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## ENERGY ACT, 2012

*(Act 11 of 2012)*

*I assent*



A handwritten signature in black ink, appearing to read 'Michel'.

J. A. Michel  
President

*18th December, 2012*

AN ACT to repeal and replace the Seychelles Energy Commission Act 2010, for the establishment and management of the Seychelles Energy Commission and Seychelles Energy Board, to make provisions for electricity related activities, renewable energy sources, energy efficiency, Clean Development Mechanism, tariffs and charges, consumer protection rights, issuance of licences and permits and for matters connected therewith and incidental thereto.

ENACTED by the President and the National Assembly.

### PART I - PRELIMINARY

1. This Act may be cited as the Energy Act, 2012 and shall come into operation on such date as the Minister may, by notice published in the *Gazette*, appoint.

Short title

## Interpretation

## 2. In this Act —

“authorise” means an official permission given by the Commission to initiate the construction of new electricity power generation, auto generation or co-generation plants, transmission or distribution networks;

“auto-production” means the generation of electricity produced by an auto-producer or auto-producer group intended mainly to meet the electricity needs of the auto producer or auto producer group;

“auto-producer” means a licensee carrying out electricity generation to meet its electricity requirements;

“auto-producer group” means a licensee carrying out electricity generation to meet the electricity requirements of its partnerships;

“Board” means the Seychelles Energy Board established under section 9;

“Clean Development Mechanism” means a project-based flexible mechanism as defined in Article 12 of Kyoto Protocol to the United Nations Framework Convention on Climate Change;

“co-generation” means the combined production of heat and electricity;

“co-generator” means a licensee carrying out co-generation;

“Commission” means the Seychelles Energy Commission established under section 4;

“consumer” means any person who acquires energy services other than for the purpose of resale;

“distribution” means the transport of electricity through the distribution network;

“distribution network” means medium and low voltage networks and associated equipment used for distribution of electricity;

“distribution operator” means the licensee carrying out the activity of electricity distribution;

“electrical facilities” means facilities for the installation, operation, maintenance and repairs of electrical supply lines and other related matters;

“electricity generation” means the production of electrical power from other form of energy and shall not be restricted to non renewable or renewable sources of energy;

“electricity generation plant” means the electrical facility used for the generation of electricity;

“electricity market activity” means activities relating to generation, transmission, distribution and supply of electricity;

“electricity market participant” means —

- (a) the Public Utilities Corporation;
- (b) an independent power producer;
- (c) an auto-producer and auto-producer group;
- (d) a co-generator;

(e) a transmission operator;

(f) a distribution operator;

which carry on electricity related activity in the electricity market;

“electricity related activity” means the generation, transmission, distribution or supply of electricity;

“Energy conservation” means the reduction in the amount of energy consumed in a process, system or by a person through economic elimination of energy waste and rational use;

“energy efficiency” means the use of less energy provided for the same service;

“generation plant” means any plant or apparatus for the production of electricity;

“Grid Code” means the technical specifications defining parameters for electricity generation, auto-production or co-generation plant needs to meet to ensure proper functioning of the electricity networks;

“independent power producer” means a licensee carrying out the activity of electricity generation;

“licence” means a licence issued under section 33;

“licensee” means a holder of a licence;

“Minister” means the Minister responsible for energy;

“network user” means any person connected to the electricity transmission or distribution network;



“operator” means a licensed transmission operator or a distribution operator;

“permit” means a permit issued by the Town and Country Planning Authority;

“person” means —

- (a) any natural person; or
- (b) any public body, company or association or anybody of persons corporate or unincorporate;

“power purchase agreement” means a contract between an independent power producer and buyer for the purchase of electricity;

“prescribed” means prescribed by regulations;

“primary energy sources” means any form of energy which has not been subjected to any conversion or transformation process, and includes oil, petroleum products, gas, coal, uranium and renewable energy sources;

“property” means public or private property;

“Public Utilities Corporation” means the corporation established under section 3 of the Public Utilities Corporation Act;

“registration certificate” means certificate granted by the commission under section 25.

“renewable energy sources” means energy generated from natural non-depleting sources, including wind, solar, biomass, geothermal, hydro,

ocean and tidal energy, landfill gas, biogases, biodegradable fraction of municipal and industrial waste and such other sources as prescribed;

“secondary energy sources” means forms of energy obtained from a process of transformation or conversion of another energy source and includes electricity and hydrogen;

“supplier” means a person licensed to supply electricity;

“supply” means the sale of electricity to consumers;

“system operator” means a person who ensures that the system is continuously in a state of static equilibrium, equalling power demand and power supplies at each node of the network;

“Town and Country Planning Authority” means the Authority established under section 3 of the Town Country Planning Act Cap 237;

“transmission” means the transport of electricity through the transmission network;

“transmission network” means high voltage networks and associated equipment used for transmission;

“transmission operator” means the person carrying out the activity of electricity transmission.

Energy  
Policy

3.(1) The Minister shall in Consultation with the Commission develop, review and publish the energy policy.

(2) The Minister may give directions in writing to the Commission on matters of policy and general administration.

**PART II - COMMISSION****Division I - Establishment of the Commission**

4.(1) There is hereby established a Commission to be known as the Seychelles Energy Commission.

Establishment  
of the  
Seychelles  
Energy  
Commission

(2) The Commission shall be a body corporate and shall in its corporate name —

- (a) enter into deeds, contracts or arrangements;
- (b) receive funds due to the Commission and give full and valid discharge;
- (c) own movable or immovable properties;
- (d) rent or lease any property on such terms as it thinks fit;
- (e) collect moneys accruing to the Commission from its operations.

5.(1) The objects of the commission is to regulate electricity related activities for adequate, reliable, cost effective and affordable electricity while protecting and conserving the environment.

Objects  
of the  
Commission

(2) In pursuing the objectives, the Commission shall —

- (a) maintain an efficient structure for the electricity sector as to ensure its economic feasibility;
- (b) encourage investment in the sector in addition to improving the operational efficiency and sale of electricity at reasonable prices;
- (c) ensure the provision of safe, secure, reliable

and high quality services related to the electricity sector;

- (d) promote the use of renewable energy sources in electricity generation and in any other sector;
- (e) promote energy efficiency in all sectors;
- (f) ensure that all undertakings operating in the energy sector shall comply with applicable environment protection standards and with general public safety conditions;
- (g) ensure sufficient supply of electricity is being provided by licensees and the Public Utilities Corporation to consumers;
- (h) protect the interests of consumers;
- (i) ensure that licensees provide adequate services to consumers complying with the standards of quality of service;
- (j) promote efficient use of energy and energy conservation.

Functions  
of the  
Commission

- 6.(1) The functions of the Commission shall be to —
- (a) coordinate development and strategy;
  - (b) formulate the national energy plan and implement the national energy policy;
  - (c) promote energy efficiency and conservation of energy and the use of renewable energy;
  - (d) promote, research and develop the use of new techniques relating to extraction, production, transmission, distribution, supply and use of energy;

- (e) encourage and promote the development of energy industry including related capacity building;
- (f) collect and maintain energy data, produce national energy statistics and fulfil any requirements for reporting of energy and emission data, as appropriate;
- (g) approve financial, administrative and operational procedures;
- (h) ensure compliance with conditions of licenses issued under this Act;
- (i) propose or recommend regulations which are necessary or expedient for the energy sector;
- (j) formulate, enforce and review environmental, health, safety and quality standards for the energy sector, in consultation with relevant public bodies or statutory authorities;
- (k) periodically review the electricity tariffs of the Public Utilities Corporation, other transmission, distribution operators and network users;
- (l) monitor and ensure the implementation of the principles of fair competition in the energy sector, in coordination with other statutory authorities;
- (m) undertake inspections;
- (n) investigate complaints or disputes;
- (o) monitor compliance, enforce and review regulations, codes and standards for the energy sector;
- (p) implement and enforce energy supply laws.

- (2) With respect to the electricity sector —
  - (a) regulate the generation, transmission, distribution, supply and use of electrical energy;
  - (b) ensure the sustainability and viability of electricity related activity;
  - (c) oversee the efficient functioning and development of the electricity sector and security of electricity supply;
  - (d) ensure the efficient supply of electricity.
- (3) With respect to renewable energy —
  - (a) advise and make recommendations to the Minister with respect to the promotion of renewable energy sources;
  - (b) carry out studies and research on measures and support options to promote the use of renewable energy sources such as feed-in-tariffs, power purchase agreements and recommend legislations to the Minister on such measures;
  - (c) carry out research and studies on various financial or tax incentives and recommend the need for adoption of any such incentives;
  - (d) manage funds for the promotion of renewable energy sources and ensure compliance with those funds;
  - (e) recommend standards relating to renewable energy;
  - (f) develop, implement and maintain national information and consumer educational

programmes on renewable energy sources, and to foster and develop public awareness and education at all levels, the promotion and use of renewable energy sources in all sectors;

- (g) develop, implement and maintain technical training programmes;
- (h) make use of flexible mechanism including the Clean Development Mechanism to promote development and exploitation of renewable energy sources.

(4) With respect to energy efficiency and energy conservation —

- (a) develop and adopt guidelines on all energy related products, and non energy related products which have potential to save energy when in use or installed;
- (b) develop, implement and maintain public awareness programmes on the importance and benefits of energy efficiency and energy conservation;
- (c) develop and implement energy efficiency and energy conservation standards;
- (d) promote co-operation among consumers, public authorities, producers and suppliers of energy to ensure compliance with the objectives and targets of energy efficiency;
- (e) make recommendations and propose actions for implementation by other authorities aimed at reducing barriers in the exploitation of energy efficiency potentials, stimulate investments and foster energy efficiency in other sectors;

- (f) advise, make recommendations and propose schemes for financial support and initiatives related to energy efficiency;
- (g) monitor the compliance of mandatory schemes.

Powers  
of the  
Commission.

7. The Commission shall have the power to —

- (a) request in writing a licensee, permit holder or the Public Utilities Corporation to provide the Commission with such information as it may from time to time require with respect to the operation of its undertaking;
- (b) hold public hearings, in such manner as may be prescribed in relation to matters of significant public importance pursuant to the objects of the Commission which are being considered or the subject matter of an investigation which is carried out by the Commission.

Independence  
of the  
Commission

8. The Commission shall not be subject to the direction or control of any authority in its day to day management.

### **Division II - Board of the Commission**

Establishment  
and  
composition  
of the  
Seychelles  
Energy Board

9.(1) There is hereby established a Board known as the Seychelles Energy Board.

(2) The Board shall consist of —

- (a) a representative of the Ministry responsible for Energy;
- (b) a representative of the Ministry responsible for Finance;
- (c) four members knowledgeable in matters of energy and having suitable experience;
- (d) the Chief Executive Officer - ( ex-officio).



(3) The President shall appoint the Members of the Board, the Chairperson and the Deputy Chairperson from among the Members of the Board and shall cause to be published in the official gazette.

(4) The Chairperson, Deputy Chairperson and Members of the Board shall be paid such allowances as the President may determine.

(5) The Chairperson and the Members shall hold office for a term of 3 years and shall be eligible for reappointment at the end of the term of office.

(6) Where a vacancy arises for any reason whatsoever in the office of the Chairperson, Deputy Chairperson or any Member, before the expiry of the term of office, the person appointed to fill such vacancy shall hold office for the unexpired period of the term for which his or her predecessor in office would have held office if such vacancy had not arisen.

10.(1) The President may terminate the appointment of the Chairperson, Deputy Chairperson or a Member, where the Chairperson, Deputy Chairperson or a Member is—

Termination  
of office

- (a) declared bankrupt;
- (b) convicted of a criminal offence involving dishonesty, fraud or moral turpitude;
- (c) absent from three consecutive meetings of the Board without leave of the Chairperson;
- (d) unfit to continue in office by reason infirmity of body and mind;
- (e) commits any offence which calls into question his or her professional standing; or
- (f) guilty of misconduct.

(2) The Chairperson, Deputy Chairperson and any other Member may resign from his or her appointment by giving three months notice in writing to the President and on such resignation being accepted, the Chairperson, Deputy Chairperson or Member shall be deemed to have vacated his or her office.

(3) The Chairperson, Deputy Chairperson or a Member who has been removed from office under subsection (1) shall not be eligible for re-appointment.

Functions  
of the Board

**11.** The functions of the Board shall be to —

- (a) issue, renew, modify, suspend or revoke a licence, in consultation with other statutory authorities;
- (b) approve prices for the sale and purchase of electricity and charges for the connection and use of transmission and distribution networks and surpluses;
- (c) establish the procedures for setting and reviewing tariffs;
- (d) propose and approve standard power purchase and network connection agreements for engaging in electricity operations;
- (e) review any other laws relating to energy and make recommendations;
- (f) advise the Minister on all matters relating to energy including renewable energy.

Meeting/  
procedures  
of the Board

**12.(1)** The Board shall meet at least once every 3 months.

(2) A meeting of the Board shall be held at such place and at such time as the Chairperson may determine.

(3) The Chairperson may by written notice convene a special meeting of the Board for any purpose specified in the notice.

(4) Not less than 3 Members may, by notice in writing, submit a request to the Chairperson to convene a meeting.

(5) Where a request is made under subsection (4), the Chairperson shall convene a special meeting within 21 days of the request.

(6) Where the Chairperson is absent or unable to act or has vacated his or her office, the Deputy Chairperson shall act as Chairperson.

(7) The Chairperson and four Members shall constitute a quorum for any meeting of the Board.

(8) Every decision shall be taken by a majority of votes of the Members present and entitled to vote, except the Chief Executive Officer who shall have no voting right, and in case of an equality of votes, the Chairperson or in the absence of the Chairperson, the Deputy Chairperson shall exercise a casting vote.

(9) The Chairperson, Deputy Chairperson or a Member shall, in relation to any matter before the Commission in which he or she, has a pecuniary or other material interest—

- (a) disclose the nature of that interest in writing at or before the meeting convened to discuss that matter;
- (b) refrain from taking part in any deliberation of the Board relating to that matter; and
- (c) leave the meeting during the time the matter is being deliberated at the meeting.

(10) The Board shall regulate its proceedings in such manner as it thinks fit.

(11) Any decision of the Board shall not be questioned due to any vacancy in the membership of the Board, defect in the qualifications or appointment of any Member, where the decision was taken and the proceedings took place in concurrence with majority vote of members present.

Co-opted  
person

13.(1) The Board may co-opt any person with sufficient knowledge and experience to advise the Board on matters of technical nature.

(2) Any person co-opted under subsection (1) has no right to vote on any matters before the Board.

Committees

14.(1) The Board may appoint such committees as may be necessary for the efficient performance, exercise and discharge of its functions, powers and duties:

Provided that all or a majority of the members of each committee shall be Members and a member of any such committee who is not a Member shall have only the right to attend meetings of the committee and take part in the proceedings thereof, but shall not have the right to vote.

Secretary

15.(1) There shall be a secretary of the Board appointed from among the staff of the Commission to act as its secretary.

(2) The secretary shall arrange the agenda and the Board meetings, record the minutes of the meetings and maintain all records relating to the activities conducted by the Board and such other functions assigned by the Board.

Appointment  
of Chief  
Executive  
Officer

16.(1) There shall be a Chief Executive Officer of the Commission who shall be appointed by the President.

(2) The Chief Executive Officer shall be responsible, for the implementation of the decisions of the Board, and for

carrying out the day-to-day management and administration of the Commission.

(3) The Chief Executive Officer shall act in accordance with such directives as he or she may receive from the Board.

17.(1) The Commission may, on such terms and conditions as it thinks fit, employ such inspectors, officers and other staff as may be necessary for the proper performance of its functions on such terms and conditions as may be determined by the Board and according to such procedures applicable to employees of public bodies.

Staff of  
Commission

(2) An inspector, officer or any staff of the Commission shall not acquire any kind of interests in any electricity related activity or in any contract with the Commission;

(3) Where an inspector, officer or any staff had acquired an interest referred to in subsection (2) by succession or otherwise, he or she shall, unless the Commission determines otherwise, forthwith dispose of that interest.

### **Division III - Funds of the Commission**

18. The Commission shall have its own funds and all the funds transferred from the Seychelles Energy Commission constituted under Act 2010 credited to the Fund and all payments by the Commission shall be made therefrom.

Transfer  
of Funds

19.(1) The funds of the Commission shall consist of—

Funds of the  
Commission

- (a) moneys approved by an Appropriation Act;
- (b) moneys received by the Commission by way of donations or grants for the purpose of the Commission.

(2) The funds of the Commission shall be applied by the Commission in—

- (a) the payment or discharge of the costs, expenses and other obligations of the Commission; and
- (b) the payment of remuneration, fees and allowances payable to the Chairperson, Deputy Chairperson, Members of the Board and staff of the Commission.

Financial  
year

20.(1) Subject to subsection (2), the financial year of the Commission shall be a period of 12 months ending on 31st December of any year.

(2) The first financial year of the Commission shall end on 31st December next following the date of publication of this Act.

Estimates

21.(1) The Commission shall prepare estimates of the income and expenditure of the Commission, including its capital budget for the financial year and submit the estimates to the Board for its approval.

(2) The Board may approve with or without modification the estimates submitted to it under subsection (1).

(3) Subject to subsection (2) the Board shall submit the estimates to the Minister who may, after consultation with the Minister responsible for Finance, approve with or without modification such estimates for the period for which it is prepared, and the estimates approved shall be the estimates of the Commission for that period.

Accounts and  
Audits

22.(1) The Commission shall keep proper accounts and other relevant record of accounts, and prepare in respect of each financial year, a statement in such form and manner as may be prescribed by regulations.

(2) The accounts of the Commission shall be audited by the Auditor General in accordance with Article 158 of the Constitution.

23. The Board shall prepare once every calendar year, in such form and within such time as may be prescribed, an annual report giving a full account of its activities during the previous year and copies together with the statement of account audited under section 22 shall be forwarded to the Minister and the Minister shall cause the same to be tabled before the National Assembly.

Annual  
Report

24. The Minister in consultation with the Commission may prescribe by regulations funds for energy efficiency and renewable energy for the purposes of developing and promoting any energy projects.

Funds for energy  
efficiency and  
renewable  
energy

### **PART III - LICENCES AND PERMITS**

#### **Division I - Provisions related to permits**

25.(1) A person shall make an application to the Commission for a registration certificate as auto producer, auto producer group, co-generator, Independent Power Producer, transmission or distribution operator in the form and manner prescribed by regulations.

Application for  
registration  
certificate

(2) The Commission shall process all applications for the registration within 30 days after the Commission confirms receipt of the application.

(3) The Commission may grant or refuse an application for registration and give reasons for the decision.

(4) The Commission may suspend or revoke a registration certificate on a complaint by an interested person or on its own initiative.

26.(1) A person in possession of a Registration Certificate shall apply for a permit to the Town and Country Planning Authority for the construction of generation plant, auto production, co-generation plant, transmission or distribution facility in the form and manner prescribed by regulations.

Application  
for permit

(2) The Town and Country Planning Authority shall consult the Commission prior to considering the application for the grant or refusal of the permit.

(3) The Commission shall within 21 days of notification of the application forward its recommendation to the Town and Country Planning Authority.

(4) The Commission, in making its recommendation shall have regard to regulations, relating to —

- (a) safety, security and health;
- (b) electricity networks requirements;
- (c) Grid Code;
- (d) electrical installations;
- (e) any other technical matters.

(5) Where the Commission recommends that a permit should be refused it shall include reasons for the refusal.

Public  
Utilities  
Corporation  
for permit

27. The Public Utilities Corporation shall apply for a permit for the construction of new electricity power generation plant and for the maintenance, replacement, repair or extension of existing transmission or distribution networks.

Suspension or  
revocation of  
permit

28. The Town and Country Planning Authority may suspend or revoke a permit on a complaint by an interested party or on its own initiative.

## **Division II - Provisions related to licenses**

Licenses

29.(1) A person shall not carry on any electricity related activity without a licence as prescribed by regulations.

(2) Electricity related activities shall be carried out on the basis of a separate licence for each electricity market activity.



(3) Notwithstanding subsection (1), the Public Utilities Corporation shall be exempt from the requirements of applying for a licence for distribution and transmission of electricity.

30.(1) An application for a licence including an application for amendment, transfer or renewal together with the application fee, shall be made to the Board in the prescribed form and manner.

Application  
for licence

(2) The Board may, within 21 days of the date of application, require the applicant to furnish any additional information that it considers relevant.

31.(1) The Board shall, in relation to an application made under section 30, communicate its written decision to the applicant not later than 3 months from the date the —

Decision of  
the Board

- (a) application was made;
- (b) applicant has submitted any additional information, where such information was required of the applicant, whichever is the latter.

32. The Board shall, in granting or refusing an application for a licence take into account —

Factors to be  
considered in an  
application for a  
licence

- (a) the impact of the operation on the social, cultural or recreational life of the community;
- (b) the need to protect the environment and to conserve the natural resources;
- (c) land use or the location of the electrical plant;
- (d) whether the licence, if granted, would be beneficial to and promote public interest;
- (e) the economic and energy policies;

- (f) the applicant's suitability to perform the technical, economic, financial and organisational capacity of the electricity related activity;
- (g) any other matter that the Commission may consider likely to have a bearing on the operation.

Powers of the Board in relation to licenses

**33.(1)** The Board may —

- (a) issue, transfer or renew a licence or amend the conditions of a licence, on such terms and conditions as it thinks fit; or
- (b) refuse an application.

(2) Where the Board refuses an application, it shall state the reason for the refusal.

(3) A licence shall not be issued, transferred, renewed, or conditions of a licence be amended by the Board, unless the application is accompanied with the prescribed fee.

Suspension or revocation of licence

**34.(1)** The Board may, on a complaint by an interested party or on its own initiative suspend the conditions, suspend or, revoke a licence on the ground that the licensee —

- (a) has failed to commence operation of the plant relating to the licence at the expiry of 24 months from the date on which the licence was granted, or at the expiry of any extended period;
- (b) is either wilfully or negligently not operating in accordance with the terms and conditions of the licence;
- (c) is adjudged a bankrupt; or

- (d) after commencement of the licence makes representation to the Commission that the operation cannot be carried on with profit, and ought to be abandoned.

(2) Where the Board suspends, revokes or amends the conditions of a licence under subsection (1), it shall give reasons for the decision and request the licensee to make written representation within 14 days of the decision.

(3) The Board after considering any representations made under subsection (2) shall communicate its decision and the reasons in writing to the licensee not later than 3 months from the date the representation is served under subsection (2).

(4) Where a licence is suspended or revoked by the Board, the Commission shall, in consultation with the Minister, take such action as is necessary to ensure that the supply of electrical energy to consumers is not unduly interrupted as a result of the revocation or suspension.

(5) A suspension or revocation of a licence shall not indemnify the holder against any penalties for which such person may have become liable under the Act.

(6) Notwithstanding subsection (1) the Board may suspend a licence, where —

- (a) it is in the public interest to do so; or
- (b) the urgency of the matter requires.

(7) A suspension effected under subsection (6) shall lapse after 21 days unless —

- (a) the suspension has been revoked prior to that period; or
- (b) a decision has been served by the Board under subsection (2) during that period.

(8) A revocation or suspension shall not prejudice any claims against the licensee.

### **Division III - Provisions related to licenses and permits**

Expiration  
of licence

35.(1) When a licence expires and has not been renewed or transferred, the Commission may order the licensee to dismantle and remove all plant, equipment and facilities used in the licensee's business, and reinstate the land to the satisfaction of the Commission within two years from the date of the expiration of the licence.

Register

36.(1) The Commission shall cause to be compiled and maintained a Register, in such form as it may determine, of —

- (a) every licence granted;
- (b) registration certificate;
- (c) directions or approvals given or decisions made with respect to licence;
- (d) suspension, revocation, refusal or amendments of licence; and
- (e) such other information or particulars as the Commission may consider necessary.

(2) The Register shall be available for inspection by the public, during such hours and subject to the payment of such fee as may be prescribed by the Commission.

(3) A person may, on the payment of such fee as may be prescribed, require the Commission to provide a copy of, or extract of, any part of the register, being a copy or extract which is certified by the Commission to be a true copy or extract.

Notification  
to Minister

37.(1) The Commission shall submit to the Minister, once every 6 months, licences issued, transferred, renewed, amended, refused, suspended or revoked;

(2) The Minister may, after consultation with the Commission, publish by notice in the *Gazette* the list of licensees for carrying on an electricity related activity and the manner in which or the quantity of electricity likely to be generated, transmitted or distributed.

38.(1) A licensee without the approval of the Commission or a permit holder without the approval of the Town and Country Planning Authority, shall not —

Restrictions on  
licensee or  
permit holder

- (a) acquire by purchase or otherwise affiliate with, the operation of any other licensee, merge or consolidate its undertaking with any other licensee, permit holder or the Public Utilities Corporation;
- (b) assign, transfer or sell all or any part of the operation;
- (c) associate for the purposes of a joint venture or enter into any similar arrangement with regard to the provision of any electricity service; or
- (d) transfer or otherwise, divest of any powers, rights or obligations conferred or imposed for the purposes of carrying out any electricity related activity under this or any other Act.

(2) Any act done in contravention of subsection (1) shall, notwithstanding anything to the contrary, be void and the licence or permit shall be revoked.

39.(1) A licensee or permit holder shall not take any action or enter into any agreement which —

Prohibited  
conduct by  
licensee or  
permit holder

- (a) eliminates or substantially damages another licensee or permit holder in the electricity market in which it operates;

- (b) prevents the entry of any person into electricity market;
- (c) deter any other licensee or permit holder from engaging in any competitive conduct;

(2) A licensee shall not discriminate between persons where services are provided on the basis of—

- (a) any fee or charge for the service provided;
- (b) the performance characteristics of the service provided; or
- (c) any other terms or conditions on which the service is provided.

Separate  
account by  
licensee

40.(1) A licensee involved in more than one type of electricity related activity shall keep separate accounts and prepare a separate accounting statement and balance sheet, in respect of each activity.

(2) A licensee shall cause its accounts to be prepared in accordance with International Accounting Standards; and

(3) A licensee or permit holder carrying on any business activity in addition to carrying on electricity related activity shall keep separate accounts for those distinct business activities.

Inspections by  
Commission  
or authorised  
persons

41.(1) An inspector or any person authorised by the Commission in writing shall have the right, at all times to enter upon the premises of a licensee, permit holder or Public Utilities Corporation to—

- (a) inspect or investigate any power plant, machinery, books, accounts, records and other documents found thereat and take copies thereof;

- (b) determine whether any provision of this Act or any notice, direction or authorization served, made, given or issued under this Act is being or has been complied with;
- (c) examine and test equipment, power plant, or any other material objects or conduct a search where the inspector or a person authorised has reason to believe that an offence under this Act has been or is being or is about to be committed;
- (d) seize records or material objects if the inspector or the person authorised has reasons to believe that it may furnish evidence of a commission of an offence punishable under this Act.

(2) An inspector or person authorised by the Commission may request a licensee, permit holder or the Public Utilities Corporation to submit, periodically or as and when required, any information, accounts or other documents in such manner as may be determined by the Commission.

(3) The Commission may require that the accuracy of any documents or particulars be verified.

(4) The Commission may appoint independent persons to assist in the exercise of its powers or duties as it deems necessary.

(5) An inspector or a person authorised by the Commission under subsection (1), shall produce the identity or proof of such authorisation at the request of a licensee, permit holder, or Public Utilities Corporation.

42. The Minister may, in consultation with the Commission and other relevant authority prescribe by regulations, for —

Regulations  
relating to  
licenses and  
permits

- (a) conditions and requirements for carrying out the licensed or permitted activity;
- (b) obligations and rights of the licensee, permit holders and consumers;
- (c) obligations and rights of the licensee and permit holders with regard to the Commission and other public authorities;
- (d) sanctions for breach of obligations;
- (e) services for technical, safety, security, environmental standards and requirements;
- (f) requirements related to service obligations;
- (g) tariffs, quality of service and connection to and use of transmission and distribution networks;
- (h) the period of validity of the licence or permit;
- (i) yearly inspection and supervision fees and security to be paid by licenses or permit holder;
- (j) the period of construction of the electricity generating plant or installation for the transmission or distribution of electricity from the date on which the licence or permit was granted, or any extended period which the Commission may allow; and
- (k) any other matter connected with the carrying on of the electricity related activity.

#### **PART IV - INDEPENDENT POWER PRODUCERS**

**43.** An independent power producer shall be eligible to construct, own and operate an electricity generation plant pursuant to sections 25 and 26.



44.(1) The Minister may, in consultation with the Commission and any relevant authority through a fair, open and competitive process launch a tender for the procurement of new electricity generation plant.

Tendering for  
electricity  
generation  
plant

(2) The call for a tender shall —

- (a) specify the nature of the primary energy source;
- (b) set out the amount of electricity that shall be generated from the primary energy source;
- (c) identify the location of the generation plant;
- (d) provide the eligibility requirements of the applicant;
- (e) determine the mechanism for the purchase of the electricity generated;
- (f) set out the conditions for the selection of the best bidder; and
- (g) any other conditions or requirements as may be determined by the Minister in consultation with the Commission.

45. Where the Minister in consultation with the Commission determines that a new generation capacity is required as a matter of emergency to ensure the continued uninterrupted supply of electricity, section 44 shall not apply.

Generation  
capacity required  
as a matter of  
national interest

## PART V - ELECTRICITY RELATED ACTIVITIES

### Generation, Transmission, Distribution and Supply

46. The provisions of this Part shall be in addition to and not in derogation of, the conditions of a licence issued under this Act.

Additional  
conditions of  
licenses and  
permits

Construction  
of electricity  
generation  
plant

47.(1) Subject to this Act and any other laws, a permit holder may construct and a licensee may own, operate and maintain an electricity generating plant for the purposes of generation of electricity.

(2) The design and operation of the generation plant shall be prescribed by regulations.

Sale of  
surplus  
electricity

48.(1) Subject to such conditions a licensee, shall —

- (a) sell any surplus electricity generated by its auto-production plant to the Public Utilities Corporation or any other distribution operator at the prescribed tariff;
- (b) purchase any electricity requirements which are not met by its own auto-production plant from a distribution operator at the prescribed tariffs;
- (c) have access to and use of transmission and distribution networks of the Public Utilities Corporation or any other transmission or distribution operator for the purposes of transporting electricity generated from the auto-production point to the consumption points of the same auto-production group at the prescribed tariffs;
- (d) comply with the prescribed security, safety and technical conditions of access.

(2) Any surplus electricity generated by auto-producer, auto producer group or co-generator shall be paid through a feed-in tariff or other schemes as prescribed by regulations.

(3) Any person carrying out generation, auto-production or co generation shall supply the electricity generated through the local transmission or distribution network.

49. The Commission may authorise an operator to install, operate and maintain the transmission network.

Authorise  
transmission  
network

50.(1) The Public Utilities Corporation or other transmission licensee shall—

Transmission  
of electricity

- (a) comply with all the requirements of the grid code;
- (b) comply with all technical regulations regulating transmission of electricity;
- (c) comply with the regulations on safety, security, health and environment;
- (d) ensure the long-term ability of the system to provide reasonable demands for the transmission of electricity;
- (e) operate, maintain, develop, upgrade and expand its transmission network in an economical manner so as to ensure a secure, reliable and efficient transmission system with due regard to the environment;
- (f) contribute to security of supply through an adequate transmission capacity and system reliability;
- (g) manage electricity flows on the system and ensure a secure, reliable and efficient electricity system;
- (h) supply electricity to all consumers located in its area of supply; and
- (i) provide to consumers and network users the technical service and quality of service as set out in the regulations.

(2) The Public Utilities Corporation shall establish and publish procedures governing requests to connection

access and use of its transmission network within 6 months of the commencement of this Act.

System  
operator

**51.(1)** The Public Utilities Corporation shall be the principal system operator.

(2) The system operator shall be responsible to —

- (a) co-ordinate the power supply system to obtain instantaneous balance between generation and consumption;
- (b) dispatch all generation installations connected to transmission facilities;
- (c) co-ordinate planned generation and planned transmission outages;
- (d) enforce compliance with the Grid Code; and
- (e) discharge such other duties as may be prescribed.

(3) Notwithstanding subsection (1), owing to any reason it is not practicable or feasible for the Public Utilities Corporation to ensure electricity transmission in a specific area or in any part of Seychelles; the Minister in consultation with the Commission may call for competitive tenders from other transmission and distribution operators.

Distribution  
of electricity

**52.(1)** The Commission shall authorise the construction for the operation and maintenance of distribution network system, subject to such terms and conditions, for the distribution of electricity.

(2) The Public Utilities Corporation or a licensee shall, for the distribution of electricity —

- (a) construct, maintain, improve and expand its distribution network systems in an

economical manner in order to ensure the capacity available to meet reasonable demands for the distribution and supply of electricity;

- (b) supply electricity to all consumers within its area of supply;
- (c) comply with all applicable requirements of the Grid Code;
- (d) comply with the technical regulations relating to transmission and distribution operations;
- (e) comply with the regulations on environment, health safety and security;
- (f) provide to consumers and network users the technical service and quality of service as set out in the regulations;
- (g) ensure long term ability of the system to meet reasonable demands for the distribution of electricity;
- (h) maintain sufficient reserve capacity.

53.(1) An electricity transmission and distribution operator shall authorise an applicant to connect and have access to its transmission and distribution network pursuant to the applicant—

Third party  
network access

- (a) complying with the Grid Code and any technical conditions of connection and use of the network; and
- (b) paying of such fees and other charges for network services as may be determined by the transmission and distribution operator.

(2) The connection to and access to the transmission and distribution networks shall be subject to the applicant and

transmission and distribution operator concluding an agreement in the manner and form prescribed in the regulations.

(3) Where an agreement is not concluded within 60 days of an applicant making application for connection or access, either party to the agreement may apply to the Commission for settlement of the dispute and the Commission shall make a decision within 3 months of the application.

(4) A party dissatisfied with the decision of the Commission under subsection (3) may appeal pursuant to the provisions of section 83.

Expansion of  
distribution  
and  
transmission  
network

**54.(1)** Subject to subsection (2), the Public Utilities Corporation and any other transmission and distribution operator shall optimise, boost and expand their existing network system in order to guarantee the purchase, transmission and distribution of electricity generated from a renewable energy source.

(2) A transmission and distribution operator shall only expand their transmission and distribution systems when it is justified and economically reasonable to do so pursuant to the Grid Code and other applicable regulations.

General  
obligations of  
a licensee

**55.(1)** Every licensee shall —

- (a) maintain any electrical power plant and premises related to the electricity related activity —
  - (i) in such condition as to enable it to provide adequate and efficient electricity service to network users and consumers;
  - (ii) without endangering safety, security and health.

- (b) provide a quality of service according to standards and conditions as prescribed by regulations;
- (c) furnish the Commission with such reports, accounts and other information relating to its operations as the Commission may require;
- (d) comply with the conditions attached to its licence;
- (e) comply with any written direction given to it by the Commission in relation to the exercise of its rights and obligations under its licence; and
- (f) pay to the Commission such charges or fees as may be prescribed.

(2) A licensee who enters into an agreement under this Act shall file a copy of the agreement with the Commission within 15 days of entering into the agreement and shall provide such information which the Commission may deem necessary to determine whether the agreement is in the public interest.

56.(1) The Public Utilities Corporation and all licensees shall pay to the Commission each consecutive year the inspection and supervision fee prescribed by regulations.

Inspection  
and  
supervision  
fee

(2) Where a debt certificate is issued by the Commission in respect of the fees under subsection (1), summary proceedings may be instituted before a competent court.

57.(1) An operator carrying on an electricity related activity shall not wholly or partially abandon any electricity facility or discontinue any service without a prior written approval of the Commission.

Abandonment

(2) The Commission may only authorise such abandonment or discontinuity after checking that facilities or

services to be discontinued are not required for public service in the present or foreseeable future.

## PART VI - RENEWABLE ENERGY

Renewable  
energy  
sources

58. The use of renewable energy sources shall be promoted in all sectors.

Power  
purchase  
agreement

59.(1) An independent power producer shall enter into a power purchase agreement for the sale of electricity generated from a renewable energy source.

(2) The power purchase agreement shall be in the form and manner as may be prescribed by regulations.

(3) The Commission may prescribe different forms of power purchase agreements having regard to the renewable energy source to be used and the capacity of the proposed renewable energy installation.

Information  
and  
consumers'  
education on  
renewable  
energy

60.(1) The Commission shall develop and implement national information and consumers' education programmes on the promotion and use of renewable energy sources and enhance public awareness and education at all levels.

(2) The Commission shall disseminate information on all related financial, economic, social, environmental as well as subsidies and other advantages.

(3) The Commission may require the Public Utilities Corporation and any other distribution operator to provide consumers with information on any issue related to renewable energy promotion.

(4) The Commission may require sellers and installers of equipment using renewable energy sources to provide information specified by the Commission.



**PART VII - ENERGY EFFICIENCY**

61. The promotion of energy efficiency in all sectors of the economy shall be pursued through the development and implementation of an energy efficiency strategy.

Energy  
efficiency  
strategy

62.(1) The Commission shall prescribe by regulations energy efficiency and energy conservation standards to be adopted by the household, commercial, industrial and public sectors.

Energy  
efficiency and  
energy  
conservation  
standards

(2) The Commission may make recommendations and proposals for the approval and adoption by the Seychelles Bureau of Standards for energy efficiency and energy conservation standards.

63. The Commission shall prescribe by regulations guidelines on labelling of all energy-related and non-energy related products which have significant potential to save energy once in use or installed.

Guidelines  
on  
labelling

64.(1) The Commission shall develop National Information and consumer education programmes on energy efficiency and energy conservation related to measures and best practices in all sectors, including energy, transport, building, industrial, commercial and residential.

Information,  
consumer  
education, and  
training  
programmes

(2) The Commission shall develop, implement and maintain technical training programmes and may enter into agreements with universities, professional associations or other organisations.

65. The Commission shall facilitate and foster co-operation and voluntary agreements between consumers, producers, industrial and commercial operators, importers and public authorities to improve energy efficiency and energy conservation in the energy, environment, transport, land use, planning and industry sectors.

Voluntary  
agreements and  
cooperation  
programmes

Measures  
related energy  
efficiency

**66.(1)** The Commission shall advise the Minister and other relevant authorities on all matters related to energy efficiency and energy conservation.

(2) The Commission may —

- (a) propose actions and make recommendations for implementation by other relevant authorities to reduce barriers to the promotion of energy efficiency, including tax policy related to energy efficiency and conservation and pricing of primary energy sources;
- (b) propose schemes and facilitate agreements on financial support to initiate energy efficiency requiring financial support from any person; and
- (c) propose legislations on energy audits and certification.

## **PART VIII - CLEAN DEVELOPMENT MECHANISM**

The  
Designated  
National  
Authority

**67.(1)** The Ministry responsible for Environment shall be known as the Designated National Authority for the implementation of Clean Development Mechanism.

(2) The Designated National Authority may delegate its powers and function to any committee or office for the implementation of the Clean Development Mechanism.

Functions  
of the  
Designated  
National  
Authority

**68.** The Designated National Authority shall —

- (a) define and establish procedural requirements related to Clean Development Mechanism project proposition and proponents;
- (b) adopt rules and procedures related to project proposal analysis and evaluation;

- (c) prescribe regulations for the criteria for eligible Clean Development Mechanism;
- (d) define support mechanism;
- (e) formulate and develop a National Clean Development Mechanism policy;
- (f) develop the criteria, indicators, standard , systems and procedures and evaluation tools for the review of proposed Clean Development Mechanism project activities;
- (g) undertake assessment of proposed Clean Development Mechanism project activities;
- (h) monitor and implement Clean Development Mechanism project activities located in Seychelles;
- (i) perform such other functions that relate to and in pursuance of the promotion of Clean Development Mechanism project activities that contribute to sustainable development.

## PART IX - TARRIFS AND CHARGES

69.(1) The Commission shall set and periodically review— Tariffs

- (a) tariffs for the sale of electricity to consumers by the Public Utilities Corporation and other licensees;
- (b) feed in tariffs for the purchase of electricity by Public Utilities Corporation, transmission or distribution operators, auto-producers, auto-producers' group and co-generators;
- (c) tariffs payable by different categories of consumers;

- (d) charges for connection to, and the use of any transmission and distribution networks by auto-producers' groups and co-generators; prices and charges in respect of electricity provided by licensee determined by the Commission to be subject to tariff regulations;
- (e) price of electricity for the sale of electricity surpluses to the Public Utilities Corporation and any other distribution operators.

(2) To achieve economic and financial sustainability of the service an operator shall comply with the following principles—

- (a) costs covered by subsidies or grants provided by the Government or donor agencies shall not be reflected in the costs of business operation;
- (b) tariff adjustments and ensure price stability;
- (c) tariffs for the supply of transmission and distribution services shall allow for the recovery of costs including
  - (i) the costs of expansion, replacement and maintenance of the facilities;
  - (ii) the costs of financing the activities of an operator through loans and other borrowings;
  - (iii) any other expenses, taxes, duties and levies imposed on the operator;
- (d) tariffs shall contribute to conservation and efficient use of electricity;
- (e) tariffs shall provide incentives for

improvement of technical, economic efficiency and quality of services;

- (f) tariff structure shall define users' categories and charges reflecting the cost of service for each type of user in order to promote efficient price signals for all consumers;
- (g) tariffs structure and model applicable to the Public Utilities Corporation and other system operators shall provide incentives for efficiency in supply and be compatible with the promotion of renewable energy sources.

(3) Notwithstanding subsection (2), the Commission may, pursuant to the Energy Policy, set out a social tariff defining the categories of consumers or specified areas subsidized by other consumer categories, based on criteria set out, in a transparent and objective manner.

## PART X - ACCESS FOR ELECTRICAL FACILITIES

70. A licensee may, upon issuance of a written notice to the owner or occupier of a property and to the Commission and upon the approval of the Commission enter a property for matters related to electrical facilities as prescribed by regulations.

Access to  
property

71. Any electrical supply lines, meters, fittings, works or apparatus belonging to an operator and lawfully placed or installed in or on any premises whether or not it is fixed to any part of such premises shall —

Electrical  
facilities of  
Licensee

- (a) remain the property of, and may be removed by the operator;
- (b) not be the subject of execution arising from any process of law or legal proceedings in insolvency or liquidation against the owner or occupier of such premises.

Easement and  
wayleaves

72.(1) An occupier or owner who has an easement or has been granted a wayleave shall, at all reasonable times, grant access to the operator for the purpose of attending to electrical facilities as prescribed by regulations.

(2) An occupier of land under subsection (1) shall not be liable for any damage caused to an operator's lines located on or under such land which occurs by reason of the occupier's activity, where the occupier had taken all reasonable precautions to avoid damaging the operator's lines.

## Enclosures

73.(1) An operator or permit holder may erect enclosures on any public road as may be necessary for purposes in connection with the supply of electrical energy.

(2) An enclosure shall not be erected above ground except with the consent of the Commission and the appropriate relevant authorities.

(3) An enclosure referred to in subsection (1) shall be under the sole control and for the exclusive use by the operator for transmission and distribution of electricity.

(4) An enclosure shall be constructed and maintained by the operator in such manner as not to constitute a source of danger to the public.

(5) The Commission may, after consultation with the relevant local authority, determine the hours during which an operator shall have access to the enclosure.

(6) Where an operator removes or displaces the upper surface or covering of any enclosure during any hours not so determined without the consent of the Commission, commits an offence and on conviction be liable to a fine not exceeding SCR25,000. The Court may impose a fine not exceeding SCR1,000 for each day during which the default continues.

(7) An operator does not commit an offence under subsection (6) where it satisfies the court that there was an emergency and the operator had taken all reasonable precaution under the circumstances to avoid the commission of the offence.

## PART XI - CONSUMER RIGHTS AND PROTECTIONS

74. A supplier and the Public Utilities Corporation, which supplies electricity to consumers, shall —

Duty of supplier and the Public Utilities Corporation to consumer

- (a) provide consumers with detailed information on services offered, including information on the source of energy, energy used to generate the electricity supplied, efficiency in the use of electricity by consumers, consumption of electricity and tariffs;
- (b) install an accurate meter for the purposes of recording the consumption of the consumer;
- (c) make timely billing and allow the consumer a period of 14 days from the date of the bill to make payment;
- (d) give prompt reply to any complaint from any consumer.
- (e) provide prescribed quality service.

75.(1) A supplier and the Public Utilities Corporation shall be responsible for collecting payments from a consumer in accordance with the metering, billing and collection procedures as authorised by the Commission.

Payment and suspension of service

(2) A supplier or the Public Utilities Corporation may suspend or disconnect the supply of electricity to a consumer, where the —

- (a) consumer fails to pay any outstanding fee or charge for the service within the prescribed period;
- (b) consumer has obtained the supply of electricity by misrepresentation or fraudulent means;
- (c) service is likely to endanger the safety of persons or property.

(3) Where the cause for suspension or disconnection has ceased to exist, the licensee shall restore the service within a reasonable time after payment of the prescribed fee.

(4) A supplier or the Public Utilities Corporation shall, in non-emergency situations, give advance notice or warnings of the suspension of electricity services to consumers.

Suspension  
or  
disconnection  
notice

76. Where suspension or disconnection is due to the failure to pay the prescribed tariff, the Public Utilities Corporation or transmission and distribution operator shall give a notice of warning to the consumer or the network user indicating the remedy for the irregularity prior to proceeding with the suspension or disconnection.

Consumer  
protection  
standards

77.(1) The Commission may require a licensee or the Public Utilities Corporation to develop and submit to the Commission, for its approval, procedures, standards quality of service applicable to matters relating to the quality of service and protection of the interests of the consumers or network users.

(2) Any standards and procedures approved by the Commission under subsection (1) shall be published in a daily newspaper or by a public notice and a notice in the gazette in such manner as the Commission may direct.

Procedures  
for dealing  
with  
complaints

78. The Commission shall establish prescribed procedures for dealing with complaints related to electricity supply



services made by consumers, potential consumers or network users.

79. The Minister may after consultation with the Commission, prescribe standards in respect of quality, reliability, efficiency, and economy of electricity supplied by a licensee or the Public Utilities Corporation.

Performance standards

80. Consumers of electricity are obliged to use electricity pursuant to the conditions, manner and purpose prescribed by regulations.

Obligation of electricity consumers

81. The Minister in consultation with the Commission may take such measures to restore and maintain continuous and uninterrupted service where there has been prolonged interruption in the electricity service as a result of—

Unforeseen events

- (a) force majeure;
- (b) any accident, sabotage or terrorist act affecting any operation;
- (c) unavailability of capacity to provide any electricity services; or
- (d) such other circumstances as may be deemed by the Commission to be an emergency situation.

## PART XII - DISPUTE RESOLUTION

82.(1) Any dispute between the licensees, electricity market participants including the Public Utilities Corporation shall initially be referred to the Commission for determination.

Dispute settlement between licensees, electricity market participants and the Public Utilities Corporation

(2) The Commission shall prescribe its proceedings for determination in such manner as it thinks fit.

83. Until the commencement of the Tribunal, which shall be given competence under this Act, a party aggrieved by

Appeal to the Investment Appeal Panel

any decision of the Commission under section 82(1) may appeal to the Investment Appeal Panel in accordance with the provisions of the Seychelles Investment Act, 2010.

### PART XIII - OFFENCES

Constructs and  
operates  
without licence  
or permit

**84.** Any person who —

- (a) constructs without a permit or operates an electricity generator plant without a licence; or
- (b) after the expiration of licence has not dismantled and removed the plant, equipment and facilities used in the business and reinstated the land to its original state,

commits an offence and on conviction shall be liable to a fine not exceeding SCR200,000 or a term of imprisonment not exceeding 2 years or both such fine and imprisonment.

Operating  
electricity  
market activity  
without a  
licence

**85.** Any person who carries on any electricity related activity without a licence or a separate licence for each electricity market activity commits an offence and on conviction shall be liable to a fine not exceeding SCR100,000 or a term of imprisonment not exceeding 1 year or both such fine and imprisonment.

Breach of  
conditions  
of licence

**86.** Any person who breach any conditions of the licence or permit under this Act commits an offence and on conviction shall be liable to a fine not exceeding SCR 100,000 or a term of imprisonment not exceeding 1 year or both such fine and imprisonment.

Fraudulently  
obtain  
electricity  
related activity

**87.** Any person who —

- (a) fraudulently obtains or makes use of any electricity related activity with intent to avoid payment of any applicable tariff or charge by means of any apparatus or device

connected to any electrical facilities or power plant maintained or operated by a licensee or permit holder;

- (b) defrauds the licensee, the permit holder or the Public Utilities Corporation of any fee or charge properly payable for any electricity related activity;
- (c) fraudulently installs or causes to be installed an access to any electrical facilities or plant of a licensee, permit holder or the Public Utilities Corporation,

commits an offence and on conviction shall be liable to a fine not exceeding SCR100,000 or to a term of imprisonment not exceeding 1 year or to both such fine and imprisonment.

**88.** A person who applies tariffs other than the prescribed tariffs approved by its licence or permit commits an offence and is liable on conviction to a fine not exceeding SCR50,000.

Violation of  
tariffs

**89.** A person who —

- (a) makes any statement which he or she knows it to be false or misleading or does not have reasonable grounds to believe to be true before the Commission or relevant authority;
- (b) knowingly fails or refuses to furnish any documents or supply information in the manner and in the time prescribed or furnishes a false or incomplete document or supplies false or incomplete information;
- (c) knowingly fails to furnish any information or answer questions put to him or her at a hearing before the Commission;

False and  
misleading  
statements

(d) knowingly give false evidence or information before the Commission;

(e) wilfully fails to answer questions put to him or her by the Commission;

commits an offence and on conviction shall be liable to a fine not exceeding SCR25,000.

Obstructing  
an inspector

90. Any person who —

(a) obstructs an inspector in the exercise of the powers or duties conferred or imposed upon him or her under this Act;

(b) fails or refuses without reasonable cause to give information to an inspector or an authorized person when required to do so in terms of section 41;

(c) discloses information obtained upon an inspection or investigation other than information in the public domain for the purposes of carrying out his or her duties,

commits an offence and on conviction shall be liable to a fine not exceeding SCR 50,000.

Fails to give  
access to  
transmission  
and distribution  
network

91. A person who unreasonably fails to give access to its transmission or distribution network to third parties commits an offence and on conviction shall be liable to a fine not exceeding SCR25,000.

Fails to give  
written  
warnings

92. A person who fails to give written warning to a consumer in contravention of section 76 commits an offence and is liable on conviction to a fine not exceeding SCR 25,000.

Destroying or  
tampering of  
document

93. A person destroying, tampering or concealing any information book, accounts or other documents without reasonable excuse commits an offence and on conviction shall be liable to a fine not exceeding SCR50,000.

**PART XIV - MISCELLANEOUS**

**94.** All members and employees of the Commission shall be deemed to be employed in the public service for the purpose of sections 91 to 96 of the Penal Code.

Public servants  
under Penal  
Code

**95.** The Chairperson, Deputy Chairperson, members of the Board, secretary of the Board, Chief Executive Officer and other staff of the Commission shall not be criminally or civilly liable in respect of an act done or omission in good faith in the exercise of a power and the performance of a function under this Act.

Protection of  
acts done in  
good faith

**96.(1)** The Minister may make regulations for carrying into effect the purposes and provisions of this Act.

Regulations

(2) Without prejudice to the generality of subsection (1), regulations made under subsection (1) may provide for—

- (a) any matter which in terms of this Act is required or permitted to be prescribed;
- (b) any manner and form to be prescribed;
- (c) fees and charges, fines or penalties payable;
- (d) conditions and requirements of licence;
- (e) annual amount of electricity that an auto-producer, auto-producers' group or a co-generator may sell to the transmission operator;
- (f) rights, duties and obligations of consumers;
- (g) operation and management of Grid Code;
- (h) electrical installations;
- (i) transmission and distribution of electricity;
- (j) procedures for authorising the establishment of new generation plants;

- (k) the setting of standards relating to health, safety, security and environment related to electricity operations and activities;
- (l) tariffs;
- (m) standards of quality of service and supply;
- (n) requirements relating to service obligations;
- (o) system operations;
- (p) requirements relating to the network;
- (q) safety, security and technical conditions of access;

#### **PART XV - REPEAL, SAVINGS AND TRANSITIONAL**

**Repeal**

97.(1) The Seychelles Energy Commission Act 2010 is hereby repealed.

(2) Regulations and direction issued and notifications made under the repealed Act shall continue in effect until they are repealed or amended under the provisions of this Act.

**Savings and  
Transitional**

98. Upon the commencement of this Act —

- (a) any acts done or commenced by or under the authority of the repealed Seychelles Energy Commission Act, 2010 prior to the date of commencement of this Act, and where such act is within the powers of the Commission, shall be carried on and completed by or under the authority of the Commission;
- (b) all acts done, decisions taken, licences, or authorisations granted by the Minister, Chief Executive Officer, officers or employees of the Seychelles Energy Commission under the

repealed Seychelles Energy Commission Act, 2010 which were validly done, taken or granted under any written laws or under and pursuant to the repealed Act shall continue to have effect in accordance with the terms or until amended, annulled or withdrawn in accordance with the written law;

- (c) all agreements, deeds, bonds or arrangements which fall within the scope of the objects and functions of the Commission, to which the Seychelles Energy Commission is a party, subsisting immediately before the date of coming into operation of this Act, shall continue in force on and after that date, and shall be enforceable by or against the Commission as if the Commission had been a party to such deeds, bond, agreements or arrangements;
- (d) all debts, obligations and liabilities incurred, all contracts entered into and all matters engaged to be done by or for the Government immediately before such day for or in connection with the purposes of the Seychelles Energy Commission as constituted under Act 2010 shall be incurred by the Commission and the Commission shall have all powers necessary to take possession of, recover and deal with such asset, and discharge such liabilities;
- (e) all suits and other legal proceedings pending or which could have been instituted by or against Government immediately before such day for any matter in relation to the Seychelles Energy Commission as constituted under Act 2010, shall be

continued or instituted as if the Commission was a party thereto;

- (f) all officers and other employees of the Seychelles Energy Commission constituted under Act 2010, shall be deemed to be officers and employees of the Commission on condition not less favourable than those subsisting immediately prior to the said date of repeal.

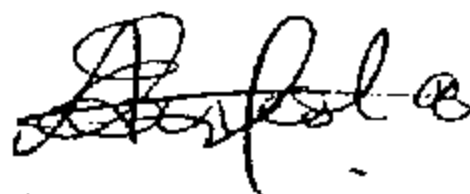
Transfer of  
Assets

99.(1) The Board established under the repealed Seychelles Energy Commission Act, 2010 may vest in or transfer to the Commission immediately before the coming into operation of this Act —

- (a) movable and immovable properties vested in the Seychelles Energy Commission constituted under Act 2010;
- (b) assets, rights, interests, privileges, liabilities and obligations of the Seychelles Energy Commission constituted under Act 2010.

(2) Where a question arises as to whether a particular movable or immovable property, asset, right, interest, privilege, liability or obligation has been transferred to or vested in the Commission under subsection (1), a certificate under the hand of the Minister shall be conclusive evidence that the movable or immovable property, asset, right, interest, privilege, liability or obligation were or were not so transferred or vested.

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 12th December, 2012.



Azarel Ernesta  
Clerk to the National Assembly