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The following Act was passed by Parliament on 3rd April 2006 and assented to by the President on 12th April 2006:—

ELECTRICITY (AMENDMENT) ACT 2006

(No. 18 of 2006)

I assent.

S R NATHAN
President
12th April 2006.

Date of Commencement: 1st May 2006

An Act to amend the Electricity Act (Chapter 89A of the 2002 Revised Edition).

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1. This Act may be cited as the Electricity (Amendment) Act 2006 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

Amendment of section 2

2. Section 2 of the Electricity Act is amended —

- (a) by deleting the words “section 64” in the definition of “Appeal Panel” and substituting the words “section 64(3) or 98 (2)”;
- (b) by inserting, immediately after the definition of “trade”, the following definition:
 - “ “transmission agent licensee” means a person authorised by an electricity licence to transmit electricity for or on behalf of a transmission licensee;”;
- (c) by deleting the definition of “transmission system” and substituting the following definition:
 - “ “transmission system” means a system of interconnected electric lines, electrical plants and substations used by a transmission licensee to transmit electricity;”;
- (d) by deleting the words “system which consists wholly or mainly of electric lines and electrical plants and is used for conveying electricity” in the definition of “transmit” and substituting the words “transmission system”.

Amendment of section 4

3. Section 4 of the Electricity Act is amended —

- (a) by inserting, immediately after subsection (1), the following subsection:
 - “(1A) The power to require a person to furnish any document or information under subsection (1) includes the power —
 - (a) to require that person, or any person who is or was an officer or employee of his, to provide an explanation of the document or information;
 - (b) if the document or information is not furnished, to require that person to state, to the best of his knowledge and belief, where it is; and
 - (c) if the information is recorded otherwise than in legible form, to require the information to be made available to the Authority in legible form.”; and
- (b) by inserting, immediately after subsection (5), the following subsection:
 - “(5A) The Authority shall be entitled without payment to keep any document or information, or any copy or extract thereof, furnished to it under subsection (1) or obtained under subsection (5).”.

Amendment of section 5

4. Section 5 of the Electricity Act is amended by deleting subsections (3) and (4) and substituting the following subsections:

“(3) A person aggrieved by a notice under subsection (2)(b) may appeal to the Minister under section 98(1) within 7 days of the date of giving of the notice.

(4) Subsection (2) shall not prevent the Authority from disclosing any information or the contents of any document —

- (a) to any member, officer or employee of the Authority or any agent, consultant, committee or panel acting for or under the direction of the Authority;
- (b) to the Minister or any agent, consultant, committee or panel acting for or under the direction of the Minister;
- (c) to an Appeal Panel;
- (d) when required to do so by any court or under any written law; or
- (e) for the purposes of any criminal proceedings.”.

Amendment of section 6

5. Section 6 of the Electricity Act is amended —

(a) by inserting, immediately after paragraph (b) of subsection (1), the following paragraph:

“(ba) transmit electricity for or on behalf of a transmission licensee (other than as an employee of the transmission licensee);”;

(b) by inserting, immediately after “\$500,000” in subsection (2), the words “and, in the case of a continuing offence, to a further fine not exceeding \$12,500 for every day or part thereof during which the offence continues after conviction”.

Amendment of section 8

6. Section 8(6) of the Electricity Act is amended by inserting, immediately after the words “transmission licensee”, the words “, a transmission agent licensee”.

Amendment of section 9

7. Section 9 of the Electricity Act is amended —

(a) by inserting, immediately after paragraph (b) of subsection (1), the following paragraph:

“(ba) transmit electricity for or on behalf of a transmission licensee;”;

(b) by deleting subsection (2) and substituting the following subsection:

“(2) No transmission licensee, transmission agent licensee or market support services licensee shall be granted an electricity licence to carry out any activity other than the transmission of electricity, the transmitting of electricity for or on behalf of a transmission licensee or the provision of market support services, respectively.”;

- (c) by deleting the word “and” at the end of subsection (7)(a)(vi);
- (d) by inserting, at the end of sub-paragraph (vii) of subsection (7)(a), the word “and”, and by inserting immediately thereafter the following sub-paragraph:
 - “(viii) where the electricity licensee is a transmission licensee, to carry out any work related to the development of a transmission system or the supply of electricity to any premises;”;
- (e) by deleting subsection (9).

Amendment of section 14

8. Section 14 of the Electricity Act is amended —

- (a) by inserting, immediately after the words “any direction”, the words “(including a direction under paragraph (a))”; and
- (b) by deleting the words “electricity licensee —” in the 7th line and substituting the words “electricity licensee do one or more of the following:”.

Repeal of section 15

9. Section 15 of the Electricity Act is repealed.

Amendment of section 16

10. Section 16 of the Electricity Act is amended by inserting, immediately after subsection (4), the following subsection:

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

Amendment of section 21

11. Section 21 of the Electricity Act is amended by deleting subsections (2) and (3).

Deletion and substitution of heading to Part IV

12. The heading to Part IV of the Electricity Act is deleted and the following heading substituted therefor:

“SPECIAL ADMINISTRATION ORDER”.

New Part IVA

13. The Electricity Act is amended by inserting, immediately after section 30, the following Part:

“PART IVA

CONTROL OF ELECTRICITY LICENSEES AND ENTITIES WITH INTERESTS IN TRANSMISSION SYSTEMS

Interpretation of this Part

30A. In this Part, unless the context otherwise requires —

- “associate” has the meaning given to that expression in regulations made under section 30C;
- “business trust” has the same meaning as in section 2 of the Business Trusts Act (Cap. 31A);
- “corporation” has the same meaning as in section 4(1) of the Companies Act (Cap. 50);
- “designated business trust” means a business trust that is established wholly or partly in respect of a transmission system (or any part thereof) and which has been declared by the Authority, by notification in the Gazette, to be a designated business trust for the purposes of section 30B;
- “designated electricity licensee” means a person who has been granted a licence under section 9(1) (b) or (ba);
- “designated entity” means an entity, not being a designated electricity licensee, which owns a transmission system (or any part thereof) and which has been declared by the Authority, by notification in the Gazette, to be a designated entity for the purposes of section 30B;
- “entity” includes a corporation and a limited liability partnership;
- “equity interest” has the meaning given to that expression in regulations made under section 30C;
- “limited liability partnership” means a limited liability partnership formed under section 4(1) of the Limited Liability Partnerships Act 2005 (Act 5 of 2005);
- “trustee-manager” has the same meaning as in section 2 of the Business Trusts Act.

Control of acquisition of equity interest in designated electricity licensee, etc.

30B.—(1) A designated electricity licensee, a designated entity or the trustee-manager of a designated business trust shall give notice in writing to the Authority if any person acquires equity interest in the licensee, the entity or the business trust, respectively, whether through a series of transactions over a period of time or otherwise, that would result in that person holding 5% or more but less than 12% of the total equity interest in the licensee, the entity or the business trust, respectively.

(2) No person shall, whether through a series of transactions over a period of time or otherwise, become a 12% controller, a 30% controller or an indirect controller of a designated electricity licensee, a designated entity or a designated business trust without obtaining the prior written approval of the Authority.

(3) No person shall acquire as a going concern —

- (a) the business of a designated electricity licensee conducted pursuant to its licence; or
- (b) the business of a designated entity which relates to its transmission system or any part thereof,

unless the person, and the licensee or entity, as the case may be, obtain the prior written approval of the Authority.

(4) The Authority may approve an application of a person under subsection (2) if the Authority is satisfied that —

- (a) the person is a fit and proper person;
- (b) having regard to the person's likely influence, the designated electricity licensee, the designated entity or the trustee-manager of the designated business trust, as the case may be, will continue to conduct its business prudently and comply with the provisions of this Act; and
- (c) it is in the public interest to do so.

(5) The Authority may approve an application under subsection (3) if the Authority is satisfied that —

- (a) the person acquiring the business is a fit and proper person;
- (b) the acquisition will not affect the security and reliability of the supply of electricity to the public; and
- (c) it is in the public interest to do so.

(6) Any approval by the Authority under this section may be granted subject to such conditions as the Authority considers appropriate.

(7) Any condition imposed by the Authority under this section shall have effect notwithstanding the provisions of any other written law or anything contained in

the memorandum or articles of association, trust deed or other constitution of the licensee, the entity or the business trust.

(8) Any approval granted by the Authority under this section shall be without prejudice to the operation of Part VII.

(9) In this section —

“12% controller” means a person who, alone or together with his associates —

(a) holds 12% or more of the total equity interest in; or

(b) is in a position to control 12% or more of the voting power in, the licensee, the entity or the business trust;

“30% controller” means a person who, alone or together with his associates —

(a) holds 30% or more of the total equity interest in; or

(b) is in a position to control 30% or more of the voting power in, the licensee, the entity or the business trust;

“indirect controller” means any person, whether acting alone or together with any other person, and with or without holding equity interest or controlling voting power in the licensee, the entity or the business trust, as the case may be —

(a) in accordance with whose directions, instructions or wishes the directors of the licensee, the directors or other officers of the entity, or the trustee-manager of the business trust are accustomed or under an obligation, whether formal or informal, to act; or

(b) who is in a position to determine the policy of the licensee, the entity or the business trust,

but does not include —

(i) in the case of the licensee, a person who is the chief executive officer, a director or the chairman of the board of directors of the licensee whose appointment as such has been approved by the Authority under section 30G; or

(ii) a person in accordance with whose directions, instructions or wishes the directors of the licensee, the directors or other officers of the entity or the trustee-manager of the business trust are accustomed to act by reason only that they act on advice given by him in his professional capacity.

Regulations for carrying out section 30B

30C.—(1) The Authority may, with the approval of the Minister, make such regulations as are necessary or expedient for carrying out the purposes of section 30B.

(2) Without prejudice to the generality of subsection (1), the regulations may prescribe —

- (a) the meaning of equity interest and the circumstances under which a person would be considered to hold a percentage of the total equity interest in a designated electricity licensee, a designated entity or a designated business trust;
- (b) the circumstances under which a person would be considered to be in a position to control a percentage of the voting power in a designated electricity licensee, a designated entity or a designated business trust;
- (c) the circumstances under which a person would be considered to have acquired as a going concern a business referred to in section 30B(3);
- (d) the circumstances under which a person would be considered to be an associate for the purposes of sections 30B, 30D and 30F;
- (e) the conditions which the Authority may impose in granting any approval under section 30B; and
- (f) the period within which a notice under section 30B(1) must be given to the Authority.

Power to issue directions

30D.—(1) The Authority may issue any direction to a person under subsection (2) or (3) if the Authority is satisfied that —

- (a) the person has contravened section 30B(2) or (3);
- (b) any condition of approval imposed on the person under section 30B has not been complied with;
- (c) the person has furnished false or misleading information or documents in connection with an application under section 30B; or
- (d) the Authority would not have granted its approval under section 30B had it been aware, at that time, of circumstances relevant to the person's application for such approval.

(2) Where a person has acquired an equity interest in a designated electricity licensee, a designated entity or a designated business trust, the Authority may —

- (a) direct the transfer or disposal of all or any of the equity interest held by the person or any of his associates (referred to in this section and section 30E as the specified equity interest) within such time and subject to such conditions as the Authority considers appropriate;
 - (b) restrict the transfer or disposal of the specified equity interest; or
 - (c) make such other direction as the Authority considers appropriate.
- (3) Where a person has acquired as a going concern a business referred to in section 30B(3), the Authority may —
- (a) direct the person to transfer or dispose of all or any part of the business within such time and subject to such conditions as the Authority considers appropriate; or
 - (b) make such other direction as the Authority considers appropriate.
- (4) Before issuing any direction to a person under subsection (2) or (3), the Authority shall, unless the Authority decides that it is not practicable or desirable to do so, give to the person written notice of the Authority's intention to issue the direction and specify a date by which the person may make written representations with regard to the proposed direction.
- (5) Upon receipt of any written representation referred to in subsection (4), the Authority shall consider it for the purpose of determining whether to issue the direction.
- (6) Any person to whom a direction is issued under this section shall comply with the direction.
- (7) The Authority may vary or revoke any direction issued under this section.

Effect of directions

30E.—(1) Any direction issued to a person under section 30D shall take effect notwithstanding the provisions of any other written law or anything contained in the memorandum or articles of association, trust deed or other constitution of the designated electricity licensee, the designated entity or the designated business trust, as the case may be.

(2) Where any direction is issued under section 30D(2)(a) or (b), notwithstanding the provisions of any other written law or anything contained in the memorandum or articles of association, trust deed or other constitution, of the licensee, the entity or the business trust, as the case may be —

- (a) no voting rights shall be exercisable in respect of the specified equity interest unless the Authority expressly permits such rights to be exercised;

- (b) no equity interest of the licensee, the entity or the business trust shall be issued or offered (whether by way of rights, bonus or otherwise) in respect of the specified equity interest unless the Authority expressly permits such issue or offer; and
- (c) except in a winding up of the licensee, the entity or the business trust, no payment shall be made by the licensee, the entity or the trustee-manager of the business trust of any amount (whether by way of dividends or otherwise) in respect of the specified equity interest unless the Authority expressly authorises such payment,

until the transfer or disposal is effected in accordance with the direction or until the direction is revoked, as the case may be.

Offences, penalties and defences

30F.—(1) Any person who contravenes section 30B or 30D (6) shall be guilty of an offence and shall be liable on conviction —

- (a) in the case of an individual, to a fine not exceeding \$500,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$50,000 for every day or part thereof during which the offence continues after conviction; or
- (b) in any other case, to a fine not exceeding \$1 million and, in the case of a continuing offence, to a further fine not exceeding \$100,000 for every day or part thereof during which the offence continues after conviction.

(2) Where a person is charged with an offence in respect of a contravention of section 30B(2), it shall be a defence for the person to prove that —

- (a) he was not aware that he had contravened section 30B(2); and
- (b) he has, within 14 days of becoming aware that he had contravened section 30B(2), notified the Authority of the contravention and, within such time as may be determined by the Authority, taken such actions in relation to his holding of equity interest or control of voting power in the licensee, the entity or the business trust as the Authority may direct.

(3) Where a person is charged with an offence in respect of a contravention of section 30B(2), it shall also be a defence for the person to prove that, even though he was aware of the contravention —

- (a) the contravention occurred as a result of an increase in the holding of equity interest or in the voting power controlled by any of his associates;

- (b) he has no agreement or arrangement, whether oral or in writing and whether express or implied, with that associate with respect to the acquisition, holding or disposal of equity interest in, or under which they act together in exercising their voting power in relation to, the licensee, the entity or the business trust; and
- (c) he has, within 14 days of the date of the contravention, notified the Authority of the contravention and, within such time as may be determined by the Authority, taken such actions in relation to his holding of equity interest or control of voting power in the licensee, the entity or the business trust as the Authority may direct.

(4) Except as provided in subsections (2) and (3), it shall not be a defence for a person charged with an offence in respect of a contravention of section 30B(2) to prove that he did not intend to or did not knowingly contravene section 30B(2).

Appointment of chief executive officer, director, etc., of designated electricity licensee

30G.—(1) No designated electricity licensee shall appoint a person as its chief executive officer, its director or the chairman of its board of directors unless it has obtained the prior written approval of the Authority.

(2) Where a person has been appointed by a designated electricity licensee as its chief executive officer, its director or the chairman of its board of directors in contravention of subsection (1), the Authority may issue a direction to the licensee to remove the person as its chief executive officer, its director or the chairman of its board of directors, as the case may be.

(3) This section shall have effect notwithstanding the provisions of any other written law or of the memorandum or articles of association, or other constitution, of the designated electricity licensee.

(4) In this section —

“chief executive officer”, in relation to a designated electricity licensee, means any person, by whatever name described, who is —

- (a) in the direct employment of, or acting for or by arrangement with, the designated electricity licensee; and
- (b) principally responsible for the management and conduct of any type of business of the designated electricity licensee,

and includes any person for the time being performing all or any of the functions or duties of a chief executive officer;

“director” has the same meaning as in section 4(1) of the Companies Act (Cap. 50).”.

Amendment of section 31

14. Section 31 of the Electricity Act is amended —

- (a) by inserting, immediately after the words “authorised by” in subsection (1), the words “or required under”;
- (b) by inserting, immediately after the words “or across any” in subsection (1)(a), the word “land,”;
- (c) by inserting, immediately after subsection (1), the following subsections:

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

- (a) before issuing a notice under subsection (5); or
- (b) in the case of an emergency specified in subsection (5), before carrying out any work,

if the work to be carried out under this section is in relation to any matter specified in subsection (1)(a)(i), (ii) or (iii) which is owned or operated by another electricity licensee.

(1B) The right of a licensee to carry out any work in accordance with this section shall have effect notwithstanding any agreement which prohibits the carrying out of the work.”;

- (d) by deleting the words “generation licensee, market support services licensee or transmission licensee” in subsections (2), (3), (4), (11), (12), (13), (14) and (15) and substituting in each case the words “licensee referred to in subsection (1)”;
- (e) by deleting subsection (5) and substituting the following subsections:

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

(5A) Subject to subsection (6), the owner or occupier of the land who is given a notice under subsection (5) shall comply with the notice and do all things necessary to facilitate the carrying out of the work specified in the notice.”;

- (f) by deleting the words “on expiry of the period specified in the notice,” in subsection (7);
- (g) by deleting the words “Subject to subsection (10), upon” in subsection (9) and substituting the word “Upon”; and
- (h) by deleting subsection (10) and substituting the following subsection:

“(10) The decision of the Authority under subsections (1A) and (9) shall be final.”.

Amendment of section 46

15. Section 46 of the Electricity Act is amended —

(a) by inserting, immediately after subsection (1), the following subsection:

“(1A) For the avoidance of doubt, rules made for the purpose of subsection (1)(a) may make provision governing the activities of market support services licensees in and in relation to any wholesale electricity market.”;

(b) by deleting subsections (2) and (3) and substituting the following subsections:

“(2) The Market Company —

(a) may modify the market rules in accordance with the market rules; and

(b) shall modify the market rules when directed to do so by the Authority.

(3) The market rules made or modified in accordance with this section shall be published by the Market Company in such manner as will secure adequate publicity.”;

(c) by deleting the words “subsection (3)” in subsection (4) and substituting the words “subsection (2)”;

(d) by deleting paragraph (a) of subsection (4) and substituting the following paragraph:

“(a) being a modification made under subsection (2)(a), unjustly discriminates in favour of or against a market participant, a market support services licensee, or a class of market participants or market support services licensees; or”.

Amendment of section 47

16. Section 47 of the Electricity Act is amended by inserting, immediately after the words “market participants”, the words “, the Market Company and market support services licensees”.

Amendment of section 59

17. Section 59 of the Electricity Act is amended by inserting, immediately after subsection (5), the following subsection:

“(5A) An appeal under subsection (5) shall not suspend the effect of a decision or direction to which the appeal relates unless the appeal is against the imposition or the amount of a financial penalty.”.

Amendment of section 65

18. Section 65 of the Electricity Act is amended —

- (a) by inserting, immediately after the words “An Appeal Panel” in subsection (1), the words “established by direction under section 64(3) or 98 (2)”; and
- (b) by deleting the words “the Appeal Panel under section 64(3)” in subsection (2) and substituting the words “an Appeal Panel”.

Amendment of section 66

19. Section 66 of the Electricity Act is amended —

- (a) by deleting the word “and” at the end of subsection (3)(a);
- (b) by deleting the full-stop at the end of paragraph (b) of subsection (3) and substituting the word “; and”, and by inserting immediately thereafter the following paragraph:

“(c) the award of costs and expenses of and incidental to any proceedings before the Appeal Panel.”; and

- (c) by inserting, immediately after subsection (9), the following subsection:

“(9A) An Appeal Panel established by the Minister to consider and determine an appeal under section 98(2) may determine the appeal by confirming, varying or reversing any decision or direction of the Authority or by amending any code of practice or standard of performance issued or approved by the Authority, and the decision of the Appeal Panel shall be final.”.

Amendment of section 80

20. Section 80(1) of the Electricity Act is amended by deleting the words “licensed cable detection work” in paragraph (c) and substituting the words “licensed cable detection worker”.

Amendment of section 98

21. Section 98 of the Electricity Act is amended —

- (a) by deleting subsection (1) and substituting the following subsections:

“(1) A person aggrieved by —

- (a) any decision of the Authority in the exercise of any discretion vested in it by or under this Act, except for section 26(1) or 31 (1A), (9) or (12);
- (b) anything contained in any code of practice or standard of performance issued or approved by the Authority under section 16;
- (c) any direction issued by the Authority under this Act; or
- (d) any notice issued by the Authority under section 5(2)(b),

may, except where provision has been made under this Act for an appeal to be made to an Appeal Panel, appeal to the Minister, together with adequate details of the grounds for the appeal.

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

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

(1C) Unless —

- (a) otherwise provided in this Act; or
- (b) the appeal is against the imposition or the amount of a financial penalty,

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

(b) by deleting subsection (2) and substituting the following subsection:

“(2) Where the Minister considers that an appeal lodged under subsection (1) involves issues of such nature or complexity that it ought to be considered and determined by persons with particular technical or other specialised knowledge, he may, subject to section 65(1), establish by direction an Appeal Panel comprising one or more of such persons to consider and determine the appeal.”; and

(c) by inserting, immediately after the words “code of practice” in subsection (3), the words “or standard of performance issued or”.

Transitional provision

22. Any person who immediately before the date of commencement of the Electricity (Amendment) Act 2006 has been transmitting electricity for or on behalf of a transmission licensee may continue to do so as if this Act had not been enacted —

- (a) for a period of 14 days (or such further period as the Authority may determine) from that date; or
- (b) if, before the expiration of that period, that person applies for a licence under section 9(1)(ba) of the principal Act in force as from that date, until the date on which the licence is granted or the application is refused or withdrawn.