

SAINT LUCIA

No. 2 of 2016

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I ASSENT

[L.S.]

PEARLETTE LOUISY,
Governor-General.

December 16, 2015.

SAINT LUCIA

No. 2 of 2016

AN ACT to amend the Electricity Supply Act, Cap. 9.02 to provide for the regulation of Electricity Supply Service by the National Utilities Regulatory Commission.

[4th January, 2016]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the House of Assembly and the Senate of Saint Lucia, and by the Authority of the same, as follows:

Short title

1. This Act may be cited as the Electricity Supply (Amendment) Act, 2015.

Interpretation

2. In this Act “principal Act” means the Electricity Supply Act, Cap. 9.02.

Amendment of section 2

3. Section 2 of the principal Act is amended by –

- (a) deleting the definition of “Minister” and by substituting the following –

““Minister” means the Minister responsible for public utilities except where the Act specifically designates another Minister;” and

- (b) by inserting the following definitions in their correct alphabetical sequence –

““Commission” means the National Utilities Regulatory Commission established under section 5 of the National Utilities Regulatory Commission Act, No. of 2015;

“renewable energy” means a source of energy which is capable of being replenished, including biomass, geothermal heat, rain, sunlight, tides, waves and wind”.

Amendment of section 3

4. Section 3 of the principal Act is amended by deleting subsection (2) and by substituting the following –

“(2) For the avoidance of doubt, it is hereby declared that the licence granted to the Company under the Electricity Supply Act, No. 27 of 1964 shall continue in force in accordance with the terms and conditions of that licence except that from the date of commencement of this subsection the exclusive licence to generate electricity shall be for the generation of electricity from fossil fuel only.”

Amendment of Section 4

5. The principal Act is amended by deleting section 4 and by substituting the following –

“Licensing and Regulation of electricity from renewable resources

4. Subject to section 64, the Commission shall, in addition to any other functions specified in this Act or the National Utilities Regulatory Commission Act No. of 2015, be responsible for the licensing and regulation of the generation of electricity from renewable energy resources.”

Amendment of Section 5

6. The principal Act is amended by deleting section 5 and by substituting the following –

“Power to revoke licence

5. (1) The licence issued under section 3 may be revoked by the Commission with the approval of Cabinet on the last day of the first 55 years of the licence; but no purported revocation of the licence under this section shall be effective unless the Commission has given the Company not less than 24 months previous written notice of such revocation.

(2) If the Cabinet approves the revocation of the licence, the Government shall upon such revocation of the licence purchase from the respective registered holders thereof at the price and in the manner specified in section 6, all shares issued and all debt incurred, by the Company which are then held, otherwise than by the Government or any company, the entire issued ordinary share capital of which is in the beneficial ownership of the Government.”

Amendment of Section 6

7. Section 6 of the principal Act is amended by –

(a) deleting subsection (3) and by substituting the following –

“If the licence is revoked under section 5, the Government shall pay to the respective registered

holders of all ordinary shares in the capital of the Company, which the Government is obliged to purchase in accordance with that section, a purchase price equal to the fair market value of such shares as determined in accordance with section 7.” and

- (b) by deleting subsection (5) and by substituting the following –

“If the Commission shall serve upon the Company a valid notice revoking the licence, the Company shall not thereafter, except with the previous written consent of the Government, issue any share or incur any debt.”

Amendment of Part 3

8. Part 3 of the principal Act is amended by deleting the words “Hess Oil (Saint Lucia) Limited” wherever they appear in that Part and by substituting the words “Buckeye St. Lucia Terminal Limited”.

Amendment of section 24

9. Section 24 of the principal Act is amended in subsection (1) –

- (a) by deleting the following definitions –
- (i) “Certification Committee”;
 - (ii) “Minister”; and
 - (iii) “Review Board”;
- (b) by deleting the definition of “final rate of return” and by substituting the following –
- “ “final rate of return” means the after-tax net income of the Company in any financial year divided by the average contributed capital and expressed as a percentage as calculated in accordance with Schedule 3 and submitted to the Commission in accordance with section 32 or section 33, as the case may be;”
- (c) by deleting the definition of “final return” and by substituting the following –
- ““final return” means the document prepared in

accordance with Schedule 4 and submitted to the Commission in accordance with section 32;”

- (d) by deleting the definition of “interim return” and by substituting the following –

““interim return” means the document prepared in accordance with Schedule 4 and submitted to the Commission in accordance with section 30;”.

Amendment of section 25

10. The principal Act is amended by deleting section 25 and by substituting the following –

“Exclusive right to generate electricity from fossil fuels

25. (1) During the continuance of the licence a person except the Company shall not generate from fossil fuels, transmit (save for his or her own consumption and use), distribute or sell electricity within Saint Lucia.

(2) (a) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding \$50,000 or to imprisonment for a period not exceeding 6 months.

(b) In addition to the penalty in paragraph (a), he or she may be ordered by any court having summary jurisdiction to disassemble his or her equipment at his or her own expense within such time as such court may prescribe.

(c) If he or she fails to comply with the order of the court under paragraph (b), within the prescribed time, that court shall order the equipment to be disassembled by the Commission and such person shall be liable to pay the Commission its reasonable charges for disassembling such equipment.”.

Amendment of section 28

11. Section 28 of the principal Act is amended in subsection (2) by deleting the word “Minister” and by substituting the word “Commission”.

Amendment of section 30

12. Section 30 of the principal Act is amended in subsections (1) and (2) by deleting the word “Minister” wherever it appears in those subsections and by substituting the word “Commission”.

Amendment of sections 31 and 32

13. Sections 31 and 32 of the principal Act are amended by deleting the word “Minister” wherever it appears in those sections and by substituting the word “Commission”.

Amendment of sections 33 and 34

14. Sections 33 and 34 of the principal Act are amended by deleting the words “Certification Committee” wherever they appear in those sections and by substituting the word “Commission”.

Amendment of sections 35

15. Section 35 of the principal Act is amended by –

- (a) deleting the words “Review Board” wherever they appear in that section and by substituting the word “Commission”;
- (b) deleting subsection (4).

Amendment of sections 36

16. Section 36 of the principal Act is amended by deleting subsection (1) and by substituting the following –

- “(1) The Minister may, after consultation with the Commission with respect to the report submitted by the Commission, by Order, amend Schedule 1.”.

Repeal of sections 37 and 38

17. Sections 37 and 38 of the principal Act are repealed.

Amendment of section 39

18. Section 39 of the principal Act is amended by deleting the word “Minister” and by substituting the word “Commission”.

Repeal of Part 5

19. Part 5 of the principal Act is repealed.

Amendment of section 64

20. The principal Act is amended by deleting section 64 and by substituting the following –

“Regulations

64.—(1) The Minister responsible for the Electrical Department may, after consultation with the Commission, make regulations—

- (a) prescribing the qualifications of electrical engineers, chargemen, wiremen and contractors;
- (b) for examination, licensing and registration of electrical engineers, chargemen, wiremen, and contractors and for the grant of certificates of competency and of registration;
- (c) prescribing the forms of certificates of competency and registration for electrical engineers, chargemen, wiremen and contractors;
- (d) prescribing the fees to be charged in respect of the examination of electrical engineers, chargemen, wiremen and contractors;
- (e) prescribing the forms of certification of inspection to be issued by Chief Electrical Inspector, the fees to be charged for inspections to be made by such inspectors and the persons by whom such fees shall be paid.

(2) The Minister may, after consultation with the Commission, make regulations—

- (a) for protection of consumers and of the public generally against personal injury or damage to property arising from the generation, supply or use of electricity;
- (b) to provide for enquiries to be held in connection with any accident which is or may be attributed to an escape of electricity or to the state of conduct or any part of the undertaking;
- (c) for the purpose of preventing or minimising radio interference or electrical interference arising from the generation, transmission, distribution or use of electricity;
- (d) for the licensing and regulation of the generation of electricity from renewable energy resources.

(3) Without prejudice to the generality of paragraph (2) (d), Regulations made pursuant to that paragraph may -

- (a) make provision for -
 - (i) the procedure for making and determining applications for licences for the generation of electricity from renewable energy resources;
 - (ii) the tariffs to be applied in relation to electricity generated from renewable energy sources;
 - (iii) the fees payable for licences for the generation of electricity from renewable energy resources;
- (b) create offences for breach of any provision of the Regulations, subject to the imposition of a maximum penalty of imprisonment for a term of six months and a fine of \$5000; and
- (c) make any other provision for the purpose of carrying out the functions of the Commission referred to in section 4.

Amendment of section 67

21. The principal Act is amended by deleting section 67 and by substituting the following –

67. The Minister may by order publish in the Gazette amend Schedules 2, 3, and 4.”

Passed in the House of Assembly this 10th day of November, 2015.

PETER I. FOSTER,
Speaker of the House of Assembly.

Passed in the Senate this 17th day of November, 2015.

CLAUDIUS J. FRANCIS,
President of the Senate.