (c) in relation to a municipality, a Municipal Council established under the Municipalities Act;

“net billing” means a mechanism for self generators to sell or be otherwise credited with the value for the excess power generated under standard offer contracts with the Single Buyer that have been approved by the Office;

“Office” means the Office of Utilities Regulation established under the *Office of Utilities Regulation Act*;

“power purchase agreement” means the contract that governs the commercial relationship between an independent power producer and the Single Buyer, which contract requires the Single Buyer to buy electricity from the independent power producer and the independent power producer to sell electricity to the Single Buyer, in accordance with the terms and conditions thereof;

“renewable energy” means energy resources that are not depleted when exploited, as prescribed by the Minister by order published in the *Gazette*;

“self generator” means a person who generates electricity for that person’s own exclusive use, and shall include a person who has entered into a net billing or wheeling arrangement;

“Single Buyer” means the licensee whose licence obligates it to purchase electricity generated by independent power producers and persons having net billing arrangements;

“Standard Offer Contract” means a contract developed by the Office for use in net billing arrangements, which shall include such capacity limits as the Minister may in writing determine;

“supply”, with respect to electricity, means the activities involved in the sale of electricity to consumers;

“supply code” means the rules made by the Office, with the approval of the Minister, to govern the supply of electricity;

“supply licensee” means a person holding an electricity licence to supply electricity;

“system”, with respect to electricity, means the physically connected generation, transmission, and distribution facilities operated under

the central management of the system operator;

“System Operator” means the licensee holding the dispatch licence;

“transmission code” means the rules made by the Office, with the approval of the Minister, to govern the transmission system and activities relating thereto;

“transmission licensee” means a person having a electricity licence to establish, maintain and operate a transmission system;

“transmission system” means the medium and high voltage lines and electrical plant and meters used in the transportation of electricity from generating plants to substations and between substations and which operate at 69,000 volts or higher;

“use of system charge” means the regulated amount set by the Office for the access and use of the transmission system, distribution system or both, pursuant to a wheeling arrangement;

“wheeling” means an arrangement whereby a self generator provides electricity to the system on terms pursuant to which the wheeling beneficiary shall use an equivalent amount of electricity from the system at one or more locations, in accordance with this Act and any regulations made hereunder;

“wheeling beneficiary” means the self generator or another entity in which the self generator holds not less than the prescribed minimum ownership interest.

(2) For the purposes of the definition of “wheeling beneficiary” the Minister shall not prescribe a minimum ownership interest which is less than 100%, unless the Office has caused a market study to be conducted and the study has shown to the Minister’s satisfaction that additional or

replacement generation capacity from self generators is required in the national interest; however, the prescribed minimum ownership shall in any event exceed 50%.

Objects of Act.

3. The objects of this Act are to ó
- (a) provide for a modern system of regulation of the generation, transmission, distribution, supply, dispatch and use of electricity;
 - (b) promote transparency in the identification and allocation of costs and revenues within and between participants in the electricity sector;
 - (c) promote clarity in relation to the respective roles and responsibilities of the stakeholders in the electricity sector;
 - (d) facilitate the achievement of the efficient, effective, sustainable and orderly development and operation of electricity supply infrastructure, supported by adequate levels of investment;
 - (e) promote energy efficiency and the use of renewable energy and other energy sources.

PART II. *Electricity Licences*

Restrictions on certain electricity services without electricity licence.

4. ó (1) Subject to subsection (2), no person shall ó
- (a) engage in the generation, transmission, distribution, dispatch and supply of electricity; or
 - (b) erect, maintain or have any electric line or other works over, along, across or under any street or public road for the purpose of the supply of electricity,
- unless authorized to do so by an electricity licence.

(2) Subsection (1) shall not apply to a person who generates electricity as a self generator for that person's exclusive use, unless that

person enters into a net billing or wheeling arrangement.

(3) Any person who contravenes subsection (1) commits an offence.

**Basis for
grant of
electricity
licences.**

5. ó (1) An electricity licence may be granted by the Minister -

- (a) pursuant to procurement under a competitive bidding process;
- (b) pursuant to an application in the prescribed form for the licence, in respect of net billing and wheeling arrangements; or
- (c) where the Cabinet has determined that any of the following circumstances exists, namely -
 - (i) an emergency situation exists such as to make a competitive bidding process impractical;
 - (ii) the grant of the licence is necessary in order to accommodate an offer from a foreign government that will benefit the electricity sector;
 - (iii) due to exceptional circumstances or the prevailing economic and financial conditions in Jamaica, it is in the public interest to grant the licence.

(2) In considering the grant of a licence under subsection (1), the Minister may ó

- (a) request of the proposed licensee such information and other particulars, in writing or otherwise, as he considers appropriate;
- (b) request the Office to provide technical or other advice or support as he may require;
- (c) require the proposed licensee to satisfy such other requirements as may be prescribed.

(3) A proposed licensee shall pay a non-refundable processing fee as may be prescribed in respect of a licence under subsection (1).

(4) Notwithstanding that a proposed licensee has met the requirements for the grant of an electric licence, the Minister may refuse to grant the licence where he is satisfied that the electricity that would be supplied pursuant to the licence would exceed the system's needs or the grant of the licence would otherwise not be in the public interest.

Electricity licences, characteristics of.

6. (1) An electricity licence granted under section 5 (1) (a) or (c) shall

(a) shall be a non-exclusive licence for the generation of electricity for the entire Jamaica or any part thereof; or

(b) may be an exclusive or non-exclusive licence (as the case may be) for any or all of the following services, namely the transmission, distribution, supply or dispatch of electricity for the entire Jamaica or any part thereof.

(2) An electricity licence referred to in section 5 (1) (b) shall be a non-exclusive licence.

(3) An electricity licence shall be in writing and shall continue in force until it expires or is otherwise terminated in accordance with its terms, or unless revoked or suspended in accordance with this Part.

(4) An electricity licence may include any restriction or condition (whether or not relating to the activities authorised by the electricity licence) which appears to the Minister to be necessary or expedient, and he may request the Office to make recommendations in this regard.

(5) Without prejudice to the generality of subsection (4), an electricity licence may

- (a) include any condition requiring the licensee
- (i) to pay a prescribed fee on the grant of the licence, in addition to the processing fee referred to in section 5(3);

- (ii) to enter into any agreement or arrangement on specified terms, or on terms of a specified type, relating to the licensee's trading or operations;
 - (iii) to observe, with such modification as may be approved by the Office, such of the Codes as apply to the licensee's operations;
 - (iv) to provide the Minister with such information and supporting documentation as he may require for the purposes of section 23 or any other purposes under this Act or any regulations made hereunder;
 - (v) to do or not to do such things as are specified in the electricity licence;
- (b) provide for any one or more of the conditions specified in the electricity licence to cease to have effect at such times and in such manner and circumstances as may be specified in or determined by or under the condition.

(6) The Minister shall in writing notify an applicant for the grant of an electricity licence under section 5 (1) (b) of his decision to grant or refuse to grant the application and, in the case of a decision to refuse the application, the reasons for his decision.

(7) It is the duty of a generation licensee to ensure that the licensee does not do or omit to do anything if such act or omission will adversely affect, directly or indirectly, the security and stability of the system or the safety of the public.

Register to be kept.

7. The Minister shall cause a Register to be established and maintained in which the particulars of each electricity licence shall be entered.

Restriction on transfer of electricity licence.

8. ó (1) No electricity licence shall be transferable to any other person without the approval in writing of the Minister, and before making his decision whether or not to give his approval under this subsection, the Minister may seek the advice of the Office.

(2) Any purported transfer of an electricity licence in contravention of subsection (1) shall be void.

Revocation or suspension of electricity licence.

9. ó (1) Subject to the provisions of this Act, the Minister may revoke an electricity licence, or suspend an electricity licence for such period as he think fit, if he is satisfied that:

- (a) the licensee has committed an act of bankruptcy within the meaning of section 57 of the *Insolvency Act*;
- (b) the licensee has breached any of the terms or conditions of the electricity licence and the period provided, if any, for remedying the breach has expired and the breach has not been remedied to the Minister's satisfaction;
- (c) a licensee has not complied with any direction or requirement issued by the Office under section 12; or
- (d) the public interest of Jamaica so requires.

(2) Subsection (1) shall not apply to an electricity licence which contains provisions setting out the powers to revoke or to suspend the electricity licence and the circumstances in which those powers may be exercised, whether or not those circumstances are similar to any of those specified in subsection (1), save to the extent that the terms of the electricity licence expressly incorporate the provisions of subsection (1).

(3) The Minister shall not exercise his power to revoke or suspend an electricity licence under subsection (1) unless he has first afforded the

licensee the opportunity to make representations, whether orally or in writing, as to why the power should not be exercised.

(4) The Minister may, if he thinks fit, appoint one or more persons to hear, receive and consider the representations referred to in subsection (3) and to submit to him for his determination, within such specified time as he may consider reasonable, a written report of the findings and recommendations arising from their consideration of the matter examined.

(5) The suspension or revocation of an electricity licence shall not relieve the licensee of any obligation incurred or assumed by the licensee prior to the suspension or revocation of the licence.

(6) Where the licensee is a party to an agreement with the Single Buyer for the sale or other supply of electricity to the Single Buyer, a breach of that agreement by the licensee or the Single Buyer shall constitute a breach of the electricity licence held by the licensee or the Single Buyer, as the case may be, for the purposes of subsection (1) (b); however, this subsection shall not apply to an existing licence unless that existing licence so provides.

Notification to the Minister by the Office.

10. If the Office is satisfied that an electricity licensee is contravening, is likely to contravene or has contravened any condition of the licensee's electricity licence, any of the Codes, any provision of this Act or any regulations made hereunder, or any direction issued by the Office to or applicable to the licensee, the Office shall forthwith notify in writing the Minister thereof and may provide the Minister with such recommendations as it considers appropriate.

Codes.

11. ó (1) The Office, with the approval of the Minister, shall ó

- (a) prepare and promulgate each of the Codes within twelve months after the appointed day, for the general direction of licensees in respect of the matters within the scope of each of the Codes; and
- (b) from time to time, revise the Codes in such manner as it considers necessary.

(2) In preparing the Codes, pursuant to subsection 1 (a), the Office shall consult with stakeholders in the electricity sector in such manner as it considers appropriate.

(3) The Office shall cause the Codes, and every revised edition thereof, to be published on its website or in any other manner that it considers appropriate.

(4) A breach of any of the Codes by a licensee shall constitute a breach of the electricity licence held by the licensee (other than an existing licence) for the purposes of section 9 (1) (b).

(5) A breach of any of the Codes by a licensee or a self generator who is not a licensee shall constitute an offence.

(6) The Office shall review the Codes every three years, and in conducting that review shall consult the stakeholders in the electricity sector in such manner as the Office considers appropriate.

(7) The dispatch code shall contain a process whereby the Office shall investigate any significant power outage.

**Failure to
comply with
directions
of the Office.**

12. A licensee who fails to comply with any direction given by the Office pursuant to section 4 of the *Office of Utilities Regulation Act* commits an offence.

PART III. Generation

Duties of generation licensees other than self-generators.

13. ó (1) Subject to subsection (2), it is the duty of a generation licensee to develop and maintain a reliable, efficient, compatible, safe and economical system of electricity generation in accordance with the electricity licence held by the generation licensee and the generation code, this Act and any regulations made hereunder.

(2) Subsection (1) shall not apply to self-generators.

(3) For the purposes of subsection (1) and section (14) (1) (b), a system of electricity generation shall be considered compatible if it complies with the provisions of this Part.

Self-generators.

14. ó (1) It is the duty of a self-generator to -

(a) develop and maintain a system of electricity generation in accordance with the generation code; and

(b) if the self-generator holds an electricity licence, to develop and maintain a reliable, efficient, compatible and safe system of electricity generation in accordance with its electricity licence, this Act and any regulations made hereunder.

(2) Subject to subsection (4), prior to entering into any arrangement for the sale or other supply of excess electricity capacity, a self generator shall -

(a) enter into a Standard Offer Contract with the Single Buyer for such sale or supply; and

(b) be the holder of an electricity licence.

(3) Where the self generator has met the requirements under subsection (2) and has paid the prescribed fees and charges, the self generator shall not be denied access to the system, except in circumstances where the System Operator determines that denial of access is necessary

due to technical conditions, in which event the System Operator shall provide the self generator with written reasons for the denial of access within forty-eight hours thereafter, and shall provide a copy of those reasons to the Minister and the Office.

(4) Notwithstanding subsection (2), the Minister may, in writing, where he is satisfied that it is in the national interest to do so, authorize the sale or other supply of electricity by a self generator to a Single Buyer, pursuant to an agreement approved by the Minister in circumstances where the requirements of subsection (2) are not met.

(5) Prior to granting an authorization pursuant to subsection (4), the Minister may consult with the Office.

(6) The Office shall determine and prescribe by order the tariff payable to the Single Buyer within six months after the appointed day by a self-generator for wheeling and review the tariff periodically thereafter at intervals not greater than five years.

(7) A self generator shall not sell or supply more than the prescribed amount of the total rated capacity of the self generator's generator.

Independent power producers.

15. ó (1) Subject to subsection (2), the Single Buyer is required to enter into a power purchase agreement with each independent power producer however, no such agreement shall be entered into unless the Minister has in writing approved the terms and conditions thereof.

(2) The Single Buyer shall not be obligated to connect an independent power producer's generated electricity output to the system unless both the Single Buyer and the Chief Electrical Inspector agree that the independent power producer's connection will not compromise the

safety and protection of the system.

Procurement of new generating capacity.

16. ó (1) The Minister shall manage and administer the process for the procurement, by means of competitive bidding, of generation capacity by independent power producers for sale of electricity to the Single Buyer.

(2) The Single Buyer may not replace generation capacity otherwise than in accordance with such requirements as the Minister may by order prescribe, and if the Single Buyer does not proceed with each of the steps comprised in those requirements in accordance with the timeframe stated therein, replacement capacity may be procured through a competitive bidding process managed and administered by the Minister, or such other process as the Cabinet determines to be in the public interest.

(3) If the Single Buyer does not proceed with each of the steps comprised in the requirements referred to in subsection (2) in accordance with the timeframe stated in those requirements, replacement capacity may be procured through a competitive bidding process managed and administered by the Minister, or such other process as the Cabinet determines to be in the public interest.

Renewable energy.

17. The Minister may, by order, after consultation with the Office, prescribe renewable energy targets which may include a feed in tariff set by the Office for each source for renewable energy.

PART IV. *The System Operator*

Obligation to comply with System Operator's directions.

18. ó (1) A licensee who holds a generation licence shall comply with all of the directions given by the System Operator (whether given generally or to particular licensees) to which the licensee is subject.

(2) A licensee that fails to comply with a direction under subsection (1) commits an offence.

**Duties of
System
Operator *re*
dispatching
activities.**

19. ó (1) The System Operator shall, in accordance with this section, separate its dispatch activities from its transmission activities and activities relating to generation, distribution and supply.

(2) In furtherance of the separation referred to in subsection (1), the Single Buyer shall establish a discrete system operator department whose staff shall be employed in undertaking dispatch activities, and the head of which department shall report directly to the Single Buyer's board of directors.

(3) The Minister, in consultation with the Single Buyer, may require the Single Buyer to make additional arrangements in a manner satisfactory to him to further establish the separation referred to in subsection (1).

(4) The Single Buyer shall establish such technical arrangements as may be necessary to provide the Office with access to real time information concerning the dispatch activities for the purpose of enabling the Office to effectively monitor the dispatch of generation capacity so as to ensure that the prescribed Merit Order is being complied with.

(5) The Minister may by order prescribe the Merit Order system to be complied with by the System Operator, and the prescribed Merit Order system shall be binding on all generation licensees.

(6) In the event that the System Operator dispatches generation capacity to the system in a manner that does not comply with the prescribed Merit Order system, the Office may require the Single Buyer to compensate the consumer of electricity for the additional electricity charges that they have incurred as a result thereof; however, the obligations

to compensate consumers shall not arise where the System Operator satisfies the Office that the reason for departure from the prescribed Merit Order was due to technical exigencies relating to reliability of supply or system stability.

(7) The compensation provided to consumers by the Single Buyer pursuant to subsection (6) shall be absorbed by the Single Buyer and shall not be passed on to or otherwise recovered from the consumer by the Single Buyer.

(8) The Office shall cause the operations and dispatch activities and related operations of the System Operator to be independently audited at least annually and the Single Buyer shall facilitate the audit and provide such access and information as the independent auditor may require to complete the audit within a reasonable timeframe determined by the Office.

(9) The System Operator shall ensure that any information concerning its dispatching activities that it provides to any generation licensee is also made available to every other generation licensee whose generation capacity is included in the dispatching activity unless the information is particular or relates to a particular generation licensee and is not relevant to the other generation licensees.

(10) The Office may develop standard rates at which Single Buyer shall compensate consumers who elect to have their electricity supply interrupted at the request of the Single Buyer where such request is made to enable the Single Buyer to meet the demand of the System from time to time .

(11) The System Operator shall develop and maintain a plan for

restoring the system to normal operating levels in the event of significant power outages due to failure of any part of the system howsoever caused.

(12) Where there is a major system failure the System Operator shall-

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

(13) Upon the system being restored to normal operating levels after a major system failure, the System Operator shall carry out an investigation of the causes of the failure and produce a report thereon, which report shall also describe the measures and procedures to restore the system and the measures that should be taken to avoid a recurrence of the failure, and shall provide an assessment of the cost associated with the failure.

(14) The System Operator shall submit the report under subsection () to the Office and to the Minister within thirty days of the system being restored to normal operating levels.

(15) The System Operator shall provide regular status updates to the Minister until the system is restored.

(16) If the System Operator contravenes any of the provisions of this section, it commits an offence.

(17) In this section "Merit Order" means the order in which available generation capacity is dispatched to the system by the System Operator.

PART V. *Transmission, Distribution and Supply Activities*

Duties of transmission, distribution and supply licensees.

20. ó (1) It is the duty of ó
- (a) a transmission licensee, to develop and maintain a reliable, efficient, coordinated, safe and economical transmission system in accordance with the terms of the licensee's transmission licence, the transmission code, this Act and any regulations made hereunder;
 - (b) it shall be the duty of a distribution licensee to develop and maintain a reliable, efficient, coordinated and safe, economical distribution system in accordance with the terms of the licensee's distribution licence, the distribution code, this Act and any regulations made hereunder;
 - (c) it shall be the duty of a supply licensee to develop, and maintain a reliable, efficient, coordinated and economical supply system in accordance with the terms of the licensee's supply licence, the supply code, this Act and any regulations made hereunder.
- (2) It is the duty of an electricity licensee to ensure that it will not do or not omit to do any act which will adversely affect, directly or indirectly, the security and stability of the electricity supplied by it or by any other person to consumers.

PART VI. *The Government Electrical Regulator and Board of Examiners*

Government Electrical Regulator.

21. ó (1) There is hereby established a department of Government to be known as the Government Electrical Regulator, having the functions set out in subsection (2).

(2) The functions of the Government Electrical Regulator are to ó

- (a) recommend to the Minister persons who are considered suitably

- qualified to be licensed by the Minister as electrical inspectors;
- (b) recommend to the Minister the suspension or revocation of the licence of an electrical inspector in instances where it considers it appropriate;
 - (c) investigate and seek to resolve complaints by members of the public about the work or conduct of licensed electrical inspectors;
 - (d) establish rate classes among licensed electrical inspectors based on their qualifications, skill and experience, which rate classes shall correspond to the rate classes in the Single Buyer's tariff schedule;
 - (e) establish maintain a register of registered electrical inspectors, each of whom shall be assigned to a rate class;
 - (f) monitor the quality of work being performed by electrical inspectors by conducting reviews on a random basis.

(3) A licensed electrical inspector assigned to a particular rate class may inspect premises of the corresponding rate class or any lower rate class.

(4) The register of licensed electrical inspectors shall be made accessible to the public by electronic means or otherwise.

(5) A licensed electrical inspector shall not inspect his own work where he has undertaken any electrical wiring or installation or work done by persons whom he has engaged.

(6) A licensed electrical inspector shall certify that any premises, facility or apparatus is fit to be connected to the system, if he is satisfied that the electrical wiring and installations at the premises, facility or apparatus are safe and comply with the Codes.

(7) The Single Buyer shall not connect any premises, facility or

apparatus to the system unless it has been duly certified by a licensed electrical inspector as fit to be connected to the system.

Board of examiners.

22. ó (1) There is hereby established a Board of Examiners consisting of not less than three persons appointed by the Minister and having the functions set out in subsection (2).

(2) The functions of the Board of Examiners shall be to ó

- (a) determine the categories of electricians to be registered under this Act;
- (b) certify, on such basis as may be prescribed, person who may be duly certified and registered to practice as electricians in Jamaica;
- (c) ensure the maintenance of acceptable standards of professional conduct by persons registered as electricians under this Act.

PART VII. *Electric Line Restrictions*

Approval of local authority for place at and removal of electric line.

23. Notwithstanding anything in this Act the Single Buyer or a self generator shall not place or move any electric line above ground, along, over or across any street, without the express written consent of the local authority and the local authority may -

- (a) require the Single Buyer or self generator to forthwith remove any electric line placed by them contrary to the provisions of this section, or the local authority may itself remove the same;
- (b) recover the expenses of such removal from the Single Buyer or self generator by civil proceedings (without limit of amount) in the Resident Magistrate's Court of that parish.

Order of Resident Magistrate to remove electric line.

24. Where any electric line has been placed above ground by the Single Buyer or self generator in any position, a Resident Magistrate may, in any proceedings in the Resident Magistrate's Court, and if the Resident

Magistrate is of the opinion that such electricity line is or is likely to become dangerous to the public safety, may, notwithstanding any such consent as aforesaid, make an order directing and authorizing the removal of such electricity line by such person and upon such terms as the Resident Magistrate may think fit.

Offence of cutting electricity lines.

25. Any person who unlawfully and maliciously cuts or injures any electric line or work with intent to cut off any supply of electricity commits an offence.

Right of entry to premises for inspection.

26. An agent appointed by the Single Buyer ó

(a) may at all reasonable times enter any premises to which electricity is or has been supplied by the Single Buyer, in order to carry out inspection or maintenance or both on the electric lines, meters, accumulators, fittings, works and of property or apparatus for the supply of electricity belonging to the Single Buyer for the purpose of maintaining its apparatus or ascertaining the quantity of electricity consumed or supplied; and

(b) shall, where a supply of electricity is no longer required, or where the Single Buyer is authorized to take away and cut off the supply of electricity from any premises, for the purpose of removing any electric lines, accumulators, fittings, works or apparatus, belonging to the Single Buyer, repair all damage caused by such entry, inspection or removal.

Offence of obstructing agent of Single Buyer.

27. Any person who obstructs an agent appointed under section 26 in the execution of his duties under that section commits an offence.

Power of Minister to cause line and work to be

28. Where any person had unlawfully erected, maintained, or had an electric line or other works for the purpose of supplying electricity and has

removed. been convicted therefor, at any time after the expiration of thirty days of the conviction, in case of the electric line or work in respect of the erection or maintenance of which the conviction was obtained not had been removed by the party who had erected, maintained, or had, the same, the Minister (unless in the meantime the person convicted has obtained a licence to maintain and have the line or works, and except in so far as such line or work is sanctioned by the licence) shall cause the line and work, together with all posts or erections used in supplying or carrying the same, to be removed, and to have the same sold, and out of the proceeds to pay the expenses of removal and sale, and he shall pay the surplus (if any) into the Consolidated Fund; and in case such proceeds shall not be sufficient to pay such expenses, the Minister may recover the deficiency by claim in a Resident Magistrate's Court (without limit of amount) against the person who erected, maintained or had, the line or works.

Right of easement of Single Buyer. 29. Subject to any provision to the contrary, the Single Buyer may lay or remove, place or carry on, under, or over any land, except land used as a garden, park or pleasure ground, or land being the cartilage of a dwelling house or other similar land in the immediate vicinity of any building, such supply lines, posts and apparatus as are necessary or convenient for the safe supply of electricity in accordance with the relevant licence.

Compensation for easement. 30. There shall be paid by the Single Buyer to the owner of the land in question by way of compensation such sum as may be agreed between them.

Notice to owner of land. 31. Not less than twenty-one days before entering upon on any land for the purpose of doing any work thereon by virtue of rights conferred under this Part, the Single Buyer shall give to the owner or occupier of the land

notice in the prescribed form of the work proposed to be done on the land.

PART VIII. *Fixed Penalties*

Fixed penalty. 32. ó (1) Subject to subsection (7), this section shall apply to any offence
Schedule. specified in the Schedule.

(2) Where the Office has reason to believe that a person is committing or has committed an offence against this section, it may give to the person the prescribed notice in writing offering the opportunity to discharge any liability to conviction of that offence by payment of a fixed penalty under this section.

(3) A person shall not be liable to be convicted of an offence under subsection (2) if the fixed penalty is paid in accordance with this section before the expiration of twenty-one days following the date of the notice or such longer period (if any) as may be specified therein or before the date on which proceedings are begun, whichever is later.

(4) Where a person is given a notice under this section in respect of an offence, proceedings shall not be taken against any person for that offence by any constable or local authority, as the case may be, until the end of the twenty-one days following the date of the notice or such longer period (if any) as may have been specified therein.

(5) In subsections (3) and (4), "proceedings" means any criminal proceeding in respect of the act or omission constituting the offence specified in the notice under subsection (2) and "convicted" shall be construed in like manner.

(6) Payment of a fixed penalty under this section shall be made to the Collector of Taxes and in any proceedings a certificate that payment of the fixed penalty was or was not made to the local authority or to the

Collector of Taxes, as the case may be, by a date specified in the certificate shall, if the certificate purports to be signed by the secretary of the local authority or the Collector of Taxes, be sufficient evidence of the facts stated, unless the contrary is proved.

(7) A notice under subsection (3) shall ó

- (a) specify the offence alleged, and give such particulars of the offence as are necessary for giving reasonable information of the allegation;
- (b) state the period during which, by virtue of subsection (3), proceedings will not be taken for the offence;
- (c) state the amount of the fixed penalty and that such fixed penalty shall be paid to any Collector of Taxes.

(8) In any proceedings for an offence to which subsection (1) applies, no reference shall be made after the conviction of the accused to the ó

- (a) giving or affixing of any notice under this section; or
- (b) payment or non-payment of a fixed penalty thereunder,

in the course of the proceedings or in some document which is before the Court in connection with the proceedings reference has been made by or on behalf of the accused to the giving or affixing of such a notice or, as the case may be, to such payment or non-payment.

(9) The Minister may, by order subject to affirmative resolution make provision as to any matter incidental to the operation of this section, and in particular, any such order may prescribe -

- (a) the form of notice under subsection (2) and the Collector of Taxes to whom a fixed penalty is payable;

- (b) the nature of the information to be furnished to the Collector of Taxes along with any payment;
- (c) the arrangements for the Collector of Taxes to furnish to the Office, information with regard to any payment under a notice under this section.

PART IX. Poles

Joint use poles.

33. The Single Buyer may enter into any arrangement or contract for the joint use of poles, and, if the public interest so requires, the Office may direct the Single Buyer, after consultation, with the Single Buyer to use any poles jointly with any other persons so long as such use shall not contravene any law.

Fair compensation for use of poles.

34. It shall be a condition of any such directions that the Single Buyer shall receive such fair compensation for the use of the single buyer poles by any other person as may be agreed or if the parties fail to agree, fixed by the Office. of

PART X. Protection and Maintenance of the Apparatus of the Single Buyer

Lines, meters, etc., not subject to distress.

35. Where any electric lines, meters, accumulators, fittings, works or apparatus (in this section called the "equipment", belonging to the Single Buyer are placed in or upon any premises not being the possession of the Single Buyer for the purpose of supplying electricity under this Act, or under any licence, the equipment shall not be subject to distress, or to the landlord's remedy for rent of the premises where the equipment may be, nor to be taken in execution under any legal proceedings, or any proceedings in bankruptcy against the person in whose possession the same may be except in any case where the Minister exercises his step-in rights or revokes the licence.

Entry onto land by agent of Single Buyer.

36. Subject to the provisions of this section, the Single Buyer, or any person authorized by it 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 apparatus have been erected, for the purpose of carrying out repairs thereto, and may carry out all requisite repairs and in the course thereof fell or lop trees, remove vegetation and do all other things requisite for the said purpose, causing as little damage or disturbance as possible.

Payment for damage to land.

37. There shall be paid by the Single Buyer to the owner of the land in question by way of compensation for any damage caused such sum as may be agreed between them or, in default of agreement, determined by the Office.

Where compensation not necessary.

38. No compensation shall be payable under this section in respect of the necessary felling or lopping of any tree which is within twenty-five feet of the centre line of any main road or parochial road and which was not in existence before the construction of the road, or in respect of the necessary felling or lopping of any tree, or the necessary removal of any vegetation, which has grown or been allowed to grow in such a manner as to obstruct or interfere with any supply line, post or apparatus of the undertakers placed on the land in question and in respect of which compensation has been paid.

Necessary falling of trees, etc.

39. For the purposes of this Act, the felling or lopping of trees or the removal of vegetation shall be deemed to be necessary if done for the proper maintenance of any supply line, post or apparatus.

Maintenance plan.

40. The Single Buyer shall develop a maintenance plan for its apparatus that will be reviewed every year, or such other period as the Office shall

determine.

PART XI. *System Planning, etc.*

**Minister to
be responsible
for planning.**

41. ó (1) The Minister shall be responsible for planning the development of the system, which planning shall include ó

- (a) the collection of data from electricity sector participants;
- (b) consultations with the Office, the single buyer and other electricity sector participants; and
- (c) the conduct of any relevant forecast.

(2) The planning process for transmission and distribution shall specifically consider the location of renewable energy resources and other generation sources, taking into account the potential for electrification of rural areas.

(3) A licensee shall comply with a request made by the Minister for information for the purposes of executing his planning responsibility under this section and failure to comply with a request under this subsection, without reasonable cause, shall be an offence.

**Single Buyer
to maintain
separate
accounts.**

42. ó (1) The Single Buyer shall, at all times keep the accounts for its generation, transmission, distribution and supply activities separate and distinct from each other and from the accounts kept by it in respect of any other part of its undertaking or business.

(2) The Single Buyer may engage in any other business in addition to the activities it conducts pursuant to its electricity license but no profits or losses resulting therefrom shall be taken into account in the fixing of rates by the Office.

(3) The Single Buyer shall furnish to the Office annually, not later than ninety days after the end of each financial year of the Single Buyer, a

report relating to its activities during that year, in such form and including such content as the Office may require.

PART XII. *Miscellaneous*

General penalty provision.

43. Any person who commits an offence against this Act, for which no penalty is specifically provided, is liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding one million dollars or in the case of an individual offender, or in the case of a body corporate, an individual responsible for directing the affairs of the body corporate, to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

Regulations.

44. (1) The Minister may make such regulations as he thinks fit to give full effect to the provisions of this Act, and without prejudice to the generality of the foregoing, regulations may prescribe provisions in relation to -

- (a) the establishment of a fund to increase the penetration of renewable energy or energy security and the promotion of energy conservation to be financed out of tariffs;
- (b) the supply of electricity for rural areas by the establishment of micro grids that are not inconsistent with the licence held by the Single Buyer;
- (c) qualification criteria and fees for the licensing of electrical inspectors;
- (d) public liability insurance to be held by electrical inspectors;
- (e) fees that may be charged in relation to applications for electricity licences;
- (f) requirements relating to energy efficiency, including measures to

reduce demand for electricity;

(g) the implementation of intelligent network technology after consultation with the Office and the Single Buyer;

(h) dispatch activities and the functions of the System Operator.

(2) Regulations made under this section shall be subject to affirmative resolution.

(3) Notwithstanding section 29(b) of the *Interpretation Act*, regulations made under this Act may provide that a person who contravenes the regulations commits an offence and shall be liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding five million dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

Minister may by order amend monetary penalty.

45. The Minister may, by order subject to affirmative resolution ó

(a) amend any monetary penalty specified in this Act;

(b) amend any Schedule to this Act.

Amendment of Larceny Act.

46. Section 15 of the Larceny Act is amended by deleting therefor the word "maliciously" and substitute therefor the words "knowingly abstracts".

Repeal of enactments

47. The *Electric Lighting Act*, the *Electricity (Frequency Conversion) Act* and the *Electricity Development Act* (in Act referred to as the "repealed enactments") are hereby repealed.

Review of Act.

48. The provisions of this Act shall be reviewed by a Joint Select Committee of the Houses of Parliament not later than five years after the appointed day.

Saving of regulations made under repealed Acts.

49. Notwithstanding the repeal of the repealed enactments, regulations made under those enactments, as in force immediately before their repeal ó

- (a) shall remain in full force and effect, with such changes as may be necessary, as if made under this Act; and may be amended or revoked accordingly; and
- (b) any reference in any other enactment to specific provisions of the repealed enactments shall be construed as a reference to the equivalent provision in this Act.

Savings and transitional.

50. ó (1) Any individual or entity that immediately prior to the appointed day was the holder or purported holder of a licence, certification or other authority under any one or more of the repealed Acts (in this Act called an òexisting licenseeö) shall, subject to the provisions of this Act, be deemed to be duly licensed, certified or authorized under this Act, as if the relevant provisions of this Act were in force at the date on which any such licence, certification or other authority was granted.

(2) Any existing licensee that, before the appointed day, has carried out any activities in accordance with any of the repealed enactments but which is incompatible with this Act shall, within three months after the appointed day, submit to the Office, a statement giving particulars of all such activities and shall submit a programme to the Supervisor for rectifying the incompatibility of each such activity after the appointed day or, as the case may be, for the cessation of the activity.

SCHEDULE		(Section 32)
<i>Offences to which Fixed Penalty Assigned</i>		
Section	Offence	Penalty
_____	_____	_____
11	Contravention of section 11(5)	\$2,000,000
12	Failure of licensee to comply with directions of the Office	\$2,000,000
18	Failure of licensee to comply with directions of system operator	\$2,000,000

MEMORANDUM OF OBJECTS AND REASONS

This Bill seeks to modernise the Law relating to the electricity sector in order to achieve the policy objectives outlined in the National Energy Policy of 2009 to 2030. The energy policy is designed to ensure that Jamaica achieves by 2030, a modern, efficient, diversified and environmentally sustainable energy sector.

This Bill therefor seeks to modernise the electricity sector and to create a modern and robust regulatory framework.

The Bill establishes a framework for the regulation of the electricity sector. This framework ó

- (a) provides clarity in relation to the respective roles and responsibilities of the various stakeholders in the electricity sector;

- (b) promotes energy efficiency, renewable energy and other energy resources;
- (c) provides for the modernization of the generation, transmission, distribution and supply use of electricity;
- (d) strengthens the licensing regime involved for persons in the electricity sector;
- (e) mandates the issuing by the Office of the Utilities Regulation of various codes of practices that will govern the activities of licensees;
- (f) provides for fixed penalties in the event of any breach of the Act, regulations made or the Codes;
- (g) retains important and critical provisions of the repealed enactments.

By the inclusion in the Bill of the appropriate savings and transitional provisions, care is take to ensure ó

- (a) that any licences issued prior to the commencement of the Act will be preserved;
- (b) that rights enjoyed prior to the commencement of the Act will not be affected.

Phillip Paulwell
Minister of Science, Technology,
Energy and Mining