

## ELECTRICITY (AMENDMENT) ACT, 2012

(ACT NO. IX OF 1910).

[18th March, 1910]

<sup>1</sup> An Act to amend the law relating to the supply and use of electrical energy.

WHEREAS it is expedient to amend the law relating to the supply and use of electrical energy; It is hereby enacted as follows:-

### PART I

#### PRELIMINARY

##### Short title, extent and commencement

1. (1) This Act may be called the [Electricity Act](#), 1910.
- (2) It extends to the whole of Bangladesh.
- (3) It shall come into force on such date as the Government may, by notification in the official Gazette, direct in this behalf.

##### Definitions

2. In this Act, expressions defined in the [Telegraph Act](#), 1885, have the meanings assigned to them in that Act, and, unless there is anything repugnant in the subject or context,-

(a) “aerial line” means any electric supply line which is placed above ground and in the open air:

(aa) ‘**agreed margins of error**’ means any margins of error for an electricity meter agreed between the distribution licensee and the consumer; and in the case of inter-utility transfer the utilities concerned;

(aaa) ‘**appointed date**’ means any date designated by appropriate authority, that is, the Government, the Commission, or the Authority, as required by or under any provisions of this Act;

(aaaa) ‘**Authority**’ means the ‘Bangladesh Electricity Authority’ established under the provisions of section 35A of this Act;

(b) “area of supply” means the area within which alone a licensee is for the time being authorised by his license to supply energy:

(bb) ‘**Bangladesh Bank**’ means the Bangladesh Bank established under the ‘Bangladesh Bank Order, 1972 (Presidential Order No. 127 of 1972)’;

(bbb) ‘**Board**’ means the Bangladesh Power Development Board constituted under the ‘Bangladesh Power Development Board Order, 1972 (President’s Order No. 59 of 1972)’;

(bbbb) ‘**BSTI**’ means the Bangladesh Standards and Testing Institution established under ‘The Bangladesh Standards and Testing Institution Ordinance, 1985 (Ordinance No. XXXVII of 1985)’;

(bbbbb) ‘**Chief Electrical Inspector**’ means the Chief Electrical Inspector working under the Power Division of the Ministry of Power, Energy and Mineral Resources, and shall include any Electrical Inspector appointed under section 36 of this Act and placed in his office;

(bbbbb) ‘**Commission**’ means the Bangladesh Energy Regulatory Commission established under the ‘**Bangladesh Energy Regulatory Commission Act, 2003**’;

(c) “consumer” means any person who is supplied with energy by a licensee, or <sup>2</sup> who is the owner or occupier of the premises which] are for the time being connected for the purposes of a supply of energy with the works of a licensee:

(d) “daily fine” means a fine for each day on which an offence is continued after conviction therefor:

(e) “distributing main” means the portion of any main with which a service line is, or is intended to be, immediately connected:

(ee) ‘**distribution licensee**’ means a person authorised by a licence or exemption to supply electricity;

(eee) ‘**dwelling**’ means a building or part of a building occupied, or (if not occupied) last occupied, or intended to be occupied, as a private dwelling or, a private house, and includes any garden, yard, outhouses and appurtenances belonging to or usually enjoyed with that building or part;

(eeee) ‘**electricity**’ means electrical energy or electrical power when generated, produced, transmitted, distributed, supplied or utilised for any purpose;

(eeeee) ‘**electricity board**’ means the Electricity Board constituted under section 35 of this Act;

(f) “electric supply-line” means a wire, conductor or other means used for conveying, transmitting or distributing energy together with any casing, coating, converting, tube, pipe or insulator enclosing, surrounding or supporting the same or any part thereof, or any apparatus connected therewith for the purpose of so conveying, transmitting or distributing such energy:

(ff) ‘**Electric Utility**’ means a legal entity that owns and/or operates facilities for the generation, transmission, distribution, or sale of electric energy;

(g) “energy” means electrical energy when generated, transmitted, supplied or used for any purpose <sup>3</sup> \* \* \*]:

(gg) ‘**fossil fuel**’ means coal, coal products, lignite, natural gas, crude liquid petroleum or petroleum products, and such other products;

(ggg) ‘**generating station**’ means any station for generating electricity, including any building, plant, and the associated sub-station, used for the purpose, and the site thereof;

(gggg) ‘**Government**’ means, for the purposes of this Act, the Power Division of the Ministry of Power, Energy and Mineral Resources, and includes the Authority when specifically mentioned in any provision of this Act, or delegated as such by the Power Division;

(ggggg) ‘**licence**’ means a licence issued under section 28 of the ‘**Bangladesh Energy Regulatory Commission Act, 2003**’;

(h) ‘**licensee**’ means any person licensed under the ‘**Bangladesh Energy Regulatory Commission Act, 2003**’ to generate or transmit or distribute or supply electricity;

(i) “main” means any electric supply-line through which energy is, or is intended to be, supplied by a licensee to the public:

(ii) ‘**non-conventional sources of energy**’ means those sources that are infinite, natural and being continuously replenished by natural processes, and examples of such sources are tides, wind, solar, geothermal heat, and biomass comprising animal waste, agricultural and municipal wastes, etc:

(iii) ‘**non-fossil fuel generating station**’ means a generating station which is fuelled or driven otherwise than by a fossil fuel;

(j) “prescribed” means prescribed by rules made under this Act:

(jj) **‘pre-payment meter’** is a meter for measurement of electricity supplied by a distribution licensee to any consumer at whose premises the meter is installed where the consumer has to pay beforehand or in advance for consumption of or having supply of electricity;

(jjj) **‘prescribed margins of error’** means any standards for allowable margin of error for an electricity meter notified by the Commission by regulations;

(k) **‘public lamp’** means any electric-lamp used for the lighting of any park, street, or any other public places;

(kk) **‘public safety’** means the obviation of danger to the general public, to public property, and to streets, railways, airports, ports, canals, docks, wharves, piers, bridges, gasworks and their appurtenances and telegraphic, telephonic and other electrical signalling lines owned or operated by the Government or any other entity;

(kkk) **‘renewable energy’** means electrical energy generated from hydro, solar, wind, biomass, ocean (including tidal, wave, current, and thermal), geothermal, municipal solid waste, or any other non-fossil fuel;

(kkkk) **‘renewable energy system’** means a system which—

(a) uses –

(i) hydro energy, or

(ii) solar energy, or

(iii) energy derived from the geo-thermal deposits, or

(iv) energy derived from biomass, or

(v) wind energy, or

(vi) any other form of renewable energy; and

(b) meets the performance and quality standards which have been determined by the Commission by regulations;

(kkkkk) **‘Schedule’** means the schedule appended to this Act containing supplementary details of certain provisions of this Act having equal force and effect in law;

(l) “service line” means any electric supply-line through which energy is, or is intended to be, supplied by a licensee –

(i) to a single consumer either from a distributing main or immediately from the licensee's premises, or

(ii) from a distributing main to a group of consumers on the same premises or on adjoining premises supplied from the same point of the distributing main.

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

(mm) **‘tariff customer’** means a person who requires a supply of electricity in pursuance of section 9(1) below and is supplied by the distribution licensee;

(mmm) **‘the necessary right of way’** means consent for the licensee to install and keep installed the electric line on, under or over the land and to have access to the land for the purpose of inspecting, maintaining, adjusting, repairing, altering, replacing or removing the electric line; and

(n) “works” includes electric supply-lines and any buildings, machinery or apparatus required to supply energy and to

carry into effect the objects of a license granted under the **Bangladesh Energy Regulatory Commission Act, 2003 (Act No. XIII of 2003)**.

## **PART II**

### **SUPPLY OF ENERGY**

#### **GENERATION OF ELECTRICITY**

**3. Duties of generation utility.** – (1) Subject to the provisions of this Act, the duties of a generating utility shall be to establish, operate and maintain generating stations, tie-lines or inter-connection lines, and associated sub-stations, to supply electricity to any licensee in accordance with the provisions of this Act or the rules or regulations made thereunder.

(2) Every generating utility shall –

- (a) submit technical details regarding its generating stations to the Commission;
- (b) co-ordinate with the Transmission Utility, for transmission of the electricity generated by it; and
- (c) liaise with the ISO for dispatch of electricity generated by each of its generating stations.

(3) It shall also be the duty of every generation utility to develop a time bound plan to diversify its fuel source and to ensure that the electric energy it sells to consumers is generated using a diverse range of fuels and technologies, including renewable technologies under a pre-determined principle of least-cost generation.

**4. Consent required for construction etc. of generating stations.-** (1) Subject to sub-sections (2) and (4) below, a generating station shall not be constructed, extended or operated except in accordance with a consent granted by the Government, in the form and manner to be prescribed.

(2) Sub-section (1) above shall not apply to a generating station whose capacity –

- (a) does not exceed 25 megawatts; and
- (b) in the case of a generating station which is to be constructed or extended, will not exceed the capacity permitted in clause (a) above, when it is constructed or extended.

(3) An order made by the Government under sub-section (1) may make different provisions for generating stations of different classes or descriptions.

(4) The Government may by order provide that sub-section (2) above shall have effect as if for the permitted capacity mentioned in clause (a) there were substituted by such other capacity as may be specified in the order.

(5) The Government may by order direct that sub-section (1) above shall not apply to generating stations of a particular class or description, either generally or for such purposes as may be specified in the order.

(6) A consent under this section –

- (a) may include such conditions (including conditions as to the ownership or operation of the station) as appear to the Government to be appropriate; and
- (b) shall continue in force for such period as may be specified in or determined by or under the consent.

**Explanation :** In this section ‘extension’, in relation to a generating station, includes the use by the person operating the station of any land (wherever situated) for a purpose directly related to the generation of electricity by that station and ‘extend’ shall be construed accordingly.

**5. Captive generation.**– (1) Notwithstanding anything contained in this Act, a person may construct, maintain or operate a captive generating plant and dedicated transmission lines for use in his own house, industry or other establishments.

(2) Every person, who has constructed a captive generating plant and maintains and operates such plant, shall have the right to open access for the purposes of carrying electricity from his captive generating plant to the destination of his use on payment of charges determined by the Commission:

Provided that such carrying of electricity through the national grid shall be regulated in the manner to be prescribed by the Commission in consultation with the Government:

Provided further that such open access shall be subject to availability of adequate transmission facility and such availability of transmission facility shall be determined by the transmission utility:

Provided further that any dispute regarding the availability of transmission facility shall be adjudicated upon by the Commission.

(3) Notwithstanding anything contained in this Act or any other Act for the time being in force, any surplus electricity of a captive generating unit may be supplied to the distribution licensee in whose area of operation the captive generating station is situated under such terms and conditions as may be mutually agreed upon subject to necessary guidance from the Commission.

**5A. Encouraging Power Generation utilising renewable and non-conventional energy.**– (1) The Government shall, after consultation with the Commission, prepare and notify a national policy, for promotion of generation of electricity based on renewable and other non-conventional sources of energy.

(2) Such policy shall include, inter alia, provisions for such subsidies, feed-in tariff, facilities and incentives, fiscal as well as others, as may be provided by the Government from time to time, to the producers of electricity using renewable sources of energy and the operators of any renewable energy system.

(3) The Government may, by order, require the generating company referred to in clause (a) sub-section (10) of section 29, before a day specified in the order, to make such arrangements as will secure the result mentioned in sub-section (4) below.

(4) The result referred to in sub-section (3) above is that, for a period specified in the order, there will be available to the generation company –

(a) from non-fossil fuel generating stations; or

(b) if the order so provides, from non-fossil fuel generating stations of any particular description, an aggregate amount of generating capacity which is not less than that specified in the order.

(5) The Authority shall carry out programmes that –

(a) provide for the transfer of critical renewable energy technologies to the private sector;

(b) accelerate wider application of those technologies in the market;

(c) foster the exchange of generic, non-proprietary information; and

(d) assess technical and commercial viability of technologies relating to the production, distribution, storage, and use of advanced renewable energy technologies.

**6. Power Market and Single Buyer.**– (1) The Commission shall take necessary steps to undertake and complete a detailed study through competent experts to examine the feasibility of introduction of an open market for power business in Bangladesh.

(2) It shall be the duty of the Commission, based on the outcome of the study, to decide on the introduction, operation and maintenance of an independent, fair and competitive market structure for bulk trading of electricity in the country.

(3) The Commission shall frame regulations in consultation with the Government, respective utilities and concerned organisations to provide guidance to the power market for its smooth functioning well before the said market becomes operational.

(4) The Commission shall facilitate transparency in the power market for the sale and transmission of electric energy, having due regard for the public interest, the integrity of the market, fair competition, and the protection of consumers.

(5) No entity shall, use or employ, directly or indirectly, in connection with the purchase or sale of electric energy, or the purchase or sale of transmission or distribution services, subject to the jurisdiction of the Commission, any manipulative or deceptive device or contrivance, in contravention of such regulations as the Commission may formulate as necessary or appropriate in the public interest or for the protection of electric ratepayers.

(6) Notwithstanding any other provision of law, the Commission shall have exclusive jurisdiction to determine whether any contract for supply of wholesale electricity has –

(a) manipulated the electricity market resulting in unjust and unreasonable rates; and

(b) revoked the seller's authority to sell any electricity at market-based rates.

(7) Until such time as a comprehensive power market is in operation, the single buyer system currently in force shall continue:

Provided that the Commission shall take appropriate measures to facilitate smooth transition from the single buyer system to the open market system in consultation with the Government.

**6A. Cross-border trade in Electricity.** – The Board and/or the Single Buyer may import electricity from and export to any foreign state using the transmission system of the country with previous sanction of the Government at such rate as may be determined by the Government.

## **TRANSMISSION OF ELECTRICITY**

**7. The transmission utility and its functions.**– (1) There shall be one Transmission Utility, which shall be a company incorporated under the **Companies Act, 1994 (Act No. XVIII of 1994)**, to be notified as such by the Government:

Provided that the Transmission Utility shall not engage in the business of generation of electricity or any kind of trading in electricity.

(2) The functions of the transmission utility shall be –

(a) to own, operate, maintain and expand the nation-wide electricity transmission system;

(b) to discharge functions of planning relating to the nation-wide transmission system in co-ordination with –

(i) the Government;

(ii) the Independent System Operator;

(iii) the generating utility;

(iv) the distribution utilities;

(v) other licensees;

(vi) any other person notified by the Government in this behalf;

(c) to ensure development of an efficient, coordinated and economical system of nationwide transmission lines for smooth flow of electricity from generating stations to the load centres all over the country;

(d) to provide non-discriminatory open access to its transmission system for use by –

(i) any licensee or generating company on payment of the transmission charges; or

(ii) any person, as and when such open access is provided subject to the provisions of sub-section (3), on payment of the transmission charges and any surcharge thereon, as may be specified by the Commission;

(e) to comply with the directions of the ISO, as provided for in section 8 below;

(f) to comply with such technical standards of operation and maintenance of the transmission system, in accordance with the Grid Code, as may be specified by the Commission, in consultation with concerned parties, etc.

(3) The Commission shall, in consultation with the licensees, and with the approval of the Government, issue necessary regulations in order to ensure open non-discriminatory access by all the concerned parties to the grid system in Bangladesh.

**8. Independent System Operator.**– (1) An Independent System Operator (hereinafter referred to as the ISO) shall be set up to ensure integrated operation of the power system throughout the country.

(2) The ISO shall be a company incorporated under the **Companies Act, 1994 (Act No. XVIII of 1994)** wholly owned by the Government.

(3) It shall be responsible for optimum scheduling and dispatch of electricity from the generating stations in the country.

(4) It shall comply with such principles, guidelines and methodologies in respect of transmitting and optimum scheduling and dispatch of electricity as provided for in the grid code to be specified by the Commission.

(5) It shall also monitor grid operations, keep accounts of quantity of electricity transmitted through the national grid, and be responsible for carrying out real time operations for grid control and dispatch of electricity all over the country through secure and economic operation of the national grid in accordance with the Grid Code.

(6) It may levy and collect such fee and charges from the generating utility or the transmission utility or the distribution utilities or other licensees as may be determined by the Commission.

**8A. Functions and powers of ISO.**– (1) The ISO shall have the function of monitoring and controlling the operation of the power system with a view to ensuring that the system operates reliably, safely, securely and economically in accordance with a technical code prepared by the ISO and approved by the Commission.

(2) The ISO shall have, in carrying out its functions under this Act, power to issue directions to electricity entities that are engaged in the operation of the power system, or supply electricity to, or take electricity from, the power system.

(3) Without limiting sub-section (2), the directions may include the following:

- (a) to call equipment into service;
- (b) to take equipment out of service;
- (c) to maintain the equipment in standby condition;
- (d) to increase or reduce active or reactive power output;
- (e) to shut down or vary operation; and
- (f) to shed or restore customer loads.

(4) A person who is not an electric utility and who enters into an access agreement with transmission utility must comply with the directions of the ISO.

(5) If an electric utility or a person referred to in sub-section (4) refuses or fails to comply with a legitimate direction of the ISO, the ISO may take action as may be required to maintain safe operation of the system.

(6) Costs, losses and expenses incurred in taking action or causing action to be taken under sub-section (5) are recoverable from the defaulting electric utility by the ISO as a debt in a court of competent jurisdiction.

(7) The ISO shall not own or get involved in any business concerning generation or distribution of electricity.

(8) Until such time as the ISO is constituted and becomes operational, the existing system of discharging of load dispatch functions and single buyer operation may continue on the basis of written order of the Government issued in consultation with the Commission.

**Explanation:** For the purposes of this section, 'equipment' means equipments of any power generating station connected to the national grid system.



## **DISTRIBUTION OF ELECTRICITY**

**9. Duty to supply on request.**– (1) Subject to the provisions of this Act and any rules or regulations made under those provisions, a distribution licensee shall on any application by the owner or occupier of any premises within the area of supply of the licensee –

- (a) connect, supply and maintain the supply of electricity to those premises; and
- (b) so far as may be necessary for that purpose, provide electric lines and other equipments.

(2) A supply of electricity to any premises shall be on the basis of a standard tariff agreement and the requirements set out in this Act, any rules or regulations made thereunder and the distribution licence.

(3) The procedure for finalising an agreement as above is detailed in clause VI of the Schedule.” 1

**9A. Other duties.**– (1) A distribution licensee shall avoid any undue preference or discrimination in the connection of any premises to any electricity distribution system operated by the licensee or in the terms on which the licensee makes connections or supplies electricity.

(2) A distribution licensee shall keep all consumers within the area of supply of the distribution licence (whether existing consumers or those persons requesting a supply) informed of the requirements set out in this chapter and the distribution licence, which have to be fulfilled by a consumer in order to obtain a supply of electricity. Any changes, modifications or amendments to those provisions or requirements will also be notified promptly to them.

(3) A licensee shall not, in making any agreement for the supply of energy, show undue preference to any person, nor shall allow any consumer to use energy supplied to him under one rate of charging in a manner for which a higher rate of charging is in force for other consumer.

(4) In the absence of an agreement to the contrary, a licensee may charge for energy supplied by him to any consumer –

- (a) by the actual amount of energy so supplied, or
- (b) by the connected load in the supply, or
- (c) by such other method as may be approved by the Commission.

(5) Any charges made by a licensee under clause (c) of sub-section (4) may be based upon, and vary in accordance with, any one or more of the following considerations, namely –

- (a) the consumer’s load factor, or
- (b) the power factor of his load, or
- (c) his total consumption of energy during any stated period, or
- (d) the maximum demand by the consumer, load sanctioned by the licensee or contracted load, or
- (e) the hours at which the supply of energy is required.

**9B. Exemption from duty to connect and supply.**– (1) Nothing in this Act shall be deemed to require a distribution licensee to connect and give a supply of electricity to any premises under section 9, if and to the extent that the connection and giving of the supply would result in the distribution licensee being in breach of any provisions of this Act or any rules and regulations made thereunder, and the licensee has taken all such steps as are reasonable to take both to prevent the circumstances from occurring and to prevent them from having that effect.

(2) Nothing in section 9 above shall be deemed to require a distribution licensee to give a supply of electricity to any premises if such premises is not within the area of supply of the licensee.

(3) Nothing in this Act shall be taken as requiring a distribution licensee to give a supply of electricity to any premises if and to the extent that –

(a) he is prevented from doing so by circumstances not within his control; or

(b) it is not reasonable in all the circumstances for him to be required to do so.

**9C. Power to recover charges and expenditure, and to require security.** - (1) Subject to the provisions of this section, the prices to be charged by a distribution licensee for the supply of electricity by him in pursuance of section 9 shall be in accordance with such tariffs fixed by the Commission under section 34 of the **Bangladesh Energy Regulatory Commission Act, 2003 (Act No. XIII of 2003)** from time to time and conditions of his licence.

(2) The Commission may, by regulation, permit a distribution licensee to charge from a person requiring a supply of electricity in pursuance of section 9 any expenses reasonably incurred in providing any electric line or electrical plant used for the purpose of giving that supply.

(3) A distribution licensee may require any person, who requires a supply of electricity in pursuance of section 9, to give him reasonable security for the payment to him of all monies which may become due to him –

(a) in respect of electricity supplied to such person; or

(b) where any electric line or electrical plant or electric meter is to be provided for supplying electricity to that person, in respect of the provision of such line or plant or meter,

and if that person fails to give such security, the distribution licensee may, if he thinks fit, refuse to give the supply of electricity or to provide the line or plant or meter for the period during which the failure continues.

(4) Where any person has not given such security as is mentioned in sub-section (3) or the security given by any person has become invalid or insufficient, the distribution licensee may, by notice, require that person, within thirty days after the service of the notice, to give him reasonable security for the payment of all monies which may become due to him in respect of the supply of electricity or provision of such line or plant or meter.

(5) If the person referred to in sub-section (4) fails to give such security, the distribution licensee may, if he thinks fit, discontinue the supply of electricity for the period during which the failure continues.

(6) The distribution licensee shall pay interest equivalent to 50% of the prevailing bank rate on the security and refund such security on the request of the person who gave such security:

Provided the amount of security will not be refundable until supply of electricity by the licensee to the person continues:

Provided further that where there were instances of such person being default of payment at any stage of his receiving supply of electricity from the licensee, and the licensee had to discontinue supply, or adjust the receivables from the security money, the person shall not be entitled to any interest on the security deposit.

(7) A distribution licensee shall not be entitled to require security in pursuance of clause (a) of sub-section (3) if the person requiring the supply is prepared to take the supply through a pre-payment meter.

**10. Additional terms of supply.**– A distribution licensee may require any person who requires a supply of electricity in pursuance of section 9 to accept –

(a) any restrictions which may be imposed for the purpose of enabling the distribution licensee to comply with the provisions of this Act or any rules and regulations made under this Act;

(b) any terms restricting any liability of the distribution licensee for economic loss resulting from negligence which it is reasonable in all the circumstances for that person to be required to accept.

**10A Special agreements with respect to supply.**– (1) Notwithstanding anything in sections 9A, 9B, 9C and 10 above, a person who requires a supply of electricity in pursuance of section 9(1) above –

(a) may enter into a special agreement with the distribution licensee for the supply on such terms as may be specified in the agreement; and

(b) shall enter into such an agreement in any case where it is otherwise reasonable in all the circumstances for such an agreement to be entered into.

(2) So long as any such agreement as is mentioned in sub-section (1) above is effective, the rights and liabilities of the parties to the agreement shall be those arising under the agreement and not those provided for in this Act.

**10B. Purchase of bulk electricity by any distribution licensee.**– (1) Any distribution licensee, having a defined area of operation, and its own 132 KV network within its area of operation, where MW/sq.km is more than 15 MW may get supply of bulk electricity at 132 KV level.

(2) The distribution licensee shall be responsible for operation and maintenance of its 132 KV network meant for dedicated supply of bulk electricity to that licensee only:

Provided that the distribution licensee may take support from the transmission licensee for a specific period if it lacks in necessary expertise manpower.

**10C. The Electricity Supply Code.** – The Commission shall specify an electricity supply code to provide for, in light with the provisions of this Act, the procedure and methodology of –

(a) recovery of electricity charges;

(b) intervals for billing of electricity charges;

(c) disconnection of supply of electricity for non-payment thereof;

(d) restoration of supply of electricity;

(e) measures for preventing tampering, distress or damage to electrical plant, or electrical line or meter;

(f) entry of distribution licensee or any person acting on his behalf for disconnecting supply and removing the meter;

(g) entry for replacing, altering or maintaining electric lines or electrical plants or meter; and

(h) other relevant matters.

## **PRIVATE SECTOR PARTICIPATION**

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**11. Private investment in power generation.**– (1) The Government shall promote participation of the private investors, both local and foreign, in the field of power generation, harness competition, and ensure sustainable, economic and efficient operation of the power system.

(2) The Government shall also create enabling environment for development of local private entrepreneurship for taking up power generation projects.

(3) Details of private participation in the power sector shall be delineated by the Government through policy guidelines.

**11A. Private Participation in transmission and distribution of electricity.**– (1) The Government may, in consultation with the Commission, and the respective utilities, with the end in view to promote private sector participation and also to make available required investments in transmission of electricity, and if it is found feasible and economic, issue necessary policy guidelines for construction of any electricity transmission facility in the country in whole or in part, which might constitute a distinct part of the transmission system of the country.

(2) The Government may, in consultation with the Commission and the utilities concerned, issue necessary policy guidelines to enable participation of private sector in the development, operation and maintenance of the electricity distribution network in the country.

(3) Selection of private entrepreneurs for the purposes of sub-section (1) and (2) above shall be done through open competitive bidding, and the whole process shall be guided by the policy formulated under the respective sub-section.

**11B. Public-Private Partnership.**– The Government may, in consultation with the Commission, the electric utilities, and other interested persons and organisations, issue policy guidelines for introduction and promotion of public-private partnership in the power sector in line with the overall Governmental policy regarding public-private partnership.

## Works

### Provisions as to the opening and breaking up of streets, railways

12. (1) Any licensee may, from time to time but subject always to the terms and conditions of his license, within the area of supply, or when permitted by the terms of his license to lay down or place electric supply-lines without the area of supply, without that area-

(a) open and break up the soil and pavement of any street, railway or any kind of mass public transport system including, but not limited to, mono-rail, MRT (Mass Rapid Transit), LRT (light Rail Transit), BRT (Bus Rapid Transit), etc.;

(b) open and break up any sewer, drain or tunnel in or under any street, railway or any kind of mass public transport system including, but not limited to, mono-rail, MRT (Mass Rapid Transit), LRT (light Rail Transit), BRT (Bus Rapid Transit), etc.;

(c) lay down and place electric supply-lines and other works;

(d) repair, alter or remove the same; and

(e) do all other acts necessary for the due supply of energy.

(2) Nothing contained in sub-section (1) shall be deemed to authorise or empower a licensee,<sup>51</sup> without intimation to the local authority or to the owner or occupier concerned, as the case may be, to lay down or place any electric supply-line or other work in, through or against any building, or on, over or under any land not dedicated to public use whereon, wherever or whereunder any electric supply-line or work has not already been lawful laid down or placed by such licensee:

Provided that any support of an aerial line or any stay or strut required for the sole purpose of securing in position any support of an aerial line may be fixed on any building or land or, having been so fixed, may be

altered, notwithstanding the objection of the owner or occupier of such building or land, if the District Magistrate by order in writing so directs:

Provided, also, that, if at any time the owner or occupier of any building or land on which any such support, stay or strut has been fixed shows sufficient cause, the District Magistrate may by order in writing direct any such support, stay or strut to be removed or altered.

(3) When making an order under sub-section (2), the District Magistrate, shall fix the amount of compensation or of annual rent, or of both, which should in his opinion be paid by the licensee to the owner or occupier.

(4) Every order made by a District Magistrate under sub-section (2) shall be subject to revision by the Government.

(5) Nothing contained in sub-section (1) shall be deemed to authorise or empower any licensee to open or break up any street not repairable by the Government or a local authority, or any railway or tramway, except such streets, railways or any kind of mass public transport system including, but not limited to, mono-rail, MRT (Mass Rapid Transit), LRT (light Rail Transit), BRT (Bus Rapid Transit), etc. (if any), or such parts thereof, as he is specially authorised to break up by his license, without the written consent of the person by whom the street is repairable or of the person for the time being entitled to work the railway or any kind of mass public transport system including, but not limited to, mono-rail, MRT (Mass Rapid Transit), LRT (light Rail Transit), BRT (Bus Rapid Transit), etc. unless with the written consent of the Government:

Provided that the Government shall not give any such consent as aforesaid, until the licensee has given notice by advertisement or otherwise as the Government may direct, and within such period as the Government may fix in this behalf, to the person above referred to, and until all representations or objections received in accordance with the notice have been considered by the Government.

#### **Notice of new works**

13. (1) Where the exercise of any of the powers of a licensee in relation to the execution of any works involves the placing of any works in, under, over, along or across any street, part of a street, railway, tramway, canal or waterway, the following provisions shall have effect, namely:-

(a) not less than one month before commencing the execution of the works (not being a service line immediately attached, or intended to be immediately attached, to a distributing main, or the repair, renewal or amendment of existing works of which the character or position is not to be altered), the licensee shall serve upon the person responsible for the repair of the street or part of a street (hereinafter in this section referred to as "the repairing authority") or upon the person for the time being entitled to work the railway, canal or waterway (hereinafter in this section referred to as "the owner"), as the case may be, a notice in writing describing the proposed works, together with a section and plan thereof on a scale sufficiently large to show clearly the details of the proposed works, and not in any case smaller than one inch to eight feet vertically and sixteen inches to the mile horizontally and intimating the manner in which, and the time at which, it is proposed to interfere with or alter any existing works, and shall, upon being required to do so by the repairing authority or owner, as the case may be, from time to time give such further information in relation thereto as may be desired;

(b) if the repairing authority intimates to the licensee that it disapproves of such works, section or plan, or approves thereof subject to amendment, the licensee may, within one week of receiving such intimation, appeal to the Government, whose decision, after considering the reasons given by the repairing authority for its action, shall be final;

(c) if the repairing authority fails to give notice in writing of its approval or disapproval to the licensee within one month, it shall be deemed to have approved of the works, section and plan, and the licensee, after giving not less than forty-eight hours' notice in writing to the repairing authority, may proceed to carry out the works in accordance with the notice and the section and plan served under clause (a);

(d) if the owner disapproves of such works, section or plan, or approves thereof subject to amendment, he may, within three weeks after the service of the notice under clause (a), serve a requisition upon the licensee demanding that any question in relation to the works or to compensation, or to the obligations of the owner to others in respect thereof, shall be determined in accordance with the provisions of section 52, and thereupon the matter shall, unless settled by agreement, be determined in accordance with the provisions of section 52;

(e) where no requisition has been served by the owner upon the licensee under clause (d), within the time named, the owner shall be deemed to have approved of the works, section and plan, and in that case, or where after a requisition the matter has been determined in accordance with the provisions of section 52, the works may, upon payment or securing of compensation, be executed according to the notice and the section and plan, subject to such modifications as may have been determined in accordance with the provisions of section 52 or agreed upon between the parties;

(f) where the works to be executed consist of the laying of any underground service line immediately attached, or intended to be immediately attached, to a distributing main, the licensee shall give to the repairing authority or the owner, as the case may be, not less than forty-eight hours' notice in writing of his intention to execute such works;

(g) where the works to be executed consist of the repair, renewal or amendment of existing works of which the character or position is not to be altered, the licensee shall, except in cases of emergency, give to the repairing authority, or to the owner, as the case may be, not less than forty-eight hours' notice in writing of his intention to execute such works, and, on the expiry of such notice, such works shall be commenced forthwith and shall be carried on with all reasonable despatch, and, if possible, both by day and by night until completed.

(2) Where the licensee makes default in complying with any of these provisions, he shall make full compensation for any loss or damage incurred by reason thereof, and, where any difference or dispute arises as to the amount of such compensation, the matter shall be determined in accordance with the provisions of section 52.

(3) Notwithstanding anything in this section, the licensee may, in case of emergency due to the breakdown of an underground electric supply-line, after giving notice in writing to the repairing authority or the owner, as the case may be, of his intention to do so, place an aerial line without complying with the provisions of sub-section (1):

Provided that such aerial line shall be used only until the defect in the underground electric supply-line can be made good, and in no case unless with the written consent of the Government for a period exceeding six weeks, and shall be removed as soon as may be after such defect is removed.

#### **Alteration of pipes or wires**

14. (1) Any licensee may alter the position of any pipe (not forming, in a case where the licensee is not a local authority, part of a local authority's main sewer), or of any wire under or over any place which he is authorised to open or break up, if such pipe or wire is likely to interfere with the exercise of his powers under this Act; and any person may alter the position of any electric supply-lines or works of a licensee under or over any such place as aforesaid, if such electric supply-lines or works are likely to interfere with the lawful exercise of any powers vested in him.

(2) In any such case as aforesaid the following provisions shall, in the absence of an agreement to the contrary between the parties concerned, apply, namely:-

(a) not less than one month before commencing any alteration, the licensee or other person desiring to make the same (hereinafter in this section referred to as "the operator") shall serve upon the person for the time being entitled to the pipe, wire, electric supply-lines or works as the case may be (hereinafter in this section referred to as "the owner"), a notice in writing, describing the proposed alteration, together with a section and plan thereof on a scale sufficiently large to show clearly the details of the proposed works, and not in any case smaller than one inch to eight feet vertically and sixteen inches to the mile horizontally, and intimating the time when it is to be commenced, and shall subsequently give such further information in relation thereto as the owner may desire;

(b) within fourteen days after the service of the notice, section and plan upon the owner, the owner may serve upon the operator a requisition to the effect that any question arising upon the notice, section or plan shall be determined in accordance with the provisions of section 52, and thereupon the matter shall, unless settled by agreement, be determined in accordance with the provisions of section 52;

(c) every arbitrator to whom a reference is made under clause (b) shall have regard to any duties or obligations which the owner is under, and may require the operator to execute any temporary or other works so as to avoid, as far as possible, interference therewith;

(d) where no requisition is served upon the operator under clause (b) within the time named, or where such a requisition has been served and the matter has been settled by agreement or determined in accordance with the provisions of section 52, the alteration may, upon payment or securing of any compensation accepted for determined in accordance with the provisions of section 52, be executed in accordance with the notice, section and plan and subject to such modifications as may have been determined in accordance with the provisions of section 52 or agreed upon between the parties;

(e) the owner may, at any time before the operator is entitled to commence the alteration, serve upon the operator a statement in writing to the effect that he desires to execute the alteration himself and requires the operator to give such security for the repayment of any expenses as may be agreed upon or, in default of agreement, determined in accordance with the provisions of section 52;

(f) where a statement is served upon the operator under clause (e), he shall, not less than forty-eight hours before the execution of the alteration is required to be commenced, furnish such security and serve upon the owner a notice in writing intimating the time when the alteration is required to be commenced, and the manner in which it is required to be made; and thereupon the owner may proceed to execute the alteration as required by the operator;

(g) where the owner declines to comply, or does not, within the time and in the manner prescribed by a notice served upon him under clause (f), comply with the notice, the operator may himself execute the alteration;

(h) all expenses properly incurred by the owner in complying with a notice served upon him by the operator under clause (f) may be recovered by him from the operator.

(3) Where the licensee or other person desiring to make the alteration makes default in complying with any of these provisions, he shall make full compensation for any loss or damage incurred by reason thereof, and, where any difference or dispute arises as to the amount of such compensation, the matter shall be determined in accordance with the provisions of section 52.

**14A. Alteration of works.**– (1) A licensee may execute works in exercise of the powers conferred by section 13, notwithstanding that they involve a temporary or permanent alteration of any of the following –

(a) any electric line or electrical plant under the control of another licensee;

(b) any pipe, including any pipe used for the conveyance of gas, which (whether or not is in a street) which is under the control of a gas undertaker, a water undertaker, a sewerage undertaker or a person supplying water in the exercise of statutory powers;

(c) any telecommunication apparatus used for the purposes of a telecommunication system which is operated by a person licensed under the **Bangladesh Telecommunications Act, 2001 (Act No. XVIII of 2001)**;

(d) any telecommunication apparatus used for the purposes of a telegraphic system which is operated by the Bangladesh railway; or

(e) any telecommunication apparatus used for the purposes of a cable television distribution system to which the **Cable Television Network Operations Act, 2006 (Act No. XXXVI of 2006)** applies; or

(f) any telecommunication apparatus used for the purposes of an internet service network to which the **Bangladesh Telecommunications Act, 2001 (Act No. XVIII of 2001)** applies.

(2) Where a licensee is proposing to execute works in exercise of the powers conferred by section 13 which involve or are likely to involve any such alteration as is referred to in clauses (a), (b), (c), (d), (e) or (f) of sub-section (1) the succeeding provisions of this section shall apply and a reference in those provisions to “relevant undertaker” shall be deemed to be a reference to an undertaker referred to in clauses (a), (b), (c), (d), (e) or (f) of sub-section (1).

(3) A member of the public may request the relevant licensee to carry out alterations in respect of any electric line or electrical plant notwithstanding that such works may fall within clause (a) of sub-section (1).



(4) Subject to the provisions of sub-section (5), a licensee shall, not less than one month prior to the commencement of the works, give the relevant undertaker a notice specifying the nature of the works proposed to be executed by the licensee, the alteration or likely alteration involved, and the time and place at which the execution of the works will be commenced.

(5) The provisions of sub-section (4) shall not apply in relation to any emergency works of which the licensee gives the relevant undertaker notice as soon as practicable after commencing the execution of the works.

(6) Where a notice has been given under sub-section (4) by the licensee to the relevant undertaker, the undertaker may, within the period of seven days of the date of the notice, give the licensee a counter notice which may state either –

(a) that the undertaker intends himself or herself to make any alteration made necessary or expedient by the works proposed to be executed by the licensee; or

(b) that he or she requires the licensee to make any such alteration under the supervision, and to the satisfaction of, the undertaker.

(7) Where a counter notice given under sub-section (6) states that the relevant undertaker intends himself or herself to make any alteration –

(a) the undertaker shall have the right, instead of the licensee, to execute any works for the purpose of making that alteration; and

(b) any reasonable expenses incurred by the undertaker in or in connection with the execution of those works and the amount of any loss or damage sustained by the undertaker in consequence of the alteration shall be recoverable by the undertaker from the licensee.

(8) Where a counter notice given under sub-section (6) states that any alteration is to be made under the supervision, and to the satisfaction of, the relevant undertaker –

(a) the licensee shall not make the alteration except in compliance with the requirements of the counter notice; and

(b) any reasonable expenses incurred by the undertaker in or in connection with the provision of that supervision and the amount of any loss or damage sustained by the undertaker in consequence of the alteration shall be recoverable by the undertaker from the licensee.

(9) Where –

(a) no counter notice is given under sub-section (6); or

(b) the relevant undertaker, having given a counter notice under that sub-section fails to make any alteration made necessary or expedient by the works proposed to be executed by the licensee, within any such period (being not less than forty eight hours) as the licensee may by notice specify or, as the case may be, unreasonably fails to provide the required supervision,

the licensee may execute works for the purpose of making the alteration or, as the case may be, may execute such works without the supervision of the undertaker; but in either case the licensee shall execute the works in accordance with the standard practices.

**14B. Alteration by other utilities.**– (1) Notwithstanding anything contained in any other law for the time being in force, nobody including the public utility authorities mentioned in sub-section (1) of section 14A above can execute any work involving a temporary or permanent alteration of any electric line or electrical plant under the control of a licensee without written consent of that licensee.

(2) In case the concerned licensee does not provide written consent as mentioned under sub-section (1) above, he shall immediately take up the necessary work and execute the same within the shortest possible time and with due diligence to the cause of public safety and security.

#### **Laying of electric supply-lines or other works near sewers, pipes or other electric supply-lines or works**

15. (1) Where-

(a) the licensee requires to dig or sink any trench for laying down any new electric supply-lines or other works, near to which any sewer, drain, water-course or work under the control of the Government or of any local authority, or any pipe, syphon, electric supply-line or other work belonging to any duly authorised person, has been lawfully placed, or

(b) any duly authorised person requires to dig or sink any trench for laying down or constructing any new pipes or other works, near to which any electric supply-lines or works of a licensee have been lawfully placed,

the licensee or such duly authorised person, as the case may be (hereinafter in this section referred to as “the operator”), shall, unless it is otherwise agreed upon between the parties interested or in case of sudden emergency, give to the Government or local authority, or to such duly authorised person or to the licensee, as the case may be (hereinafter in this section referred to as “the owner”), <sup>6</sup>[ immediate intimation in writing by special messenger or by telephonic message followed by written intimation] before commencing to dig or sink the trench and the owner shall have the right to be present during the execution of the work, which shall be executed to the reasonable satisfaction of the owner.

(2) Where the operator finds it necessary to undermine, but not to alter, the position of any pipe, electric supply-line or work, he shall support it in position during the execution of the work, and before completion shall provide a suitable and proper foundation for it where so undermined.

(3) Where the operator (being the licensee) lays any electric supply-line across, or so as to be liable to touch, any pipes, lines or service-pipes or service-lines belonging to any duly authorised person or to any person supplying, transmitting or using energy under this Act, he shall not, except with the written consent of such person and in accordance with section 34, sub-section (1), lay his electric supply-lines so as to come into contact with any such pipes, lines or service-pipes or service-lines.

(4) Where the operator makes default in complying with any of the provisions of this section, he shall make full compensation for any loss or damage incurred by reason thereof.

(5) Where any difference or dispute arises under this section, the matter shall be determined in accordance with the provisions of section 52.

(6) Where the licensee is a local authority, the references in this section to the local authority and to sewers, drains, water-courses or works under its control shall not apply.

#### **Streets, railways, sewers, drains or tunnels broken up to be reinstated without delay**

16. (1) Where any person, in exercise of any of the powers conferred by or under this Act, opens or breaks up the soil or pavement of any street, railway, or any sewer, drain or tunnel, he shall-

(a) immediately cause the part opened or broken up to be fenced and guarded;

(b) before sunset cause a light or lights, sufficient for the warning of passengers, to be set up and maintained until sunrise against or near the part opened or broken up;

(c) with all reasonable speed fill in the ground and reinstate and make good the soil or pavement, or the sewer, drain or tunnel, opened or broken up, and carry away the rubbish occasioned by such opening or breaking up; and

(d) after reinstating and making good the soil or pavement, or the sewer, drain or tunnel broken or opened up, keep the same in good repair for three months and for any further period, not exceeding nine months, during which subsidence continues.

(2) Where any person fails to comply with any of the provisions of sub-section (1), the person having the control or management of the street, railway, sewer, drain or tunnel in respect of which the default has occurred, may cause to be executed the work which the defaulter has delayed or omitted to execute, and may recover from him the expenses incurred in such execution.

(3) Where any difference or dispute arises as to the amount of the expenses incurred under sub-section (2), the matter shall be determined in accordance with the provisions of section 52.

#### ***Notice to the authorities***

17. (1) A licensee shall, before laying down or placing, within ten yards of any part of any telegraph-line, any electric supply-line or other works (not being either service lines or electric supply-lines for the repair, renewal or amendment of existing works of which the character or position is not to be altered), give not less than ten days notice in writing to the telegraph-authority, specifying-

- (a) the course of the works or alteration proposed,
- (b) the manner in which the works are to be utilised,
- (c) the amount and nature of the energy to be transmitted, and
- (d) the extent to, and manner in, which (if at all) earth returns are to be used;

and the licensee shall conform with such reasonable requirements, either general or special, as may be laid down by the telegraph authority within that period for preventing any telegraph-line from being injuriously affected by such works or alterations:

Provided that, in case of emergency (which shall be stated by the licensee in writing to the telegraph-authority) arising from defects in any of the electric supply-lines or other works of the licensee, the licensee shall be required to give only such notice as may be possible after the necessity for the proposed new works or alterations has arisen.

(2) Where the works to be executed consist of the laying or placing of any service line, the licensee shall, not less than forty-eight hours before commencing the work, serve upon the telegraph-authority a notice in writing of his intention to execute such works.

(3) On the day preceding the day of commencement of any works, the licensee shall serve upon the Chief Electrical Inspector a notice in writing stating that he is about to commence the works, and the nature and position of the same.

#### **Aerial lines**

18. (1) Save as provided in section 13, sub-section (3), nothing in this Part shall be deemed to authorise or empower a licensee to place any aerial line along or across any street, railway, canal or waterway unless and until the Government has communicated to him a general approval in writing of the methods of construction which he proposes to adopt:

Provided that the communication of such approval shall in no way relieve the licensee of his obligations with respect to any other consent required by or under this Act.

(1a) The provisions contained in sub-section (1) shall not apply –

- (a) in relation to so much of an electric line as is or will be within premises in the occupation or control of the person responsible for its installation; or
- (b) in such other cases as may be specified by the Government.

(2) Where any aerial line has been placed or maintained by a licensee in breach of the provisions of sub-section (1), the Government may require the licensee forthwith to remove the same, or may cause the same to be removed, and recover from the licensee the expenses incurred in such removal.

(3) Where any tree standing or lying near an aerial line, or where any structure or other object which has been placed or has fallen near an aerial line subsequently to the placing of such line, interrupts or interferes with, or is likely to interrupt or interfere with, the conveyance or transmission of energy or the accessibility of any works, an Executive Magistrate or Judicial Magistrate, as the case may be, may, on the application of the licensee, cause the tree, structure or object to be removed or otherwise dealt with as he thinks fit.

(4) When disposing of an application under sub-section (3), the Magistrate shall, in the case of any tree in existence before the placing of the aerial line, award to the person interested in the tree such compensation as he thinks reasonable, and such person may recover the same from the licensee.

**Explanation** – For the purposes of this section, the expression “tree” shall be deemed to include any shrub, hedge, jungle-growth or other plant.

(5) The provisions of sub-sections (3) and (4) and of the Explanation thereto shall apply in the case of any aerial line placed by any railway administration as defined in section 3 of the [Railways Act, 1890](#), as if references therein to the licensee were references to the railway administration.

### **Compensation for damage**

19. (1) A licensee shall, in exercise of any of the powers conferred by or under this Act, cause as little damage, detriment and inconvenience as may be, and shall make full compensation for any damage, detriment or inconvenience caused by him or by any one employed by him.

(2) Save in the case provided for in section 12, sub-section (3), where any difference or dispute arises as to the amount or the application of such compensation, the matter shall be determined in accordance with the provisions of section 52.

### **Supply**

#### **Point where supply is delivered**

7 19A. For the purposes of this Act, the point at which the supply of energy by a licensee to a consumer shall be deemed to commence shall be determined in such manner as may be prescribed.]

#### **Power for licensee to enter premises and to remove fittings or other apparatus of licensee**

20. (1) A licensee or any person duly authorised by a licensee may, at any reasonable time, and on informing the occupier of his intention, enter any premises to which energy is or has been supplied by him, or any premises or land, under, over, along, across, in or upon which the electric supply-lines or other works have been lawfully placed by him, for the purpose of-

(a) inspecting and testing the electric supply-lines, meters, fittings, works, and apparatus for the supply of energy belonging to the licensee; or

(b) ascertaining the amount of energy supplied or the electrical quantity contained in the supply; or

(c) removing, where a supply of energy is no longer required, or where the licensee is authorised to take away and cut off such supply, any electric supply-lines meters, fittings, works or apparatus belonging to the licensee.

(2) A licensee or any person authorised as aforesaid, in pursuance of a special order in this behalf made by an Executive Magistrate, and after giving not less than twenty-four hours notice in writing to the occupier, may also –

(a) enter any premises or land referred to in sub-section (1) for any of the purposes mentioned therein;

(b) enter any premises to which electricity is to be supplied by him, for the purpose of examining and testing the electric wires, fittings, works and apparatus for the use of electricity belonging to the consumer.

(3) Where a consumer refuses to allow a licensee or any person authorised as aforesaid to enter his premises or land in pursuance of the provisions of sub-section (1) or sub-section (2), or, when such licensee or person has so entered, refuses to allow him to perform any act which he is authorised by those sub-sections to perform, or fails to give reasonable facilities for such entry or performance, the licensee may, after the expiry of twenty-four hours from the service of a notice in writing on the consumer, cut off the supply to the consumer for so long as such refusal or failure continues, but for no longer.

#### **Restrictions on licensee’s controlling or interfering with use of energy**

21. (1) A licensee shall not be entitled to prescribe any special form of appliance for utilising energy supplied by him, or, save as provided by section 23, sub-section (2), or by section 26, sub-section (7), in anyway to control or interfere with the use of such energy:

Provided that no person may adopt any form of appliance, or use the energy supplied to him, so as unduly or improperly to interfere with the supply by the licensee of energy to any other person.

(2) Subject to the provisions of sub-section (1), a licensee may, with the previous sanction of the Government, given after consulting the local authority, where the licensee is not the local authority, make conditions not inconsistent with this Act or with his license or with any rules made under this Act, to regulate his relations with persons who are or intend to become consumers, and may, with the like sanction given after the like consultation, add to or alter or amend any such conditions; and any conditions made by a licensee without such sanction shall be null and void:

<sup>9</sup>[ \* \* \* ]

(3) The Government may, after the like consultation, cancel any condition or part of a condition previously sanctioned under sub-section (2) after giving to the licensee not less than one month's notice in writing of its intention so to do.

(4) Where any difference or dispute arises as to whether a licensee has prescribed any appliance or controlled or interfered with the use of energy in contravention of sub-section (1), the matter shall be determined in accordance with the provisions of section 52.

#### **Obligation on licensee to supply energy**

22. Where energy is supplied by a licensee, every person within the area of supply shall, except in so far as is otherwise provided by the terms and conditions of the license, be entitled, on application, to a supply on the same terms as those on which any other person in the same area is entitled in similar circumstances to a corresponding supply:

Provided that no person shall be entitled to demand, or to continue to receive, from a licensee a supply of energy for any premises having a separate supply unless he has agreed with the licensee to pay to him such minimum annual sum as will give him a reasonable return on the capital expenditure, and will cover other standing charges incurred by him in order to meet the possible maximum demand for those premises, the sum payable to be determined in case of difference or dispute in accordance with the provisions of section 52.

**22A. Obligation towards preservation of environment.**– (1) A person authorised by a licence, or exempted from the requirement to obtain a licence, to generate, transmit, distribute or supply electricity –

(a) shall, in generating, transmitting, distributing or supplying electricity, have regard to the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest; and

(b) shall do what the person reasonably can to mitigate any effect which such generation, transmission, distribution or supply would have on the natural beauty of the countryside or on any such flora, fauna, features, sites, buildings or objects.

(2) Without prejudice to the provisions of sub-section (1), a person authorised by a licence, or exempted from the requirement to obtain a licence, to generate, transmit, distribute or supply electricity and the Commission shall, in generating, transmitting, distributing or supplying electricity, or as the case may be, in the discharge of the Commission's functions, avoid, so far as reasonably practicable, causing injury to fisheries or to the stock of fish in any waters.

(3) A generation licensee shall, in circumstances specified by the Commission, be entitled to construct, subject to conditions specified by the commission in consultation with the relevant water authority, water ways and pipelines, and to use water for its licensed activities and the relevant water authority shall not unreasonably deny such right.

(4) For the purpose of the above sub-section, the 'relevant water authority' means such authority as the Commission shall determine.

#### **Charges for energy to be made without undue preference**

23. (1) A licensee shall not, in making any agreement for the supply of energy, show undue preference to any person, but may, save as aforesaid, make such charges for the supply of energy as may be agreed upon, not exceeding the limits imposed by his license.

(2) No consumer shall, except with the consent in writing of the licensee, use energy supplied to him under one method of charging in a manner for which a higher method of charging is in force.

(3) In the absence of an agreement to the contrary, a licensee may charge for energy supplied by him to any consumer-

(a) by the actual amount of energy so supplied, or

<sup>10</sup> (b) by the connected load in the supply, or]

(c) by such other method as may be approved by the Commission.

(4) Any charges made by a licensee under clause (c) of sub-section (3) may be based upon, and vary in accordance with, any one or more of the following considerations, namely:-

(a) the consumer's load factor, or

(b) the power factor of his load, or

(c) his total consumption of energy during any stated period, or

<sup>11</sup> (cc) the maximum demand by the consumer, load sanctioned by the licensee or contracted load, or]

(d) the hours at which the supply of energy is required.

**23A. Provision of subsidy by the Government.**— If the Government requires the grant of any subsidy to any consumer or class of consumers, the utility concerned shall implement the subsidy provided for by the Government:

Provided that the Government shall make provisions for necessary amount of money and cause the payment of the calculated subsidy amount to be made to the respective licensee within a reasonable time limit.

**24. Disconnection of supply in default of payment.**— (1) Where any person neglects to pay any charge for electricity or any sum other than a charge for electricity due from him to a licensee in respect of supply, transmission or distribution or wheeling of electricity to him, the licensee may, after giving not less than fifteen clear days' notice in writing, to such person and without prejudice to his rights to recover such charge or other sum by suit, cut off the supply of electricity and for that purpose cut or disconnect any electric supply line or other works being the property of such licensee through which electricity may have been supplied, transmitted, distributed or wheeled:

Provided that the supply of electricity shall not be cut off if such person deposits, under protest, —

(a) an amount equal to the sum claimed from him, or

b) the electricity charges due from him for each month calculated on the basis of average charge for electricity paid by him during the preceding six months, whichever is less, pending disposal of any dispute between him and the licensee, and ,

in such case the matter shall forthwith be referred to the Chief Electrical Inspector for resolution, who shall decide within not more than sixty days the actual outstanding amount payable by the person:

Provided further that a distribution licensee may replace the existing meter with a prepayment meter as a less intrusive alternative than the disconnection of service of any repeatedly defaulting consumer.

(2) Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied and the licensee shall not cut off the supply of the electricity.

(3) Sub-section (1) above shall not apply in relation to a supply of electricity which is being given to any premises unless the distribution licensee gives to the occupier, or to the owner if the premises are not occupied, not less than seven working days' notice of his intention to discontinue the supply in pursuance of that sub-section.

**24A. Discontinuation of supply for other reasons.**– (1) The licensee shall also be entitled to discontinue such supply to any premises –

- (a) if the owner or occupier of the premises to which the supply is made has not already given security, or if any security given by him has become invalid or insufficient, or there is change of owner or occupier, and such owner or occupier fails to furnish security or to make up the original security to a sufficient amount according to the prevalent rate, as the case may be, within seven days after the service upon him of notice from the licensee requiring him so to do; or
- (b) if the owner or occupier of the premises to which the supply is made adopts any appliance, or uses the energy supplied to him by the licensee for any purposes, or deals with it in any manner, so as unduly or improperly to interfere with the efficient supply of energy to any other person by the licensee; or
- (c) if the electric wires, fittings, works and apparatus in such premises are not in good order and condition, and are consequently likely to affect injuriously the use of energy by the licensee, or by other persons; or
- (d) if the owner or occupier makes any alterations of, or additions to, any electric wires, fittings, works or apparatus within such premises as aforesaid, and does not notify the same to the licensee before the same are connected to the source of supply, with a view to their being examined and tested, accounted and charged for; or
- (e) if the owner or occupier of the premises to which the supply is made has –
  - (i) used it in a manner prejudicial to the safety or efficient working or detriment of the licensee's electric supply line or works;
  - (ii) used it under one method of charging in a manner for which a higher method of charging is in force;
  - (iii) broken, tampered with, or counterfeited the licensee's seal, casing or covering affixed or placed to protect any meter, maximum demand indicator or other measuring apparatus referred to in section 26;
  - (iv) altered the index of any such meter, maximum demand indicator or other measuring apparatus;
  - (v) prevented any such meter, maximum demand indicator or other measuring apparatus from duly registering the energy supplied, or the maximum demand of supply; or
  - (vi) prevented the supply, consumption or use of energy being duly registered by any such meter, maximum demand indicator or other measuring apparatus.

(2) The licensee shall reconnect the supply as per provisions of section 24B with all reasonable speed on the cessation of the act or default or both, as the case may be, which entitled him to discontinue it.

**24B. Restoration of supply by supplier.**– (1) Where a licensee has cut off the supply of electricity to any premises in consequence of any default on the part of a tariff customer, the licensee shall be under an obligation to resume the supply of electricity before the end of the period of two working days beginning with the time when the requirements of sub-section (2) below are satisfied:

Provided that if it is found on investigation by the Chief Electrical Inspector that the electricity supply of a consumer has been discontinued without sufficient justifications and lawful grounds, the consumer shall be entitled to such amount of compensation as the Chief Electrical Inspector may consider appropriate from the distribution licensee concerned.

(2) The requirements of this sub-section are that the consumer in default –

- (a) has made good the default;
- (b) has paid the reasonable expenses of disconnecting and re-connecting the supply; and

(c) has given such security as is mentioned in section 9C of this Act.

(3) The obligation imposed by sub-section (1) above shall be a duty owed to any person who may be affected by a failure to comply with the obligation.

(4) Where a duty is owed by virtue of sub-section (3) above to any person any breach of the duty which causes that person to sustain loss or damage shall be actionable at the suit or instance of that person.

(5) In any proceedings brought against a licensee in pursuance of sub-section (4) above, it shall be a defence for the supplier to prove that he took all reasonable steps and exercised all due diligence to avoid failing to comply with the obligation imposed by sub-section (1) above.

(6) Without prejudice to any right which any person may have by virtue of sub-section (4) above to bring civil proceedings in respect of any failure to comply with the obligation imposed by sub-section (1) above, compliance with that obligation shall be enforceable by civil proceedings by the Chief Electrical Inspector for an injunction or for interdict or for any other appropriate relief.

#### **Exemption of electric supply-lines or other apparatus from attachment in certain cases**

25. Where any electric supply-lines, meters, fittings, works or apparatus belonging to a licensee are placed in or upon any premises, not being in the possession of the licensee, for the purpose of supplying energy, such electric supply-lines, meters, fittings, works and apparatus shall not be liable to be taken in execution under any process of any Civil Court or in any proceedings in insolvency against the person in whose possession the same may be.

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

(2) The meter shall be provided –

(a) by the distribution licensee, whether by way of sale, hire or loan; or

(b) if agreed by the distribution licensee, by the consumer.

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

(4) In addition to any meter which may be placed upon the premises of a consumer in pursuance of the provisions of sub-section (1), the licensee may place upon such premises such meter, maximum demand indicator or other apparatus as he may think fit for the purpose of ascertaining or regulating the amount of energy supplied to the consumer, the number of hours during which the supply is given, the rate per unit of time at which energy is supplied to the consumer, and any other quantity or time connected with the supply:

Provided that the meter, indicator or apparatus shall not, in the absence of an agreement to the contrary, be placed otherwise than between the distributing mains of the licensee and any meter referred to in sub-section (1):

Provided also that where the charges for the supply of energy depend wholly or partly upon the reading or indication of any such meter, indicator or apparatus as aforesaid, the licensee shall keep the meter, indicator or apparatus correct.

(5) The distribution licensee may require the replacement of any meter provided and installed in accordance with sub-sections (2) and (3) above where its replacement –

(a) is necessary to secure compliance with this Act or any regulations made under it, or the **Bangladesh Energy Regulatory Commission Act, 2003 (Act No. XIII of 2003)**; or

(b) is otherwise reasonable in all the circumstances;

and any replacement meter shall be provided and installed in accordance with those sub-sections.



(6) If the customer refuses or fails to take his supply through an appropriate meter provided and installed in accordance with sub-sections (2) and (3) above, the supplier may refuse to give or may discontinue the supply.

(7) The licensee or any person duly authorised by the licensee shall, at any reasonable time and on informing the consumer of his intention, have access to, and be at liberty to inspect and test, and for that purpose, if he thinks fit, take off and remove, any meter referred to in sub-section (1) at the expense of the licensee:

Provided that the licensee shall not be at liberty to take off or remove any such meter if any difference or dispute of the nature described in sub-section (9) has arisen until the matter has been determined as therein provided.

Provided also that such testing, installing and sealing etc. shall be done in presence of the consumer or his representative if he so desires.

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

(9) Where any difference or dispute arises as to whether any meter referred to in sub-section (1) is or is not correct, the matter shall be decided, upon the application of either party, by the Chief Electrical Inspector, within a period of ninety days from the date of receipt of such application and after affording the parties an opportunity of being heard; and, where the meter has, in the opinion of such Inspector, ceased to be correct, such Inspector shall estimate the amount of the energy supplied to the consumer or the connected load in the supply, during such time as the meter shall not, in the opinion of such Inspector, have been correct; but, save as aforesaid, the register of the meter shall, in the absence of fraud, be conclusive proof of such amount or quantity:

Provided that, before either a licensee or a consumer applies to the Chief Electrical Inspector under this sub-section, he shall give to the other party not less than seven days' notice of his intention so to do.

(10) Pending the determination of any dispute arising under this section, the meter and its provision and installation shall be such as the Government may direct; and directions under this sub-section may apply either in cases of particular descriptions or in particular cases.

**Explanation:** An electricity meter shall be deemed to be "correct" if it registers the amount of energy supplied, or the electrical quantity contained in the supply, within the prescribed margins of error, and a maximum demand indicator or other apparatus referred to in sub-section (4) shall be deemed to be "correct" if it complies with such conditions as may be prescribed in the case of any such indicator or other apparatus.

**26A. Restrictions on use of meters.**— (1) No meter shall be used for ascertaining the quantity of electricity supplied by a distribution licensee to a consumer unless the meter –

(a) is of an approved pattern or construction and is installed in an approved manner; and

(b) is certified under section 26B below;

(2) The Commission may make regulations under this section which may provide –

(a) for determining the fees to be paid for approvals given by or under the regulations;

(b) for revoking an approval so given to any particular pattern or construction of meter and requiring meters of that pattern or construction which have been installed to be replaced with meters of an approved pattern or construction within a specified period;

(c) for revoking an approval so given to any particular manner of installation and requiring meters which have been installed in that manner to be installed in an approved manner within such a period;

and may provide different provisions for meters of different descriptions or for meters used or intended to be used for different purposes.

**Explanation:** For the purposes of this section, ‘approved’ means approved by or under the provisions of this Act or regulations made under this Act.

**26B. Meter examiners and Certification of meters.**– (1) The Chief Electrical Inspector shall appoint competent persons as meter examiners for the purposes of this Act under such terms and conditions to be determined by the Government.

(2) Subject to sub-section (3) below, a meter may be certified by a meter examiner appointed under sub-section (1).

(3) No meter shall be certified unless the examiner is satisfied –

- (a) that the meter is of an approved pattern or construction; and
- (b) that the meter conforms to such standards (including standards framed by reference to margins of error) as may be prescribed by the Commission;

and references in this Act to prescribed margins of error shall be construed accordingly.

(4) A meter examiner may certify any meter submitted to him, notwithstanding that he has not himself examined or tested it, if –

- (a) the meter is submitted to him by an distribution licensee or by a person authorised by the Government for the purposes of this sub-section;
- (b) the meter is accompanied by a report stating that the meter has been examined and tested by the person submitting it and containing such other information as may be prescribed by the Commission;
- (c) the examiner considers that the report indicates that the meter is entitled to be certified;
- (d) the meter is one of a number submitted at the same time by the same person,

and the examiner has himself examined and tested as many of those meters as he may consider sufficient to provide a reasonable test of all of them.

(5) The Commission may make regulations under this section and may create different provisions for meters of different descriptions or for meters used or intended to be used for different purposes and may include provision –

- (a) for the termination of certification in the case of meters which no longer conform to the specified standards and in such other cases as may be specified;
- (b) for determining the fees to be paid for examining, testing and certifying meters, and the persons by whom they are to be paid; and
- (c) as to the procedure to be followed in examining, testing and certifying meters.

(6) Regulations under this section may also include provision –

- (a) for determining the fee to be paid in respect of any authorisation under sub-section (2) or (4) above;
- (b) for imposing conditions on any such authorisation; and
- (c) for withdrawing any such authorisation before the end of any period for which it is given if any of those conditions is not satisfied.

**26C. Testing etc. of meters.**– (1) It shall be the duty of a meter examiner, on being required to do so by any person and after giving notice to such persons as may be specified –

- (a) to examine and test any meter used or intended to be used for ascertaining the quantity of electricity supplied to any premises;

(b) to determine whether it is of an approved pattern or construction and, if it is installed for use, whether it is installed in an approved manner;

(c) to determine whether it is in proper order for ascertaining the quantity of electricity supplied within the prescribed margins of error and, if it has been in use and there is a dispute as to whether it registered correctly at any time, to determine if possible whether it registered within those margins at that time; and

(d) to make a written report of his conclusions as to the matters mentioned in clauses (b) and (c) above.

(2) If a meter examiner determines that a meter is, or was at any time, operating outside the prescribed margins of error, he shall if possible give an opinion as to –

(a) any period for which the meter has or may have been so operating; and

(b) the accuracy (if any) with which it was or may have been operating for any such period.

(3) The Commission may make regulations under this section for making provision for determining the fees to be paid for examining and testing of meters, and the persons by whom and the circumstances in which they are to be paid.

(4) It shall be the duty of a distribution licensee or a person authorised by the Authority for the purposes of sub-section (4) of section 26B above –

(a) to provide and maintain such apparatus for the examination, testing and regulation of meters, and such apparatus for the sealing and unsealing of meters, as may be specified by a direction of the Authority;

(b) to use apparatus so provided and maintained to carry out such examination, testing and regulation of meters, or to seal or unseal meters in such circumstances, as may be so specified; and

(c) to keep such records and make such reports of things done in pursuance of clause (b) above as may be so specified.

(5) It shall also be the duty of a person to whom this section applies to afford to meter examiners, acting in the exercise of their functions under this Act, all necessary facilities for the use of apparatus provided and maintained in pursuance of sub-section (5) above.

**26D. Dispute as to the accuracy of a meter.**– (1) When notice of a dispute is given –

(a) to an distribution licensee by a consumer, or to a consumer by an distribution licensee; or

(b) to an distribution licensee and to a consumer by any other person interested,

there is a genuine dispute as mentioned in sub-section (9) of section 26 as to the accuracy of a meter used for ascertaining the quantity of electricity supplied to any premises.

(2) Except with the approval of a meter examiner and, if he so requires, under his supervision, the meter shall not be removed or altered by the licensee or the consumer until after the dispute is resolved by agreement or the meter is examined and tested under section 26C above, whichever first occurs.

**26E. Presumptions and evidence.**– (1) The register of a meter to which this section applies shall be admissible in any proceedings as evidence of the quantity of electricity supplied through it.

(2) Where electricity has been supplied for any period through such a meter which is of an approved pattern or construction and is installed in an approved manner, the register of the meter shall be presumed to have been registering for that period –

(a) generally, within the prescribed margins of error; and

(b) in special cases, within any agreed margins of error,

unless the contrary is proved.

(3) Where a meter to which this section applies has been operating for any period –

(a) within the prescribed margins of error; and

(b) within any agreed margins of error,

the meter shall be conclusively presumed to have been correctly registering for that period the quantity of electricity supplied through it.

(4) The report of a meter examiner on any question relating to such a meter shall be admissible in evidence in any proceedings in which that question is raised; and any conclusions in the report as to the accuracy of the meter when it was tested shall be presumed to be correct unless the contrary is proved.

**26F. Meters to be kept in proper order.**– (1) A consumer of a distribution licensee shall at all times be responsible for proper care of any meter belonging to him, and shall not tamper it in any manner; and in default of his doing so the licensee may discontinue the supply of electricity through that meter.

(2) A distribution licensee shall at all times, at his own expense, keep any meter let for hire or lent by him to any consumer in proper order for correctly registering the quantity of electricity supplied and, in the case of pre-payment meters, for operating properly on receipt of the necessary payment.

(3) A distribution licensee shall have power, in default of the provisions of sub-section (1), to remove, inspect and reinstall any meter by which the quantity of electricity supplied by him to a consumer is registered, and shall, while any such meter is removed, fix a substituted meter on the premises; and the cost of removing, inspecting and re-installing a meter and of fixing a substituted meter shall be defrayed by the distribution licensee.

(4) Sub-sections (2) and (3) above are without prejudice to any remedy the distribution licensee may have against the consumer for failure to take proper care of the meter.

**26G. Special provision for pre-payment meters.**– (1) A consumer of a distribution licensee who takes his supply through a pre-payment meter shall be under a duty to take all reasonable precautions for the safekeeping of any code or token which are inserted into that meter.

(2) A pre-payment meter shall not be used to recover any sum owing to a distribution licensee otherwise than in respect of the supply of electricity, the provision of an electric line or electrical plant or the provision of the meter.

**26H. Smart Metering.**– (1) The Authority shall conduct a detailed study and issue a decision whether or not it is appropriate for the licensees to provide and install advanced meters like time-based meters and communications devices and other forms of demand response for each of their consumers whereby electricity consumers are provided with electricity price signals and the ability to benefit by responding to them.

(2) It shall be responsible for –

(a) educating consumers on the availability, advantages, and benefits of advanced metering and communications technologies, including the funding of demonstration or pilot projects;

(b) working with licensees and advanced metering and communications experts to identify and address barriers to the adoption of demand response programmes; and

(c) prepare a work plan that identifies and quantifies the national benefits of demand response and includes definite steps on achieving specific levels of such benefits.

(3) It shall also explore the possibility of introducing net metering service and such other services to the electricity consumers.

**Explanation:** For the purposes of this section, the term 'net metering service' means service to an electricity consumer under which electric energy generated by that electricity consumer from an eligible on-site generating facility and delivered to the local distribution facilities may be used to offset electric energy provided by the licensee to the electricity consumer during the applicable billing period.

**26I. Use of meters for inter-utility transfer.**– (1) For the purpose of proper accounting and audit in the generation, transmission and distribution of electricity, the Government may direct the installation of meters by a licensee at such stages of generation, transmission or distribution of electricity and at such locations of generation, transmission or distribution system, as it may deem necessary.

(2) If a person makes default in complying with the provisions contained in this section or the regulations made under sub-section (1), the Government may make such order as it thinks fit for requiring the default to be made good by the licensee or by any officer of a company or other association or any other person who is responsible for its default.

### **Supply of energy outside area of supply**

27. Notwithstanding anything in this Act, the Government may, by order in writing, and subject to such conditions and restrictions, if any, as it thinks fit to impose, authorise any licensee to supply energy to any person outside the area of supply, and to lay down or place electric supply-lines for that purpose:

Provided, first, that no such authority shall be conferred on the licensee within the area of supply of another licensee without that licensee's consent, unless the Government considers that his consent has been unreasonably withheld:

Provided, secondly, that such authority shall not be conferred unless the person to whom the supply is to be given has entered into a specific agreement with the licensee for the taking of such supply:

Provided, thirdly, that a licensee on whom such authority has been conferred shall not be deemed to be empowered outside the area of supply to open or break up any street, or any sewer, drain or tunnel in or under any street, railway, or to interfere with any telegraph-line, without the written consent of the local authority or person by whom such street, sewer, drain or tunnel is repairable, or of the telegraph-authority, as the case may be, unless the Government, after such inquiry as it thinks fit, considers that such consent has been unreasonably withheld:

Provided, fourthly, that, save as aforesaid, the provisions of this Act shall apply in the case of any supply authorised under this section as if the said supply were made within the area of supply.

### PART III

#### POLICY GUIDELINES, REFORMS AND REORGANISATION

28. **National Electricity Policy.**– (1) The Government shall, from time to time, at such intervals not more than five years, formulate, update and issue the National Electricity Policy including the tariff policy, in consultation with the Commission, with a view to providing basic guidance for development of the power system based on optimal utilisation of resources such as natural gas, coal, nuclear substances or materials, solar, wind, hydro and other renewable sources of energy.

(2) The first one of the National Electricity Policy as provided for in sub-section (1) shall be prepared no later than one year of coming into force of this Act.

29. **National Electricity Development Plan.**– (1) The Authority, within one year of formulation of the National Electricity Policy under section 28, shall prepare National Electricity Development Plan, both long-term (25 years and beyond) and medium-term (10-12 years), in accordance with the guidelines provided by the Government in the National Electricity Policy, separately for each of the three segments, namely – generation, transmission and distribution – through detailed study and consultative process:

Provided that the draft National Electricity Development Plan shall be published through the website of the Authority with proper notice in the newspapers and such other modes of communications as may deem fit and proper, inviting suggestions and comments thereon from licensees, consumers, universities, research organisations, press, intelligentsia, local government institutions, and persons interested in the subject, within such reasonable time as may be mentioned in the advertisement.

(2) The Authority shall consider the suggestions and comments received, prepare a final draft, obtain opinion of the Commission and submit the same for approval of the Government; and –

(a) notify the plan after obtaining approval of the Government;

(b) ensure incorporation therein the directions, if any, given by the Government while granting approval under clause (a).

(3) The Authority shall ensure that any expansion in any of the sub-sectors follow the principle of least cost expansion.

(4) The National Electricity Development Plan shall identify and evaluate the strategies or projects with the greatest potential for –

(a) improved supply-side efficiency of electrical generation, transmission, and distribution systems;

(b) improved demand-side management through –

(i) the application of established standards of energy efficiency for appliances both at the customer level and the utility level;

(ii) the conduct of energy audits for business and industrial consumers; and

(iii) the promotion of use of energy saving electrical appliances;

(c) increased use of renewable energy, including –

(i) solar thermal energy and wind energy for electricity generation;

(ii) solar thermal energy for water heating and lighting of common facilities in large buildings, such as hotel, hospital, government building, apartment building and condominium, etc.;

(iii) photovoltaic energy;

(iv) hydroelectric energy;

- (v) biomass energy;
  - (vi) geo-thermal energy;
  - (vii) wave energy;
  - (viii) fossil fuel and renewable hybrid electrical generation systems; and
  - (ix) other strategies or projects that the Authority may identify as having significant potential; and
- (d) Followed the principle of least cost expansion for the expansion of their electricity sectors.
- (e) fuel substitution and maximisation of use of indigenous energy resources for long-term energy security, etc.

(5) The Authority shall review or revise the National Electricity Development Plan periodically especially in pursuance of any change or revision of the National Electricity Policy.

**Explanation:** For the purposes of this section, in order to ensure ‘least-cost expansion’, factors that need to be taken into consideration in case of power generation include proximity of generation sites to load centers and their forecast load demand, transmission from generation sites to the load centers, availability of adequate space and fuel deliverability at the generation site, the suitability of the ground and geotechnical conditions for construction of the plant, the possibility of flooding and seismic events, sources of fill and construction materials and access to the generation site for transportation of heavy equipment and construction materials; and, in case of transmission and distribution, system configuration, pattern of loading of transmission and distribution lines, magnitude and types of loads, characteristics of equipment, etc.

**29A. Power Sector Reforms and Reorganisation.**– With a view to achieving a high standard of performance by the electric utilities and to provide the best of services to the consumers, and, at the same time, guarantee long-term energy security of the country, the Government shall pursue an effective reforms and reorganisation in the power sector through a well-defined policy guidelines.

**30. Provisions relating to officers and employees.**– (1) The Government shall ensure that no employee working in a public sector undertaking will lose the job or will incur any loss, financial or others, as a result of any reform activity under the provisions of this Act.

(2) The Government may, through the policy mentioned in section 29A, provide for the transfer of the officers and employees to the newly created company on the vesting of properties, rights and liabilities in such company, and upon such transfer the officers and employees shall hold office or be in the service under the company on such terms and conditions as may be determined by the Company with concurrence of the Government:

Provided that such terms and conditions shall not in any way be less favourable to any of the officers and employees than those which would have been applicable to them if there had been no such transfer:

Provided further that the transfer can be provisional for a stipulated period.

**Explanation.** - For the purposes of this section, the expression ‘officers and employees’ shall mean all officers and employees who on the date specified in the scheme are the officers and employees of the Board or any other company.

(3) Notwithstanding anything contained in the **Bangladesh Labour Act, 2006 (Act No. XLII of 2006)** or any other law for the time being in force, the transfer of the employment of the officers and employees referred to in sub-section (2) shall not entitle such officers and employees to any compensation or damages under this Act, or any other law apart from those provided for in the policy guidelines mentioned in section 29A.

## PART IV

### GENERAL

#### Protective and Safety Clauses

##### *Protection of railways, highways, airports, canals, docks, wharfs and piers*

31. No person shall, in the generation, transmission, supply or use of energy, in any way injure any railway, highway, airport, canal or waterway or any dock, wharf or pier vested in or controlled by a local authority, or obstruct or interfere with the traffic on any railway, highway, airway, canal or water-way.

##### *Protection of telegraphic, telephonic and electric signalling lines*

32. (1) Every person generating, transmitting, supplying or using energy (hereinafter in this section referred to as the "operator") shall take all reasonable precautions in constructing, laying down and placing his electric supply-lines and other works and in working his system, so as not injuriously to affect, whether by induction, or otherwise, the working of any wire or line used for the purpose of telegraphic, telephonic or electric- signalling communication, or the currents in such wire or line.

(2) Where any difference or dispute arises between the operator and the telegraph-authority as to whether the operator has constructed, laid down or placed his electric supply-lines or other works, or worked his system, in contravention of sub-section (1), or as to whether the working of any wire, line or current is or is not injuriously affected thereby, the matter shall be referred to the Government; and the Government, unless it is of opinion that the wire or line has been placed in unreasonable proximity to the electric supply-lines or works of the operator after the construction of such lines or works, may direct the operator to make such alterations in, or additions to, his system as may be necessary in order to comply with the provisions of this section, and the operator shall make such alterations or additions accordingly:

Provided that nothing in this sub-section shall apply to the repair, renewal or amendment of any electric supply-line so long as the course of the electric supply-line and the amount and nature of the energy transmitted thereby are not altered.

(3) Where the operator makes default in complying with the requirements of this section, he shall make full compensation for any loss or damage incurred by reason thereof, and, where any difference or dispute arises as to the amount of such compensation, the matter shall be determined in accordance with the provisions of section 52.

**Explanation** – For the purposes of this section, a telegraph-line shall be deemed to be injuriously affected if telegraphic, telephonic or electric signalling communication by means of such line is, whether through induction or otherwise, prejudicially interfered with by an electric supply-line or work or by any use made thereof.

#### Notice of accidents and inquiries

33. (1) If any accident occurs in connection with the generation, transmission, supply or use of energy in, or in connection with, any part of the electric supply-lines or other works of any person, and the accident results or is likely to have resulted in loss of life or personal injury, such person shall give notice of the occurrence, and of any loss of life or personal injury actually occasioned by the accident, in such form and within such time and to such authorities as the Government may, by general or special order, direct.

(2) The Government may, if it thinks fit, require the Chief Electrical Inspector, or any other competent person appointed by it in this behalf, to inquire and report-

(a) as to the cause of any accident affecting the safety of the public, which may have been occasioned by, or in connection with, the generation, transmission, supply or use of energy, or

(b) as to the manner in, and extent to, which the provisions of this Act or of any license or rules thereunder, so far as those provisions affect the safety of any person, have been complied with.



(3) The Chief Electrical Inspector or any other person holding an inquiry under sub-section (2) shall have all the powers of a civil court under the Code of Civil Procedure, 1908 (Act No. V of 1908) for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects, and every person required by the Chief Electrical Inspector be legally bound to do so within the meaning of section 176 of the Penal Code.

#### **Prohibition of connection with earth, and power for Government to interfere in certain cases of default**

34. (1) No person shall, in the generation, transmission, supply or use of energy, permit any part of his electric supply-lines to be connected with earth except so far as may be prescribed in this behalf or may be specially sanctioned by the Government.

(2) If at any time it is established to the satisfaction of the Government-

- (a) that any part of an electric supply-line is connected with earth contrary to the provisions of sub-section (1), or
- (b) that any electric supply-lines or other works for the generation, transmission, supply or use of energy are attended with danger to the public safety or to human life or injuriously affect any telegraph-line, or
- (c) that any electric supply-lines or other works are defective so as not to be in accordance with the provisions of this Act or of any rule thereunder,

the Government may, by order in writing, specify the matter complained of and require the owner or user of such electric supply-lines or other works to remedy it in such manner as shall be specified in the order, and may also in like manner forbid the use of any electric supply-line or works until the order is complied with or for such time as is specified in the order.

#### **Control of transmission and use of energy**

**34A.** (1) No person, other than a licensee duly authorized under the terms of his license, shall transmit or use energy at a rate exceeding <sup>19</sup>[ one kilowatt],-

- (a) in any street, or
- (b) in any place,
  - (i) in which one hundred or more persons are likely ordinarily to be assembled, or
  - (ii) which is a factory within the meaning of the <sup>20</sup>[ Factories Act, 1965,] or
  - (iii) which is a mine within the meaning of the <sup>21</sup>[ Mines Act, 1923,] or
  - (iv) to which the Government, by general or special order, declares the provisions of this sub-section to apply,

<sup>22</sup>[ without obtaining permission from the Government] and complying with such of the provisions of Part IV, and of the rules made thereunder, as may be applicable:

Provided that nothing in this section shall apply to energy used for the public carriage of passengers, animals or goods on, or for the lighting or ventilation of the rolling-stock of, any railway subject to the provisions of the [Railways Act, 1890](#):

Provided, also, that the Government may, by general or special order and subject to such conditions and restrictions as may be specified therein, exempt from the application of this section or of any such provision or rule as aforesaid any person or class of persons using energy on premises upon or in connection with which it is generated, or using energy supplied under Part II in any place specified in clause (b).

(2) Where any difference or dispute arises as to whether a place is or is not one in which one hundred or more persons are likely ordinarily to be assembled, the matter shall be referred to the Government, and the decision of the Government thereon shall be final.

(3) The provisions of this section shall be binding on the Government.

**34B. Government to make rules and to give directions on safe operations.**— (1) The Government may make such rules as may be deemed fit and proper for the purpose of –

- (a) securing that supplies of electricity are safe and efficient;
- (b) protecting the public from dangers arising from the generation, transmission or supply of electricity, from the use of electricity supplied or from the installation, maintenance or use of any electric line or electrical plant; and
- (c) without prejudice to the generality of clause (b) above, eliminating or reducing the risks of personal injury, or damage to property or interference with its use, arising as mentioned in that clause.

(2) Without prejudice to the generality of sub-section (1) above, rules under this section may —

- (a) prohibit the supply or transmission of electricity except by means of a system approved by the Commission;
- (b) make provision requiring notice in the prescribed form to be given to the Chief Electrical Inspector under section 33, in such cases as may be specified in the rules, of accidents and of failures of supplies or transmissions of electricity;
- (c) make provision as to the keeping, by persons authorised by a licence or exemption to supply or transmit electricity, of maps, plans and sections and as to their production (on payment, if so required, of a reasonable fee) for inspection or copying;
- (d) make provision for relieving persons authorised by a licence to supply electricity from any obligation to supply in such cases as may be prescribed;
- (e) make provision requiring compliance with notices given by the Chief Electrical Inspector specifying action to be taken in relation to any electric line or electrical plant, or any electrical appliance under the control of a consumer, for the purpose of –
  - (i) preventing or ending a breach of rules under this section; or
  - (ii) eliminating or reducing a risk of personal injury or damage to property or interference with its use;
- (f) provide for particular requirements of the rules and regulations to be deemed to be complied with in the case of any electric line or electrical plant complying with specified standards or requirements;
- (g) provide for the granting of exemptions from any requirement of any rules and regulations for such periods as may be determined by or under the rules.

(3) The Government may give to any licensee and any person authorised by an exemption to generate, transmit or supply electricity such directions of a general character as appear to the Government to be requisite or expedient for the purpose of—

- (a) preserving the security of buildings or installations used for, or for purposes connected with, the generation, transmission or supply of electricity; or
- (b) mitigating the effects of any civil emergency which may occur.

**Explanation:** In this section ‘civil emergency’ means any natural disaster or other emergency which, in the opinion of the Government, is or may be likely to disrupt electricity supplies.

**34C. Protection from interference.**— (1) Subject to sub-section (2) below, a licensee who installs or alters, or changes the mode of operation of, any electric line or electrical plant, shall take all reasonable precautions for securing that the operation of that line or plant does not interfere with the operation of any telecommunication apparatus which –

- (a) is under the control of a person to whom the **Bangladesh Telecommunication Act, 2001 (Act. No. XVIII of 2001)** applies; and

(b) is not unusually sensitive to interference with its operation.

(2) In the case of any telecommunication apparatus which is subsequently installed or altered or whose mode of operation is subsequently changed, the duty imposed by sub-section (1) above shall not apply in relation to –

(a) any momentary interference with its operation; or

(b) where it is installed in unreasonably close proximity to the electric line or electrical plant, any other interference with its operation.

(3) Sub-sections (1) and (2) above shall be read as also applying in the converse case of a person to whom the **Bangladesh Telecommunication Act, 2001 (Act. No. XVIII of 2001)** applies who installs or alters, or changes the mode of operation of, any telecommunication apparatus, and in such a case shall have effect as if –

(a) any reference to the licensee were a reference to that person;

(b) any reference to an electric line or electrical plant were a reference to such apparatus; and

(c) any reference to such apparatus under the control of a person to whom that Act applies were a reference to such a line or such plant under the control of a licensee.

(4) Any difference arising under this section between a licensee and a person to whom the **Bangladesh Telecommunication Act, 2001 (Act. No. XVIII of 2001)** applies shall be referred to the Commission, whose decision shall be final and binding upon both the parties.

(5) In this section “momentary interference” means any interference of momentary duration which is not a regular occurrence (whether caused by physical contact or otherwise).

**34D. Standards of performance for safe and efficient use of electricity.**– (1) The Commission may, after consultation with the Authority, the licensees and with persons or bodies appearing to the Commission to be representative of persons likely to be affected, from time to time –

(a) determine such standards of overall performance in connection with the quality of electricity generation, transmission and supply, and electricity supply services and the promotion of the safe and efficient use of electricity by consumers as in its opinion, ought to be attained by such licensees; and

(b) arrange for the publication in such form and in such manner as it considers appropriate, of the standards so determined.

(2) Different standards may be determined under this section in respect of different licensees, having regard to any special circumstances or conditions in or subject to which, those licensees are required to generate, transmit, distribute or supply electricity.

**34E. Electrical products standardisation and labelling.**– (1) Within the appointed date fixed by the Government, the Bangladesh Standards and Testing Institution (hereinafter referred to as the BSTI) shall complete formulation of national standards for all kinds of electrical articles, devices, commodities, materials, produces, products, methods, services and any type of such other things which consumes electricity in any form taking into consideration the optimum level of energy savings as well as the cost effectiveness.

(2) It shall bring the said electrical items under compulsory BSTI certification marking under the provisions of the BSTI Regulation 1989, and be responsible for quality control of the said items within the appointed date.

(3) It shall ensure that all manufacturers, importers, distributors, suppliers, agents, dealers, sellers, or people from any other profession dealing with any kinds of electrical articles, equipments or appliances, whatever it may be called, do not manufacture, import, supply, stock, sell, purchase, or use any of the items not conforming to the standards set under sub-section (1).

(4) The Commission shall issue by regulation, in accordance with this section, labelling requirements for all types of consumer products which consumes electricity in any form to assist consumers in making purchasing decisions and improve energy efficiency simultaneously with the formulation of national standards of those products by BSTI.

(5) No person shall use or operate any installation, manufacture, import, sell or offer for sale or lease any equipment unless the installation or equipment meets the requirements as may be prescribed in respect of safe, economic and efficient use of electricity in accordance with the provisions of this section.

34F. **Safety and Security Manual.**– The Authority shall, in consultation with the Commission, specify a Safety and Security Manual detailing suitable measures for –

- (a) protecting the public (including the persons engaged in the generation, transmission or distribution of electricity) from dangers arising from the generation, transmission or distribution of electricity, or use of electricity supplied or installation, maintenance or use of any electric line or electrical plant;
- (b) eliminating or reducing the risks of personal injury to any person, or damage to property of any person or interference with use of such property ;
- (c) prohibiting the supply or transmission of electricity except by means of a system which conforms to the specification as may be specified;
- (d) giving notice in the specified form to the Commission and the Chief Electrical Inspector, of accidents and failures of supplies or transmissions of electricity;
- (e) keeping by a generating company or any other licensee the maps, plans and sections relating to generation, transmission and distribution of electricity;
- (f) inspection of maps, plans and sections by any person authorised by it or by the Chief Electrical Inspector; and
- (g) specifying action to be taken in relation to any electric line or electrical plant, or any electrical appliance under the control of a consumer for the purpose of eliminating or reducing the risk of personal injury or damage to property or interference with its use.

### *Administration and Rules*

35. **Administration of the Act.**— The administration of the provisions of this Act shall vest in an Authority established under section 35A, and the Authority shall exercise, perform and discharge all the powers, functions and duties as are conferred on or assigned to it under this Act.

35A. **Constitution of the Bangladesh Electricity Authority.**— (1) There shall be a body to be called the Bangladesh Electricity Authority for the purpose of carrying out the functions assigned or transferred to it by or under this Act.

(2) The Authority shall be a Government department headed by a Director General and such number of Directors as the Government may determine.

(3) The Director General and the Directors shall be appointed by the Government under such terms and conditions as the Government may decide.

(4) The Authority may appoint such numbers of officers and employees as the Government considers necessary for proper discharge of its functions; and the terms and conditions of their services shall also be as decided by the Government.

(5) The Authority shall perform such functions as are authorised or required by or under this Act, or any other enactment, to be done by the Authority, and also such other functions as the Government may delegate, prescribe or direct from time to time.

### **Electricity Board**

35B. (1) The Government may, for the whole or any part of <sup>23</sup>[ Bangladesh], by notification in the official Gazette, constitute an <sup>24</sup>[ Electricity Board].

(2) The Board shall consist of a chairman and not less than two other members.

(3) The Government may, by general or special order,-

(a) determine the number of members of which the Board shall be constituted and the manner in which such members shall be appointed,

(b) define the duties and regulate the procedure of the Board,

(c) determine the tenure of office of the members of the Board, and

(d) give directions as to the payment of fees to, and the travelling expenses incurred by, any member of the Board in the performance of his duty.

36. **Electrical Inspectors.**— (1) The Government may, by notification in the *Official Gazette*, appoint duly qualified persons to be Electrical Inspectors and every such Inspector so appointed shall exercise the powers and perform the functions of the Chief Electrical Inspector under this Act when assigned to do so by the Chief Electrical Inspector, and exercise such other powers and perform such other functions as may be prescribed within such areas or in respect of such class of works and electrical installations and subject to such restrictions as the Government may direct.

(2) Subject to the provisions of sub-section (1), it shall be the duty of an electrical inspector –

(a) to inspect and test electric lines and electrical plants belonging to persons authorised by a licence or exempted from the requirement of obtaining a licence, to generate, transmit, distribute or supply electricity;

(b) to examine the the installations for generation, transmission, distribution or supply of electricity by such persons;

(c) to inspect and test if and when required by any consumer, any such lines and plant on the consumer's premises, for the purpose of ascertaining whether any requirement imposed by this Act in respect of those lines or plant or the supply of electricity through or by them, has been complied with; and

(d) to carry out such other functions as may be imposed on him by this Act, or any rules or regulations made under this Act.

(3) The Electrical Inspectors shall perform the duties imposed on them under the jurisdiction of the Chief Electrical Inspector, and in the manner to be prescribed by the Chief Electrical Inspector with approval of the Government, which will include the amount of the fees (if any) payable to such inspectors and the persons by whom they are payable.

(4) Persons authorised by a licence or exempted from the requirement of obtaining a licence, to generate, transmit, distribute or supply electricity, shall be required –

(a) to furnish electrical inspectors with records or other information; and

(b) to allow such inspectors access to premises and to the use of electrical plant and other facilities.

(5) In the absence of express provision to the contrary in this Act, or any rule made thereunder, an appeal shall lie from the decision of the Chief Electrical Inspector or an Electrical Inspector to the Commission.

**36A. Provisions for right of way.**– (1) When it is necessary or expedient for a licensee to install and keep installed an electric line on, under or over any land for the purpose of carrying on of the activities which it is authorised by its licence to carry on, any licensee may apply for the necessary right of way to the Deputy Commissioner of the district under whose jurisdiction the land is located for grant of right of way, in the form and manner prescribed by the Government.

(2) Subject to sub-sections (3) and (4) below, the Deputy Commissioner may, consider the application of any licensee submitted under sub-section (1), and after conducting such survey and inspection as he considers necessary, and after giving the owner or owners of the land reasonable opportunity of being heard, by order, to be published in the *Official Gazette*, grant the necessary right of way, subject to such terms and conditions as he may think fit.

(3) A necessary right of way so granted shall continue in force for such period as may be specified in the order.

(4) The Deputy Commissioner may not entertain an application under sub-section (1) above in any case where the proposed land is covered by a cluster of dwelling houses.

(5) A necessary right of way granted under this section –

(a) shall not be subject to the provisions of any enactment requiring the registration of interests in, charges over or other obligations affecting land; but

(b) shall bind any person who is at any time the owner or occupier of the land.

(6) Where a right of way is granted to a licensee under sub-section (2) above, the owner of the land may be entitled to such reasonable compensation in respect of the land occupied by electric poles with the highest size required for construction of 33 KV lines, at a rate as may be determined by the Deputy Commissioner:

Provided that no such compensation shall be allowed for installation of an electric line or any parts and accessories thereof, except for the placing of the pole.

(7) The Deputy Commissioner may allow compensation under this section as a lump sum or by periodical payments or partly in one way and partly in the other.

(8) The Deputy Commissioner may on his own motion or on the application of a person affected, conduct such inquiries as may be necessary to determine whether a licensee is liable to pay any person any compensation under sub-section (6).

(9) The Deputy Commissioner shall communicate any decision under sub-section (8) to the licensee and to any person who has applied for, or was awarded, compensation, and such a decision of the Deputy Commissioner shall be final and binding upon all the parties concerned.

(10) In a case where a pole in excess of the size mentioned in sub-section (6) above, or a tower of any size and description, is required to be installed, it shall be the responsibility of the respective licensee to apply for acquisition of the necessary land as per existing laws after obtaining the necessary right of way from the Deputy Commissioner.

**36B. Acquisition of property for Power projects.**– (1) When any land is required for a power project to be implemented by a company, the whole or majority shares of which are owned by the Government, the land shall be acquired as usual under the Acquisition and Requisition of Immovable Property Ordinance, 1982 (Ordinance No. II of 1982), treating the company as a public sector enterprise, and be transferred to that company proposing to carry out such project, which would serve for the general welfare and benefit of the people.

(2) Any sum payable for the acquisition of any land under sub-section (1) shall be paid by the company to whom the property is transferred.

**36C. Acquisition by other companies.**– (1) Where the Government is satisfied that any immovable property is required for the purposes of carrying on the activities which a licensee, not owned by the Government, is authorised to carry on by its licence, or for the purposes of discharging any functions assigned to such licensee by this Act and that –

(a) the licensee has made all reasonable efforts to negotiate acquisition or purchase of such property with the owner of the property; and

(b) those efforts have been unsuccessful,

the Government may sanction such approval that the immovable property be acquired under the Acquisition and Requisition of Immovable Property Ordinance, 1982 (Ordinance No. II of 1982) and transferred to the licensee:

Provided that a written report of the Deputy Commissioner of the concerned district produced based on a proper enquiry shall suffice to ascertain whether the licensee had made all reasonable efforts or not to procure the proposed land.

(2) After the Government approves the proposed acquisition of the immovable property under sub-section (1), such immovable property shall be deemed to be required for a public purpose, and may accordingly be acquired under the said Act and transferred to the licensee.

(3) Any sum payable for the acquisition of any immovable property for a licensee under sub-section (2) shall be payable by that licensee.

(4) The Government shall not sanction approval for acquisition of any immovable property under sub-section (1) if such immovable property is being used by another licensee.

**37. Power to make rules and Regulations.**– (1) The Government may make rules in respect of all matters for which rules are required or authorised to be made under this Act.

(2) The Commission or the Authority may, with the consent of the Government, and by notification, make regulations consistent with this Act, generally to carry out the provisions of this Act, or as required or authorised by or under this Act.

(3) The regulations made by the Commission or the Authority under sub-section (1) shall come into force from the date of publication in the *Official Gazette*.

#### **Further provisions respecting rules and regulations**

38. (1) The power to make rules under section 37 shall be subject to the condition of the rules being made after previous publication.

(2) The date to be specified in accordance with clause (3) of section 23 of the [General Clauses Act, 1897](#), as that after which a draft of rules proposed to be made under section 37 will be taken into consideration shall not be less than three months from the date on which the draft of the proposed rules was published for general information.

(3) All rules under section 37 shall be published in the official Gazette and, on such publication, shall have effect as if enacted in this Act.

(4) In making any rule under this Act, the Government may direct that every breach thereof shall be punishable with fine which may extend to one thousand taka, and, in the case of a continuing breach, with a further daily fine which may extend to one hundred taka.

(5) Regulations made under any provision of this Act which specify a period within which things are to be done may provide for extending the period so specified.

(6) Regulations made under any provision of this Act may –

(a) provide for anything falling to be determined under the regulations to be determined by such persons, in accordance with such procedure and by reference to such matters and to the opinion of such persons as may be specified by the regulations;

(b) make different provision for different cases, including different provision in relation to different persons, circumstances or localities; and

(c) make such supplemental, consequential and transitional provision as the Government or, as the case may be, the Commission considers appropriate.



*Criminal Offences and Procedure*

**Penalty for dishonest abstraction, etc of energy**

39. **Penalty for Theft of Electricity.**– (1) Whoever, dishonestly –

- (a) taps, makes or causes to be made any connection with overhead, underground or under water lines or cables, or service wires, or service facilities of a licensee or distribution licensee, as the case may be; or
- (b) tampers a meter, installs or uses a tampered meter, current reversing transformer, loop connection or any other device or method which interferes with accurate or proper registration, calibration or metering of electrical current or otherwise results in a manner whereby electricity is stolen or wasted; or
- (c) damages or destroys an electric meter, apparatus, equipment, or wire or causes or allows any of them to be so damaged or destroyed as to interfere with the proper or accurate metering of electricity, or
- (d) uses electricity through a tampered meter; or
- (e) uses electricity for the purpose other than for which the usage of electricity was authorised,

so as to abstract or consume or use electricity shall be punishable with imprisonment for a term which may extend to three years and/or shall be liable to fine which may extend to fifty thousand taka:

Provided that in a case where the load abstracted, consumed, or used or attempted abstraction or attempted consumption or attempted use –

- (i) does not exceed 10 kilowatt, the fine imposed on first conviction shall not be less than three times the financial gain on account of such theft of electricity and in the event of second or subsequent conviction the fine imposed shall not be less than six times the financial gain on account of such theft of electricity;
- (ii) exceeds 10 kilowatt, the fine imposed on first conviction shall not be less than three times the financial gain on account of such theft of electricity and in the event of second or subsequent conviction, the sentence shall be imprisonment for a term not less than six months, and with fine not less than six times the financial gain on account of such theft of electricity:

Provided further that in the event of second and subsequent conviction of a person where the load abstracted, consumed, or used or attempted abstraction or attempted consumption or attempted use exceeds 10 kilowatt, such person shall also be debarred from getting any supply of electricity for a period which shall not be less than three months but may extend to one years and shall also be debarred from getting supply of electricity for that period from any other sources:

Provided also that if it is proved that any device, contrivance or artificial means or any means not authorised by the Commission or licensee or supplier, as the case may be, exist for the abstraction, consumption or use of electricity by the consumer, it shall be presumed, until the contrary is proved, that any abstraction, consumption or use of electricity has been dishonestly caused by such consumer.

(2) Without prejudice to the provisions of this Act, the licensee may, upon detection of such theft of electricity, immediately disconnect the supply of electricity:

Provided that only such officer of the licensee as authorised for the purpose by the Authority or any other officer of the licensee of the rank higher than the rank so authorised shall disconnect the supply line of electricity:

Provided further that such officer of the licensee shall lodge a complaint in writing relating to the commission of such offence in police station having jurisdiction within twenty four hours from the time of such disconnection:

Provided also that the licensee, on deposit or payment of the assessed amount or electricity charges in accordance with the provisions of this Act, shall, without prejudice to the obligation to lodge the complaint as referred to in the second proviso, restore the supply line of electricity within forty-eight hours of such deposit or payment.

(3) Any officer of the licensee authorised in this behalf by the Authority may –

- (a) enter, inspect, break open and search any place or premises in which he has reason to believe that electricity has been or is being, used unauthorisedly;
- (b) search, seize and remove all such devices, instruments, wires and any other facilitator or article which has been, or is being, used for unauthorised use of electricity; and
- (c) examine or seize any books of account or documents which in his opinion shall be useful for or relevant to, any proceedings in respect of the offence under sub-section (1) and allow the person from whose custody such books of account or documents are seized to make copies thereof or take extracts therefrom in his presence.

(4) The occupant of the place of search or any person on his behalf shall remain present during the search and a list of all things seized in the course of such search shall be prepared and delivered to such occupant or person who shall sign the list:

Provided that no inspection, search and seizure of any domestic places or domestic premises shall be carried out between sunset and sunrise except in the presence of an adult male member occupying such premises.

(5) The provisions of the Code of Criminal Procedure, 1898 (Act No. V of 1898), relating to search and seizure shall apply, as far as may be, to searches and seizure under this Act.

**Explanation :** A person shall be deemed to have dishonestly abstracted, consumed or used energy, if he is found –

- (a) to have tampered or interfered with the set order of wiring connection of any meter, measuring apparatus, including Kilowatt meter, Kilowatt hour meter, Kilovolt ampere hour meter, kilovolt ampere meter, kilovolt ampere reactive hour meter, current transformers, potential transformers or their respective fuses installed by the licensee for the supply and registration of energy; or
- (b) to have prevented by drilling hole in the casing, covering or glass, or by jamming the mechanism by mechanical, magnetic or by any other means, any meter, maximum demand indicator or other measuring apparatus from duly registering the amount of energy supplied or the electrical quantity contained in the supply; or
- (c) to have connected, without written consent of the licensee, his installations, appliances, and apparatus for the consumption or use of energy with the licensee's work directly without passing through a meter, maximum demand indicator or other measuring apparatus.

#### **Penalty for installation of artificial means, etc**

39A. Whoever installs or uses any device, contrivance or artificial means for dishonest abstraction, consumption or use of energy of a licensee, whether he derives any benefit therefrom or not, <sup>31</sup> shall be punishable with imprisonment of either description for a term which shall not be less than three years but which may extend to five years and shall also be liable to fine which may extend to twenty thousand taka] and if it is proved that any device, contrivance or artificial means for such abstraction, consumption or use exists or has existed on a premises, it shall be presumed, unless the contrary is proved, that such person has committed an offence under this section.

**Explanation.** – In this section, “artificial means” include-

- (a) making of direct electrical connection from the aerial line through artificial jumper;
- (b) making of direct electrical connection from transformers, cable, meter's main terminals and from consumer's installations through artificial wiring;
- (c) disconnecting the potential link from the meter terminals by means of a plier, screw driver, cutter or any other instruments;
- (d) breaking the glass cover of a meter or drilling hole in the casing or covering of a meter by any means;
- (e) stopping or slowing the revolutions of a meter disc by artificial magnetic or any other substances; or

(f) stopping or slowing or reversing the revolutions of the meter disc by changing the phase sequence of meter through artificial electrical circuit.]

#### **Penalty for maliciously wasting energy or injuring works**

<sup>32</sup> 40. (1) Whoever maliciously causes energy to be wasted or diverted, or, with intent to cut off the supply of energy, cuts or injures, or attempts to cut or injure, any electric supply-line or works shall be punishable with imprisonment of either description for a term which shall not be less than one year but which may extend to five years and shall also be liable to a fine of ten thousand taka.

(2) A person who after being convicted under sub-section (1), is convicted for the second or subsequent times, he shall, for every such second or subsequent conviction be punishable with imprisonment of either description for a term which shall not be less than three years but which may extend to five years and shall also be liable to fine which may extend to twenty thousand taka.]

**40A. Penalty for the theft of line materials, tower members, equipments, etc. from any electric supply system.– (1)**  
Whoever, dishonestly –

(a) cuts or removes or dismantles or takes away or transfers or wilfully damages any electric line, transformer, material or meter from a tower, pole, any other installation or place of installation or any other place, or site where it may be rightfully or lawfully stored, deposited, kept, stocked, situated or located including during transportation, without the consent of the licensee or the owner, as the case may be, whether or not the act is done for profit or gain; or

(b) stores, possesses or otherwise keeps in his premises, custody or control, any electric line, material or meter without the consent of the owner, whether or not the act is committed for profit or gain; or

(c) loads, carries, or moves from one place to another any electric line, material or meter without the consent of its owner, whether or not the act is done for profit or gain,

is said to have committed an offence of theft of electric lines and materials, and shall be punishable with imprisonment for a term which may extend to five years and shall also be liable to fine which may extend to one lakh taka.

(2) If a person, having been convicted of an offence punishable under sub-section (1) is again guilty of an offence punishable under that sub-section, he shall be punishable for the second or subsequent offence for a term of imprisonment which shall not be less than one year, and shall also be liable to fine which shall not be less than fifty thousand taka.

#### **Penalty for dishonestly receiving stolen property**

<sup>35</sup> 40B. Whoever dishonestly receives or retains any stolen electric-line materials or sub-station materials or equipment knowing or having reasons to believe the same to be stolen property, shall be punishable with imprisonment of either description for a term which shall not be less than three years but which may extend to five years and shall also be liable to fine which may extend to twenty five thousand taka.]

#### **Penalty for unauthorized supply of energy by non-licensees**

<sup>36</sup> 41. (1) Whoever, in contravention of the provisions of the Energy Regulatory Commission Act, 2003 (Act No. XIII of 2003);, engages in the business of supplying energy shall be punishable with imprisonment of either description for a term which shall not be less than one year but which may extend to five years and shall also be liable to fine which may extend to fifteen thousand taka.

(2) A person who after being convicted under sub-section (1), is convicted for the second or subsequent times, he shall, for every such-second or subsequent conviction, be punishable with imprisonment of either description for a term which shall not be less than three years but which may extend to five years and shall also be liable to a daily fine of one thousand taka.]

(3) No proceedings shall be instituted in respect of an offence under this section except with the written sanction of the Commission.

#### **Penalty for illegal or defective supply or for non-compliance with order**

<sup>37</sup> 42. (1) Whoever-

- (a) being a licensee, save as permitted under section 27 or section 51 or by his license, supplies energy or lays down or places any electric supply-line or works outside the area of supply; or
- (b) being a licensee, in contravention of the provisions of this Act or of the rules thereunder, or in breach of the conditions of his license, and without reasonable excuse, the burden of proving which shall lie on him, discontinues the supply of energy or fails to supply energy; or
- (c) makes default in complying with any order issued to him under section 34, sub-section (2),

shall be punishable with imprisonment of either description for a term which shall not be less than one year but which may extend to five years and shall also be liable to a fine of ten thousand taka.

(2) A person who after being convicted under sub-section (1), is convicted for the second or subsequent times, he shall, for every such second or subsequent conviction, be punishable with imprisonment of either description for a term which shall not be less than three years but which may extend to five years and shall also be liable to a daily fine of one thousand taka.]

#### **Penalty for illegal transmission or use of energy**

<sup>38</sup> 43. (1) Whoever, in contravention of the provisions of section 34A, transmits or uses energy without giving the notice required thereby, shall be punishable with imprisonment of either description for a term which shall not be less than one year but which may extend to three years and shall also be liable to a fine of ten thousand taka.

(2) A person who after being convicted under sub-section (1), is convicted for the second or subsequent times, he shall, for every such second or subsequent conviction, be punishable with imprisonment of either description for a term which shall not be less than three years but which may extend to five years and shall also be liable to a daily fine of one thousand taka.]

#### **Penalty for interference with meters or licensee's works and for improper use of energy**

<sup>39</sup> 44. (1) Whoever-

- (a) connects any meter, maximum demand indicator or other measuring apparatus referred to in section 26, with any electric supply-line through which energy is supplied by a licensee, or disconnects the same from any such electric supply-line, without the licensee's consent in writing; or
- (aa) reconnects any such meter, indicator or apparatus with any electric line or other works being the property of a licensee without the licensee's consent in writing, when the said electric line or other works has or have been cut or disconnected; or
- (b) lays, or causes to be laid, or connects up any works for the purpose of communicating with any other works belonging to a licensee, without such licensee's consent in writing; or
- (bb) maliciously injures any meter, indicator, or apparatus belonging to a licensee or willfully or fraudulently alters the index of any such meter, indicator or apparatus or prevents any such meter, indicator or apparatus from duly registering; or
- (c) uses the energy supplied to him by a licensee under one method of charging in a manner for which a higher method of charging is in force without the licensee's consent in writing, or adopts any appliance or increase load beyond sanctioned load, or use energy supplied to him by a licensee in a manner prejudicial to the safety or efficient working of the licensee's electric supply-line or works, or deals with it in a manner so as to interfere with the efficient supply of energy by the licensee to any other person,

shall be punishable with imprisonment of either description for a term which shall not be less than one year but which may extend to three years and shall also be liable to fine which may extend to thirty thousand taka.

(2) If in case of sub-section (1) it is proved that any artificial means exist or have existed for making such connection as is referred to in clause (a), or such communication as is referred to in clause (b), or for facilitating such improper use of energy as is referred to in clause (c), and that the meter, maximum demand indicator or other measuring apparatus is under the custody or control of the consumer, whether it is his property or not, it shall be presumed, until the contrary is proved, that such connection, communication or improper use, as the case may be, has been knowingly and willfully caused by such consumer.

(3) A person who after being convicted under sub-section (1), is convicted for the second or subsequent times, he shall, for every such second or subsequent conviction, be punishable with imprisonment of either description for a term which shall not be less than three years but which may extend to five years and shall also be liable to a daily fine which may extend to three thousand taka.]

**44A. Penalty for abettors in certain offences.**—“(1) Whoever abets an offence punishable under this Act, shall, notwithstanding anything contained in the Penal Code, be punishable with the punishment provided for the offence.

(2) Without prejudice to any punishment or fine which may be imposed or any proceeding which may be initiated under this Act or any other law for the time being in force, if any officer or other employee of the licensee enters into or acquiesces in any agreement to do, abstains from doing, permits, conceals or connives at any act or thing whereby any theft of electricity or any other offence under this Act is committed, he shall be punishable with imprisonment for a term which shall not be less than one year and may extend to three years, and shall also be liable to a fine not exceeding fifty thousand taka.

Explanation. - A person abets the commission of any offence, if he –

- (a) instigates any person to commit the offence;
- (b) engages with one or more other persons in conspiracy for committing the offence;
- (c) intentionally aids the commission of the offence; or
- (d) facilitates in any way the commission of the offence.

#### **Penalty for extinguishing public lamps**

45. Whoever maliciously extinguishes any public lamp shall be punishable with imprisonment<sup>41]</sup> of either description for a term which shall not be less than three years but which may extend to five years and shall also be liable to fine which may extend to ten thousand taka].

#### **Penalty for negligently wasting energy or injuring works**

46. Whoever negligently causes energy to be wasted or diverted, or negligently breaks, throws down or damages any electric supply-line, post, pole or lamp or other apparatus connected with the supply of energy, <sup>42]</sup> or negligently throws, puts any articles on the electric supply-line or equipment to interrupt supply of energy] shall be punishable with <sup>43]</sup>imprisonment of either description for a term which shall not be less than three years but which may extend to five years and shall also be liable to a fine of ten thousand taka.]

#### **Penalty for offences not otherwise provided for**

<sup>44]</sup> 47. (1) Whoever, in any case not already provided for by sections 39 to 46 (both inclusive), makes default in complying with any of the provisions of this Act, or with any order issued under it, or in the case of a licensee, with any of the conditions of his license, shall be punishable with imprisonment of either description for a term which shall not be less than three years but which may extend to five years and shall also be liable to a fine of five thousand taka:

Provided that, where a person has made default in complying with any of the provisions of sections 13, 14, 14A, 14B, 15, 16, 17 and 32., as the case may be, he shall not be so punishable if the court is of opinion that the case was one of emergency and that the offender complied with the said provisions as far as was reasonable under the circumstances.

(2) A person who after being convicted under sub-section (1), is convicted for the second or subsequent times, he shall for every such second or subsequent conviction, be punishable with imprisonment of either description for a term which shall

not be less than three years but which may extend to five years and shall also be liable to a daily fine of five hundred taka.]

#### **Penalties not to affect other liabilities**

48. The penalties imposed by sections 39 to 47 (both inclusive) shall be in addition to, and not in derogation of, any liability in respect of the payment of compensation or, in the case of a licensee, the revocation of his license, or the payment of penalty in lieu thereof, which the offender may have incurred.

49. **Penalties where works belong to Government.**— The provisions of sections 39, 40, 44, 45 and 46 shall, so far as they are applicable, be deemed to apply also when the acts made punishable thereunder are committed in the case of electricity supplied by, or of works belonging to, the Government or any statutory body or any company owned wholly or partially by the Government.

#### **Offences by companies**

<sup>45</sup> 49A. (1) if the person committing an offence under this Act is a company, every person who at the time the offence has been committed was in charge of, or was responsible to the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge, or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under the Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

**Explanation.**—For the purposes of this section—

- (a) “company” means any body corporate and includes a firm or other association of individuals; and
- (b) “director”, in relation to firm, means a partner in the firm.]

#### **Institution of prosecutions**

<sup>46</sup> 50. (1) Notwithstanding anything contained in the [Code of Criminal Procedure](#), 1898 (Act V of 1898) offences under sections 39 to 47 (both inclusive) of this Act shall be cognizable.

(2) No court shall take cognizance of any offence against an employee of the licensee for abetting the commission of any offence under this Act unless a report to that effect is filed by an officer not below the rank of an Assistant Engineer or Assistant Manager of the concerned licensee for the offence committed.

**Explanation**—A person is said to abets the commission of any offence, if he—

- (a) instigates any person to commit the offence;
- (b) engages with one or more other persons in conspiracy for committing the offence;
- (c) Intentionally aids the commission of the offence; or
- (d) facilitates in any way the commission of the offence.

(3) any officer not below the rank of an Assistant Engineer or Assistant Manager of the concerned licensees shall be competent of file cases for any offence under this Act or any rule, license of order made thereunder in the court taking cognizance of the offence.]

**Power of Magistrate to pass sentence, impose fine**

<sup>47</sup>[ 50A. Notwithstanding anything contained in the [Code of Criminal Procedure](#), 1898 (Act No. V of 1898) or in any other law for the time being in force, the Executive Magistrate, or Judicial Magistrate, as the case may be, shall be competent to pass any sentence and impose any fine authorized by this Act.]

**50B. Power of Executive Magistrate.**– Notwithstanding anything contained to the contrary in this Act or any other Law for the time being in force, all offences under this Act shall also be triable and punishable under the Mobile Courts Act, 2009 (Act No. LIX of 2009) by an Executive Magistrate.

## *Supplementary*

### **Exercise in certain cases of powers of telegraph-authority**

51. Notwithstanding anything in sections 12 to 16 (both inclusive) and sections 18 and 19, the Government may, by order in writing, for the placing of appliances and apparatus for the transmission of energy, confer upon any public officer or licensee, subject to such conditions and restrictions (if any) as the Government may think fit to impose, and to the provisions of the [Telegraph Act](#), 1885, any of the powers which the telegraph-authority possesses under that Act, with respect to the placing of telegraph-lines and posts for the purposes of a telegraph established or maintained by the Government or to be so established or maintained.

**52. Dispute Resolution, Arbitration and Compounding.**– (1) The procedures to be followed in the resolution of any dispute arising in connection with the supply or use of electricity under any provisions of this Act shall be such as the Commission shall set out by regulations.

(2) Notwithstanding any provisions to the contrary in this Act or any other law for the time being in force, any disputes arising in connection with the supply or use of electricity, which the parties have not been able to resolve through the dispute resolution procedures formulated by the Commission under sub-section (1) despite using their best efforts to do so, shall be referred to the Commission by any party to the dispute for arbitration.

(3) Where any matter is referred to the Commission under sub-section (2), or is, by or under this Act, directed to be determined by arbitration, the provisions of section 40 of the **Bangladesh Energy Regulatory Commission Act, 2003 (Act No. XIII of 2003)** shall apply.

(4) The Chief Electrical Inspector may, with the consent in writing of the Commission, compound offences under section 40, 40A, 40B, 41, 42, 43, 44, 45 and 46, or any rules or regulations made under this Act, by collecting from the person reasonably suspected of having committed the offence a sum of money not less than fifty per cent of the amount of maximum fine for that offence.

(5) The method and procedure for compounding of offences shall form a part of the regulation to be set out by the Commission under sub-section (1).

**52A. Reward for information.**– (1) In the case of a conviction involving a fine the court imposing the fine may, on the application of the officer conducting the prosecution, direct the payment of any part of the fine but not exceeding one half of such fine in such proportion as the court deems fit to the person who gave the information leading to the conviction.

(2) The Authority or any electric utility may declare attractive rewards for providing information regarding theft of electricity or similar occurrences declared as offences under this Act.

**52B. Transparency in the Bidding Process.**– (1) It shall be the duty of every person, including but not limited to officials of the contracting authority and its reporting authorities and the bidders, involved in the bidding process of any power project, to observe the highest standard of ethics during the procurement and execution of any contract.

(2) The contracting authority will reject a proposal for award if it determines that the bidder recommended for award has, directly or through an agent, engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the PPP contract.

(3) The contracting authority will cancel the bid if it finds that any person other than a bidder has engaged in corrupt, fraudulent, collusive, or coercive practices during the procurement or the execution of that contract.

(4) The contracting authority shall declare any person ineligible, either indefinitely or for a stated period of time, to participate in activities administered or financed by the contracting authority or to benefit from any contract awarded, administered or financed by the contracting authority, financially or otherwise, if it at any time determines that the firm or individual has, directly or through an agent, engaged in corrupt, fraudulent, collusive, or coercive or other prohibited practices.

(5) No person who has a conflict of interest shall participate in a bidding process, and immediately upon it coming to the notice of a person involved in the bidding process that he has a conflict of interest, he shall refrain from participating in the bidding process at any stage.



(6) Any bidder found to have a conflict of interest shall be disqualified from participating in the bidding process.

**Explanation:** For the purposes of this section, the following terms shall have the meaning as under-

(i) 'corrupt practice' means the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another person involved in any bidding process;

(ii) 'fraudulent practice' means any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a person involved in any bidding process to obtain a financial or other benefit or to avoid an obligation;

(iii) 'coercive practice' means impairing or harming, or threatening to impair or harm, directly or indirectly, any person or the property of that person to influence improperly the actions of a person involved in any bidding process;

(iv) 'collusive practice' means an arrangement between two or more persons involved in any bidding process designed to achieve an improper purpose, including influencing improperly the actions of another person; whether or not the purported purpose of engaging in any one or more of the practices above is in fact achieved; and

(v) 'conflict of interest' means a situation in which a person has such interests that could improperly influence that person's performance of lawful duties or responsibilities, contractual obligations, or compliance with applicable laws and regulations, and that such conflict of interest may contribute to or constitute a corrupt practice as mentioned above.

#### **Service of notices, orders or documents**

53. (1) Every notice, order or document by or under this Act required or authorised to be addressed to any person may be served by post or left,-

(a) where the Government is the addressee, at the office of such officer as the Government,<sup>48</sup> \* \* \*] may designate in this behalf;

(b) where a local authority is the addressee, at the office of the local authority;

(c) where a company is the addressee, at the registered office of the Company or, in the event of the registered office of the Company or, in the event of the registered office of the Company not being in Bangladesh at the head office of the Company in Bangladesh;

(d) where any other person is the addressee, at the usual or last known place of adobe or business of the person.

(2) Every notice, order or document by or under this Act required or authorised to be addressed to the owner or occupier of any premises shall be deemed to be properly addressed if addressed by the description of the "owner" or "occupier" of the premises (naming the premises), and may be served by delivering it, or a true copy thereof, to some person on the premises, or, if there is no person on the premises to whom the same can with reasonable diligence be delivered, by affixing it on some conspicuous part of the premises.

54. **Recovery of sums recoverable under certain provisions of Act.**— Any penalty imposed, every sum declared to be recoverable, and every fee leviable under this Act, may be recovered, on application to a Court having jurisdiction where the person liable to pay the same is, for the time being, resident, by the sale of any moveable property belonging to such person.

#### **Charges for supply of energy recoverable as arrears of land revenues**

<sup>49</sup> 54A. (1) Notwithstanding anything contained in this Act or in any other law for the time being in force or in any instrument or agreement, the charges for supply of energy or any other sum outstanding against a consumer under this Act shall be recoverable as an arrear of land revenue.

(2) A licensee, or any person duly authorised by the licensee, may apply with a certificate showing the amount outstanding against a consumer to the Collector of the district concerned for the recovery of the said amount, and the

Collector shall, thereupon proceed to recover the same from such consumer, or his sureties, or from all of them, as an arrear of land revenue.

### **Requisition of police assistance**

<sup>50</sup> 54B. Where a licensee or any person duly authorised by him in this behalf, requires any police assistance for carrying out the purposes of this Act, he may make a requisition to the officer-in-charge of the concerned Police Station:

Provided that a copy of the requisition letter will be sent to the Superintendent of Police of the concerned District, Metropolitan Police Commissioner in a Metropolitan Area, the Deputy Commissioner of the District or the Upazilla Nirbahi Officer of the Upazilla concerned as the case may be, who will ensure to render the police assistance required.]

### **Bar of Jurisdiction**

54C. (1) Where a licensee gives a notice referred to in sub-section (1) of section 24 or discontinues supply of energy to premises under the provisions of this Act, no court shall make an order prohibiting the licensee from discontinuing supply of energy to the premise, or requiring him to restore supply of energy to such premises:

Provided that nothing contained herein shall apply to a case in which the plaintiff, applicant or appellant within a period of thirty days of the aforesaid date or at the time of filing the suit, application or appeal, as the case may be, deposit with the court the amount assessed against him by the licensee and all further charges of the licensee as and when they become due; and in the event of his failing to do so, any order prohibiting the licensee from discontinuing the supply of energy to the premises, or requiring him to restore the supply of energy to the premises, if already made, shall cease to have effect.

(2) Where an amount has been deposited under sub-section (1), the court shall direct it to be deposited in a scheduled bank in the name of the licensee on an undertaking being furnished by the licensee to the effect that in case the suit, application or appeal is decided against him, he shall repay the said amount to the plaintiff, applicant or appellant, as the case may be, with such reasonable return as the court may determine.]

**55. Consumers' Committees.**— (1) The Authority shall establish committees to be known as the consumers' committees in a manner to be prescribed by the Commission subject to the provisions contained herein.

(2) Each consumers' committee shall be appointed for an area consisting of the authorised area of an distribution licensee, which will extend secretarial and other required support to the committee.

(3) Each consumers' committee shall consist of a chairman and such other members, not being less than ten or more than fifteen.

(4) An appointment of a person to hold office as the chairman or a member of a consumers' committee shall be for a term not exceeding two years.

(5) Subject to sub-section (4) above, the chairman and other members of a consumers' committee shall hold and vacate office in accordance with the terms of the instruments appointing them and shall, on ceasing to hold office, be eligible for re-appointment.

(6) It shall be the duty of each consumers' committee –

(a) to make representations to and consult with the distribution licensee concerned about all such matters as appear to the committee to affect the interests of consumers or potential consumers of that supplier;

(b) to keep under review matters affecting the interests of consumers of electricity supplied to premises in the committee's area; and

(c) to advise the licensee, with an intimation to the Commission and the Authority, on any matter relating to the supply of electricity in that area on which they consider they should offer advice or which is referred to them by the Commission or the Authority or the licensee.

**55A. Periodical and other reports of consumers' committees.**— (1) Each consumers' committee –

(a) shall make a report to the Commission on any such matter as the Commission may require; and

(b) may make a report to the Commission concerning any matter which appears to the committee to affect the interests of consumers or potential consumers of the supplier concerned.

(2) Each consumers' committee shall, at least once in every year, and whenever requested to do so by the Commission, make a report to it on their activities; and every such report shall include a statement of the matters on which, during the period to which it relates, the committee have advised the respective supplier under section 55 above.

(3) A copy each of the reports submitted under sub-section (1) and (2) above shall be forwarded by the respective committee simultaneously to the Authority.

(4) The Commission may arrange for a report made to it under this section to be published in such manner as it considers appropriate.

(5) In publishing any report under this section the Commission shall have regard to the need for excluding, so far as that is practicable, –

(a) any matter which relates to the affairs of an individual, where publication of that matter would or might, in the opinion of the Commission, seriously and prejudicially affect the interests of that individual; and

(b) any matter which relates specifically to the affairs of a particular body of persons, whether corporate or unincorporate, where publication of that matter would or might, in the opinion of the Commission, seriously and prejudicially affect the interests of that body.

**55B. Special powers in case of emergency.**— (1) The Government may on the occurrence of any industrial unrest, strike, lock-out or any other event which gives rise to an emergency or in the interest of public safety, authorise the Commission to—

(a) suspend the licence of any licensee, take temporary possession of any installation of such licensee and operate it in such manner as the Government directs; or

(b) withdraw either partially or totally the use of any installation or facility from any person or class of persons or from the public at large.

(2) If any doubt arises as to the existence of an emergency or whether any act done under sub-section (1) was in the interest of public safety, a certificate signed by an officer not below the rank of Deputy Secretary shall be conclusive proof on the point.

**56. Protection for acts done in good faith.**— No suit, prosecution or other proceeding shall lie against any officer or any staff of the Government, or of any local authority, or of any licensee, for anything done, or purporting to be done, in good faith under this Act or any rules or regulations made thereunder.

**57. Promotion of new technologies through Research and Development.**— (1) The Government shall create an enabling environment for research and development in the power sector for the purpose of promoting such research into, and such development of, new technologies relating to the generation, transmission or supply of electricity as appears to be necessary in the national interest.

(2) If the Government considers it expedient for the purposes of this section, it may, serve notice under this sub-section on any licensee or any person who is authorised by an exemption to generate or supply electricity assigning specific responsibility in this regard.

(3) A notice under sub-section (2) above may require the licensee or the person on whom it is served to conduct or undertake research on certain specific issues of importance, within such reasonable time as specified in the notice, and submit findings to the Government or such other authorities as may be so specified.

(4) In order to achieve the purposes of this section, the Authority shall prepare, regularly update and publish a balanced set of programmes of research, development, demonstration, and commercial application.

(5) The Authority shall provide mechanisms for input on the published set of programmes from industry, institutions of higher education, and other public sources.

(6) In spite of the foregoing provisions, the Commission shall maintain permanent Research and Development Unit within its organisation structure for the purposes of this section.

**57A. National Electricity Research Centre.**– (1) There shall be a National Electricity Research Centre, hereinafter referred to as the NERC, which will be an independent and fully autonomous body for all research-informed solutions, advice, and debate across the entire electricity sector, and will gradually become a ‘thought-leader’ of the sector.

(2) NERC shall be governed by a Board of Governors to be constituted by the Government by order, and will be chaired by the Minister-in-Charge of the Ministry of Power, Energy and Mineral Resources, while members will be selected considering their experience and passion for research, including representatives from relevant Ministries of the Government.

(3) The Governing Board shall have the supreme decision making authority in any affair of the Centre subject to the provisions of this Act, and will meet as and when required.

(4) A Managing Director shall be the executive head of the Centre, and he will be assisted by such number of Directors, and other officers, researchers and support staff, as the Government may determine.

(5) The Managing Director and the Directors shall be appointed by the Government under such terms and conditions as the Government may determine.

(6) Other officers, researchers and staff shall be appointed by the Managing Director according to the guidelines provided by the Board of Governors in terms of their conditions of service, tenure, salaries and other benefits.

(7) NERC will organise professional development courses and post-graduate internships, undertake research and training activities, conduct seminars and conferences including awareness-building events, develop partnership with industry, universities, research organisations, experts and scholars, collaborate with local, regional and international organisations, help establish electricity-related courses at collaborating universities, establish electricity data bank to help in research, studies and policy formulation process, and engage in strategic thinking at the national level, for the benefit of communities throughout the country.

(8) The funds of the Centre shall comprise of mainly grants from the Government provided against a budget duly approved and periodically monitored by the Government, and in addition, the Centre will be eligible to collect any fees and charges for the services provided.

**58. Act to have overriding effect.**– The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

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<sup>1</sup> Throughout this Act, except otherwise provided, the words “Bangladesh”, “Government” and “Taka” were substituted, for the words “Pakistan”, “Central Government” or “Provincial Government” or “Central Government or the Provincial Government” or “Central Government or any Provincial Government” and “rupees” respectively by section 3 and 2nd Schedule of the [Bangladesh Laws \(Revision And Declaration\) Act, 1973](#) (Act No. VIII of 1973).

- <sup>2</sup> The words “who is the owner or occupier of the premises which” were substituted, for the words “whose premises” by section 2 of the Electricity (Amendment) Ordinance, 1983 (Ordinance No. XLII of 1983).
- <sup>3</sup> The words `except the transmission of a message` were omitted by section 2 of the [Electricity \(Amendment\) Act](#), 1993 (Act No. XXVIII of 1993).
- <sup>4</sup> The words “one hundred taka” were substituted, for the words “five taka” by section 3 of the Electricity (Amendment) Ordinance, 1983 (Ordinance No. XLII of 1983)
- <sup>5</sup> The words “without intimation to the local authority or to the owner or” were substituted, for the words “without the consent of the local authority or of the owner and” by section 4 of the Electricity (Amendment) Ordinance, 1983 (Ordinance No. XLII of 1983)
- <sup>6</sup> The words “immediate intimation in writing by special messenger or by telephonic message followed by written intimation” were substituted, for the words “not less than forty-eight hours' notice in writing” by section 5 of the Electricity (Amendment) Ordinance, 1983 (Ordinance No. XLII of 1983)
- <sup>7</sup> Section 19A was inserted by section 5 of the Indian [Electricity \(Amendment\) Act](#), 1922 (Act No. I of 1922)
- <sup>8</sup> The words “Magistrate of the 1st class” were substituted, for the words “District Magistrate” by section 3 of the [Electricity \(Amendment\) Act](#), 1993 (Act No. XXVIII of 1993)
- <sup>9</sup> Proviso to sub-section (2) was omitted by section 3 and 2nd Schedule of the [Bangladesh Laws \(Revision And Declaration\) Act](#), 1973 (Act No. VIII of 1973)
- <sup>10</sup> Clause (b) was substituted, for clause (b) by section 6 of the Electricity (Amendment) Ordinance, 1983 (Ordinance No. XLII of 1983)
- <sup>11</sup> Clause (cc) was inserted by section 4 of the [Electricity \(Amendment\) Act](#), 1993 (Act No. XXVIII of 1993)
- <sup>12</sup> The words “within the period stated therein in the bill” were inserted by section 7 of the Electricity (Amendment) Ordinance, 1983 (Ordinance No. XLII of 1983).
- <sup>13</sup> The word “ten” was substituted, for the word “seven” by section 7 of the Electricity (Amendment) Ordinance, 1983 (Ordinance No. XLII of 1983).
- <sup>14</sup> The commas and words “, if required by the consumer,” were omitted by section 5 of the [Electricity \(Amendment\) Act](#), 1993 (Act No. XXVIII of 1993).
- <sup>15</sup> The provisos were substituted, for the proviso by section 5 of the [Electricity \(Amendment\) Act](#), 1993 (Act No. XXVIII of 1993).
- <sup>16</sup> The words “in this behalf within a period of ninety days from the date of receipt of such application and after affording the parties an opportunity of being heard” were substituted, for the words “in this behalf” by section 5 of the [Electricity \(Amendment\) Act](#), 1993 (Act No. XXVIII of 1993).
- <sup>17</sup> The words “or the connected load in the supply” were substituted, for the words “or the electrical quantity contained in the supply” by section 8 of the Electricity (Amendment) Ordinance, 1983 (Ordinance No. XLII of 1983).
- <sup>18</sup> Section 29A was inserted by section 2 of the Indian [Electricity \(Amendment\) Act](#), 1923 (Act No. XL of 1923)
- <sup>19</sup> The words “one kilowatt” were substituted, for the words “two hundred and fifty watts” by section 9 of the Electricity (Amendment) Ordinance, 1983 (Ordinance No. XLII of 1983).
- <sup>20</sup> The words, commas and figure “Factories Act, 1965,” were substituted, for the words, commas and figure “Indian Factories Act, 1911,” by section 3 and 2nd Schedule of the [Bangladesh Laws \(Revision And Declaration\) Act](#), 1973 (Act No. VIII of 1973).
- <sup>21</sup> The words, commas and figures “Mines Act, 1923,” were substituted, for the words, commas and figure “Indian [Mines Act](#), 1901,” by section 3 and 2nd Schedule of the [Bangladesh Laws \(Revision And Declaration\) Act](#), 1973 (Act No. VIII of 1973).
- <sup>22</sup> The words “without obtaining permission from the Government” were substituted, for the words “without giving not less than seven clear days' notice in writing of his intension to the District Magistrate” by section 9 of the Electricity (Amendment) Ordinance, 1983 (Ordinance No. XLII of 1983).
- <sup>23</sup> The word `Bangladesh` was substituted for the words `the Province` by section 3 and 2nd Schedule of the [Bangladesh Laws \(Revision And Declaration\) Act](#), 1973 (Act No. VIII of 1973).
- <sup>24</sup> The words “Electricity Board” were substituted, for the words “Advisory Board” by section 10 of the Electricity (Amendment) Ordinance, 1983 (Ordinance No. XLII of 1983).
- <sup>25</sup> The words “Electricity Board” were substituted, for the words “Advisory Board” by section 11 of the Electricity (Amendment) Ordinance, 1983 (Ordinance No. XLII of 1983)
- <sup>26</sup> The word `Bangladesh` was substituted for the words `East Pakistan` by section 3 and 2nd Schedule of the [Bangladesh Laws \(Revision And Declaration\) Act](#), 1973 (Act No. VIII of 1973)
- <sup>27</sup> The words “one thousand taka” and “one hundred taka” were substituted, for the words “three hundred taka” and “fifty taka” respectively by section 12 of the Electricity (Amendment) Ordinance, 1983 (Ordinance No. XLII of 1983)
- <sup>28</sup> The words “one thousand taka” and “one hundred taka” were substituted, for the words “three hundred taka” and “fifty taka” respectively by section 12 of the Electricity (Amendment) Ordinance, 1983 (Ordinance No. XLII of 1983)
- <sup>29</sup> Sections 39 and 39A were substituted, for section 39 by section 13 of the Electricity (Amendment) Ordinance, 1983 (Ordinance No. XLII of 1983).

- <sup>30</sup> Section 39 was substituted, for section 39 by section 2 of the [Electricity \(Amendment\) Act, 2006](#) (Act No. V of 2006).
- <sup>31</sup> The words `shall be punishable with imprisonment of either description for a term which shall not be less than three years but which may extend to five years and shall also be liable to fine which may extend to twenty thousand taka` were substituted, for the words and commas `shall be punished with imprisonment of either description for a term which may extend to five years, or with fine which may extend to ten thousand taka, or with both` by section 3 of the [Electricity \(Amendment\) Act, 2006](#) (Act No. V of 2006)
- <sup>32</sup> Section 40 was substituted, for the former section 40 by section 4 of the [Electricity \(Amendment\) Act, 2006](#) (Act No. V of 2006)
- <sup>33</sup> Section 40A was inserted by section 14 of the Electricity (Amendment) Ordinance, 1983 (Ordinance No. XLII of 1983).
- <sup>34</sup> The words `shall be punishable with imprisonment of either description for a term which shall not be less than three years but which may extend to five years and shall also be liable to fine which may extend to twenty five thousand taka` were substituted, for the words and commas `punishable with imprisonment for a term which may extend to five years, or with fine which may extend to ten thousand taka, or with both` by section 5 of the [Electricity \(Amendment\) Act, 2006](#) (Act No. V of 2006).
- <sup>35</sup> Section 40B was inserted by section 6 of the [Electricity \(Amendment\) Act, 2006](#) (Act No. V of 2006)
- <sup>36</sup> Section 41 was substituted, for the former section 41 by section 7 of the [Electricity \(Amendment\) Act, 2006](#) (Act No. V of 2006)
- <sup>37</sup> Section 42 was substituted, for the former section 42 by section 8 of the [Electricity \(Amendment\) Act, 2006](#) (Act No. V of 2006)
- <sup>38</sup> Section 43 was substituted, for the former section 43 by section 9 of the [Electricity \(Amendment\) Act, 2006](#) (Act No. V of 2006)
- <sup>39</sup> Section 44 was substituted, for the former section 44 by section 10 of the [Electricity \(Amendment\) Act, 2006](#) (Act No. V of 2006)
- <sup>40</sup> Section 44A was substituted, for the former section 44A by section 11 of the [Electricity \(Amendment\) Act, 2006](#) (Act No. V of 2006)
- <sup>41</sup> The words `of either description for a term which shall not be less than three years but which may extend to five years and shall also be liable to fine which may extend to ten thousand taka` were substituted, for the words and comma `for a term which may extend to six months, or with fine which may extend to five thousand taka, or with both` by section 12 of the [Electricity \(Amendment\) Act, 2006](#) (Act No. V of 2006)
- <sup>42</sup> The words and comma “or negligently throws, puts any articles on the electric supply-line or equipment to interrupt supply of energy” were inserted by section 18 of the Electricity (Amendment) Ordinance, 1983 (Ordinance No. XLII of 1983).
- <sup>43</sup> The words `imprisonment of either description for a term which shall not be less than three years but which may extend to five years and shall also be liable to a fine of ten thousand taka` were substituted, for the words `fine which may extend to five thousand taka` by section 13 of the [Electricity \(Amendment\) Act, 2006](#) (Act No. V of 2006).
- <sup>44</sup> Section 47 was substituted, for the former section 47 by section 14 of the [Electricity \(Amendment\) Act, 2006](#) (Act No. V of 2006)
- <sup>45</sup> Section 49A was inserted by section 15 of the [Electricity \(Amendment\) Act, 1993](#) (Act No. XXVIII of 1993)
- <sup>46</sup> Section 50 was substituted, for the former section 50 by section 15 of the [Electricity \(Amendment\) Act, 2006](#) (Act No. V of 2006).
- <sup>47</sup> Section 50A was inserted by section 16 of the [Electricity \(Amendment\) Act, 2006](#) (Act No. V of 2006)
- <sup>48</sup> The words and comma `as the case may be,` were omitted by section 3 and 2nd Schedule of the [Bangladesh Laws \(Revision And Declaration\) Act, 1973](#) (Act No. VIII of 1973)
- <sup>49</sup> Sections 54A, 54B and 54C were inserted by section 21 of the Electricity (Amendment) Ordinance, 1983 (Ordinance No. XLII of 1983).
- <sup>50</sup> Section 54B was substituted, for the former section 54B by section 17 of the [Electricity \(Amendment\) Act, 2006](#) (Act No. V of 2006)

## **THE SCHEDULE**

### **PROVISIONS TO BE DEEMED TO BE INCORPORATED WITH, AND TO FORM PART OF, EVERY LICENSE GRANTED UNDER BANGLADESH ENERGY REGULATORY COMMISSION ACT, 2003, SO FAR AS NOT ADDED TO, VARIED OR EXCEPTED BY THE LICENSE**

#### **SECURITY, ACCOUNTS AND AUDIT**

##### **I. Security for execution of works of licensee not being local authority.**

Where the licensee is not a local authority, the following provisions as to giving security shall apply, namely:-

- (a) The licensee shall, within the period fixed in that behalf by his license, or any longer period which the Government may substitute therefor by order, before exercising any of the powers by the license conferred on him in relation to the execution of works, show, to the satisfaction of the Government, that he is in a position fully and efficiently to discharge the duties and obligations imposed upon him by the license throughout the area of supply.
- (b) The licensee shall also, within the period fixed in that behalf by his license, or any longer period which the Government may substitute therefor by order, and before exercising any of the powers conferred on him in relation to the execution of works, deposit or secure to the satisfaction of the Government such sum (if any) as may be fixed by the license or, if not so fixed, by the Government.
- (c) The said sum deposited or secured by the licensee under the provision of this clause shall be repaid or released to him on the completion of the works or at such earlier date or dates and by such instalments, as may be approved by the Government.

##### **IA. Annual accounts of licensee.**

- (1) Every licensee shall, unless expressly exempted from the liability by order in writing of the Government, prepare and submit to the Government, the Commission, or to such other authorities as the Government may appoint in this behalf, on or before the specified date in each year, an annual statement of accounts of his undertaking, made up to such date, in such form, and containing such particulars, as may be prescribed in this behalf by the Commission.
- (2) The licensee shall keep copies of such annual statement at his office, and sell the same to any applicant at a price not exceeding one hundred taka per copy.

##### **II. Audit of accounts of licensee.**

- (1) Notwithstanding anything contained in any other law for the time being in force in Bangladesh, the following provisions as to the audit of accounts of any licensee shall apply –
  - (a) The annual statement of accounts of the undertaking shall, before being submitted under clause IA of the Schedule, be examined and audited by such person as the Authority may appoint or approve in this behalf;
  - (b) The remuneration of the auditor and all expenses incurred by him in or about the execution of his duties, to such an amount as the Authority shall approve, shall be paid by the licensee on demand;
  - (c) The licensee shall afford to the auditor, his officers and staff, access to all such books and documents relating to the undertaking as are necessary for the purposes of the audit, and shall, when required, furnish to him and them all vouchers and information requisite for that purpose, and afford to him and them all facilities for the proper execution of his and their duty;
  - (d) Any report made by the auditor, or such portion thereof as the Authority may direct, shall be appended to the annual statement of accounts of the licensee, and shall thenceforth form part thereof;

(e) Notwithstanding the foregoing provisions of this section, the Government may, if it thinks fit, direct that an auditor for such examination and audit of the accounts of any licensee may be appointed by the Board of Directors of that licensee, where there is no shareholding of the Government.

(2) The Government may order special audit of the accounts of any licensee by the Comptroller and Auditor General of Bangladesh if it is considered necessary at any point of time, in the manner as is mentioned in that order.

### **III. Separate accounts.**

The licensee shall, unless the Commission otherwise directs, at all times keep the accounts of the capital employed for the purposes of the undertaking distinct from the accounts kept by him of any other undertaking or business.

## **COMPULSORY WORKS AND SUPPLY**

### **IV. Execution of work after commencement of license.**

The licensee shall, within a period of three years after the commencement of the license, execute to the satisfaction of the Commission all such works as may be specified in the license in this behalf or, if not so specified, as the Commission may, by order in writing issued within six months of the date of the commencement of the license, direct.

### **V. Provisions as to laying down of further distributing mains.**

(1) Where, after the expiration of two years and six months from the commencement of the license, a requisition is made by six or more owners or occupiers of premises in or upon any street or part of a street within the area of supply or by a local authority, charged with the public lighting thereof, requiring the licensee to provide distributing mains throughout such street or part thereof, the licensee shall comply within six months with the requisition, unless,--

- (a) where it is made by such owners or occupiers as aforesaid, the owners or occupiers making it do not, within fourteen clear days after the service on them by the licensee of a notice in writing in this behalf, tender to the licensee a written contract duly executed and with sufficient security binding themselves to take, or guaranteeing that there shall be taken, a supply of energy for not less than two years to such amount as will in the aggregate produce annually, at the current rates charged by the licensee, a reasonable return to the licensee; or
- (b) where it is made by a local authority, the local authority, does not, within the like period, tender a like contract binding itself to take a supply of energy for not less than seven years for the public lamps in such street or part thereof.

(2) Where any difference or dispute arises between the licensee and such owners or occupiers as to the sufficiency of the security offered under this clause, or as to the amount of energy to be taken or guaranteed as aforesaid, the matter shall be determined in accordance with the provisions of section 52.

(3) Every requisition under this clause shall be signed by the maker or makers thereof and shall be served on the licensee.

(4) Every requisition under this clause shall be in a form to be prescribed by rules and copies of the form shall be kept at the office of the licensee and supplied free of charge to any applicant.

### **VI. Requisition for supply to owners or occupiers in vicinity.**

(1) The owner or occupier of any premises within the area of supply of a distribution licensee, which –

- (a) is situated within one hundred feet from any distribution line of the licensee; or
- (b) could be connected to any such line by an electric line supplied and laid at the cost of the owner or occupier of those premises;

may make an application for a supply of electricity to such distribution licensee.



(2) Where any person requires such a supply of electricity as is referred to in sub- clause (1), he or she shall submit an application to the concerned distribution licensee, and the application shall contain, inter alia, the following information –

- (a) the premises at which the supply is required;
- (b) the purposes for which electricity is to be used in those premises;
- (c) the day (not being earlier than a reasonable time after the distribution licensee is informed of a person's requirement) on which the supply is required to commence;
- (d) the maximum power or load which may be required at any time; and
- (e) the minimum period for which the supply is required to be given,

and shall provide the distribution licensee with such other information as may be required as specified from time to time.

(3) As soon as practicable after receiving an application under sub- clause (2), the distribution licensee shall give to the person making the request a notice under sub- clause (4), if –

- (a) such applicant was not previously given a supply of electricity to those premises;
- (b) the giving of the supply requires the provision of electric lines or electrical plant or both; or
- (c) if there are other circumstances which make it necessary for the licensee to do so.

(4) A notice under sub-clause (3) shall –

- (a) state the extent to which the proposals specified in the prospective consumer's request under sub- clause (2) are acceptable to the distribution licensee and specify any counter-proposals made by the distribution licensee;
- (b) specify the tariff payable;
- (c) specify any payment as to the cost of so much of any service line as may be laid down or placed for the purposes of the supply upon the property in respect of which the requisition is made, and of so much of any service line as it may be necessary for the said purposes to lay down or place beyond one hundred feet from the licensee's distributing main, although not on that property;
- (d) specify any payment which that person may be required to make under any other provisions;
- (e) specify any security which that person will be required to give; and
- (f) specify any other terms and conditions which that person may be required to accept,

and shall be accompanied by a draft agreement, if the response of the distribution licensee is positive, specifying the proposed terms and conditions.

(5) The counter-proposals, terms and conditions proposed by the distribution licensee shall be those which the licensee is entitled to impose on that person in accordance with this Act, any rules or regulations made under this Act and the conditions of the distribution licence.

(6) In this clause –

- (a) any reference to giving a supply of electricity, includes a reference to continuing to give such a supply;
- (b) any reference to requiring a supply of electricity, includes a reference to requiring such a supply to continue to be given; and
- (c) any reference to the provision of an electric line or an item of electrical plant, includes a reference to the installation of a new line or item or the modification of an existing line or item.

(7) Save as otherwise provided in this Act, the distribution licensee, shall give supply of electricity to such premises, within one month after receipt of the application requiring such supply.

**Explanation:** For the purposes of this clause, 'application' means an application complete in all respects in the appropriate form, as required by the distribution licensee, along with documents showing payment of necessary charges and other compliances.

(8) If any application is made for a supply of energy and the situation is such that –

(a) the nearest distributing main is already loaded up to its full electricity-carrying capacity, or

(b) in case of a larger amount of electricity being transmitted by it, the loss of pressure will seriously affect the efficiency of the supply to other consumers in the vicinity,

the licensee may refuse to accede to the requisition for such reasonable period, not exceeding six months, for the purpose of extension of distributing mains, or commissioning of new sub-stations, and inform the applicant a time schedule of making the requested supply:

Provided that in case of a village or area wherein no provision for supply of electricity exists, the Government may extend the period as it may consider necessary for electrification of such village or area.

(9) Any service line laid for the purpose of supply in pursuance of any requisition under sub-clause (1) shall, notwithstanding that a portion of it may have been paid for by the person making the requisition, be owned and maintained by the licensee.

(10) Every requisition under this clause shall be made in a form to be prescribed by rules under this Act, shall be signed by the maker or makers thereof and shall be served on the licensee.

(11) Adequate copies of the form shall be kept at the office of the licensee and supplied free of charge to any applicant.

## **VII. Further provisions as to laying of service lines.**

The licensee shall, before commencing to lay down or place a service line in any street in which a distributing main has not already been laid down or placed, serve upon the local authority (if any) and upon the owner or occupier of all premises abutting on so much of the street as lies between the points of origin and termination of the service line so to be laid down or placed, twenty-one days' notice stating that the licensee intends to lay down or place a service line, and intimating that, if within the said period the local authority or any five or more of such owners or occupiers require, in accordance with the provisions of the license, that a supply shall be given for any public lamps or to their premises, as the case may be, the necessary distributing main will be laid down or placed by the licensee at the same time as the service line.

## **VIII. Supply for public lamps.**

(1) Where after distributing mains have been laid down under the provisions of clause IV or clause V and the supply of energy through those mains or any of them has commenced, a requisition is made by a local authority requiring the licensee to supply for a period of not less than seven years energy for any public lamps within the area of supply, the licensee shall supply, and, save in so far as he is prevented from doing so by cyclones, floods, storms or other occurrences beyond his control, continue to supply, energy for such lamps in such quantities as the local authority, may require.

(2) The provisions of clause VI shall, so far as may be, apply to every case in which a requisition for the supply of energy is made under this clause as if the Government or local authority were an owner or occupier within the meaning of those provisions.

## **SUPPLY BY SINGLE BUYER**

## **IX. Special provisions applying to supply by single buyer.**

(1) Where, and in so far as, the licensee (hereinafter in this clause referred to as "the single buyer ") is authorized by his license to supply energy to other licensees for distribution by them (hereinafter in this clause referred to as "distributing-licensees") the following provisions shall apply, namely:--

- (a) any distributing-licensees within the single buyer 's area of supply may make a requisition on the single buyer, requiring him to give a supply of energy and specifying the point, and the maximum rate per unit of time, at which such supply is required, and the date upon which the supply is to commence, such date being fixed after the date of receipt of the requisition so as to allow an interval that is reasonable with regard to the locality and to the length of the electric supply-line and the amount of the plant required;
- (b) such distributing-licensee shall, if required by the single buyer so to do, enter into a written agreement to receive and pay for a supply of energy for a period of not less than seven years of such an amount that the payment to be made for the same at the rate of charge for the time being charged for such supply shall not be less than such an amount as will a reasonable return to the single buyer on the outlay (excluding expenditure on generating plant then existing and any electric supply-line then laid down or placed) incurred by him in making provision for such supply;
- (c) The maximum rate per unit of time at which a distributing licensee shall be entitled to be supplied with energy shall not exceed what is necessary for the purposes for which the supply is required by him need not be increased except upon a fresh requisition made in accordance with the foregoing provision;
- (d) if any difference or dispute arises under this clause, it shall be determined by the Commission, and, in such event, the Commission shall have regard to the following amongst other considerations, namely:--
  - (i) the period for which the distributing-licensee is prepared to bind himself to take energy;
  - (ii) the amount of energy required and the hours during which the single buyer is to supply it;
  - (iii) the capital expenditure incurred or to be incurred by the single buyer in connection with the aforesaid supply of energy; and
  - (iv) the extent to which the capital expended or to be expended by the single buyer in connection with such supply may become unproductive upon the discontinuance thereof.

(2) Notwithstanding anything in sub-clause (1), the single buyer shall give a supply of energy to any distributing-licensee within his area of supply applying therefor, even although the distributing- licensee desires to be supplied with only a portion of the energy required for distribution by him:

Provided that the distributing-licensee shall, if so required by the single buyer, enter into an agreement to take such energy upon special terms (including a minimum annual sum to be paid to the single buyer) to be determined, if necessary, by the Commission in the manner laid down in sub-clause (1) (d).

(3) The maximum price fixed by a license for energy supplied to a distributing-licensee shall not apply to any partial supply given under sub-clause (2).

(4) Every distributing-licensee, who is supplied with energy by a single buyer and intends to discontinue to receive such supply, shall give not less than twelve months' notice in writing of such intention to the single buyer:

Provided that where the distributing-licensee has entered into a written agreement with the single buyer to receive and pay for a supply of energy for a certain period, such notice shall be given so as not to expire before the end of that period.

## **CHARGES**

### **X. Methods of charging.**

(1) Where the licensee charges by any method approved by the Commission in accordance with section 23, sub-section (3), clause (c), any consumer who objects to that method may, by not less than one month's notice in writing, require the licensee to charge him, at the licensee's option, either by the actual amount of energy supplied to him or by the electrical quantity contained in the supply, and thereafter the licensee shall not, except with the consent of the consumer, charge him by another method.

(2) Before commencing to supply energy through any distributing main, the licensee shall give notice, by public advertisement, of the method by which he proposes to charge for energy so supplied; and, where the licensee has given

such notice, he shall not be entitled to change that method of charging without giving not less than one month's notice in writing of such change to the Commission, and to every consumer of energy who is supplied by him from such distributing main.

(3) If the consumer is provided with a meter in pursuance of the provisions of section 26, sub-section (1), and the licensee changes the method of charging for the energy supplied by him from the distributing main, the licensee shall bear the expense of providing a new meter, or such other apparatus as may be necessary by reason of the new method of charging.

#### **XI. Maximum Charges.**

Save as provided by clause IX, sub-clause (3), the prices charged by the licensee for energy supplied by him shall not exceed the maximum fixed by his license, or, in the case of a method of charge approved by the Commission, such maxima as the Commission shall fix on approving the method:

Provided that if, at any time, after the expiration of seven years from the commencement of the license, the Commission considers that the maxima so fixed or approved as aforesaid should be altered, it shall refer the matter to the Electricity Board, and, if the Board recommends any alteration, may make an order in accordance with such recommendation, which shall have effect from such date as may be mentioned therein:

Provided, also, that where an order in pursuance of the foregoing proviso has been made, no further order altering the maxima fixed thereby shall be made until the expiration of another period of five years.

#### **XIA. Minimum Charges.**

A licensee may charge a consumer a minimum charge for energy of such amount and determined in such manner as may be specified by his license, and such minimum charge shall be payable notwithstanding that no energy has been used by the consumer during the period for which such minimum charge is made.

#### **XII. Charge for supply for public lamps.**

The price to be charged by the licensee and to be paid to him for energy supplied for the public lamps, and the mode in which those charges are to be ascertained, shall be settled by agreement between the licensee and the local authority, and, where any difference or dispute arises, the matter shall be determined in accordance with the provisions of section 52.

### **TESTING AND INSPECTION**

#### **XIII. Licensee to establish testing stations and keep instruments for testing.**

The licensee shall establish at his own cost and keep in proper condition such number of testing stations, situated at such places within reasonable distance from any distributing main, as the Government may direct, for the purpose of testing the pressure or periodicity of the supply of energy in the distributing main, and shall supply and keep in proper condition thereat, and on all premises from which he supplies energy, such instruments for testing as the Chief Electrical Inspector may approve, and shall supply energy to each testing station for the purpose of testing.

#### **XIV. Facilities for testing.**

The licensee shall afford all facilities for inspection and testing of his works and for the reading, testing and inspection of his instruments, and may, on each occasion of the testing of his works or the reading, testing or inspection of any instruments, be represented by an agent, who may be present, but shall not interfere with the reading, testing or inspection.

#### **XV. Testing of works.**

On the occasion of the testing of any works of the licensee by the Chief Electrical Inspector, reasonable notice thereof shall be given to the licensee; and the testing shall be carried out at such suitable hours as, in the opinion of the Chief

Electrical Inspector, will least interfere with the supply of energy by the licensee, and in such manner as the Chief Electrical Inspector may think fit; but, except under the provisions of an order made in each case in that behalf by the Government, the Electric Inspector shall not be entitled to have access to, or interfere with, the works of the licensee at any points other than those at which the licensee himself has access to the same:

Provided that the licensee shall not be held responsible for any interruption or irregularity in the supply of energy which may be occasioned by, or required by the Chief Electrical Inspector for the purpose of, any such testing as aforesaid:

Provided, also, that the testing shall not be made in regard to any particular portion of the works oftener than once in any three months, unless in pursuance of an order made in each case in that behalf by the Government.

## PLANS

### **XVI. Plan of area of supply to be made and kept open for inspection.**

- (1) The licensee shall, after commencing to supply energy, forthwith cause a plan to be made of the area of supply, and shall cause to be marked thereon the alignment and, in the case of underground works, the approximate depth below the surface of all his then existing electric supply-lines, street-distributing boxes and other works, and shall once in every year cause that plan to be duly corrected so as to show the electric supply-lines, street-distributing boxes and other works for the time being in position. The licensee shall also, if so required by the Chief Electrical Inspector, cause to be made sections showing the approximate level of all his existing underground works other than service lines.
- (2) Every such plan shall be drawn to such scale as the Government may require:  
  
Provided that, no scale shall be required unless maps of the locality on that scale are for the time being available to the public.
- (3) Every such section shall be drawn to horizontal and vertical scales which shall be such as the Government may require.
- (4) Every plan and section so made or corrected, or a copy thereof, marked with the date when it was so made or corrected, shall be kept by the licensee at his principal office or place of business within the area of supply, and shall at all reasonable times be open to the inspection of all applicants, as may be prescribed by the Government.
- (5) The licensee shall, if required by the Chief Electrical Inspector, supply free of charge to him a copy of every such plan or section duly corrected so as to agree with the original kept at the principal office or place of business of the licensee.

### *Additional notice of certain works*

### **XVII. Notice to Chief Electrical Inspector.**

On the day next preceding the commencement of any such works as are referred to in section 13, the licensee shall, in addition to any other notices which he may be required to give, serve upon the Chief Electrical Inspector, or such officer as the Government may appoint in this behalf for the area of supply, a notice in writing stating that he is about to commence the works, and the nature and position of the same.