

**SAINT LUCIA**

No. 3 of 2016

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I ASSENT

[L.S.]

PEARLETTE LOUISY,  
*Governor-General.*

*December 16, 2015.*

## SAINT LUCIA

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### **No. 3 of 2016**

AN ACT to provide for the establishment of the National Utilities Regulatory Commission for the regulation of utility supply services and for related matters.

[ 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 National Utilities Regulatory Commission Act, 2015.

**Interpretation**

2. In this Act -

“Appeals Tribunal” means the Appeals Tribunal established pursuant to section 43(1);

“auditor” means a person who is a member of the Institute of Chartered Accountants of the Eastern Caribbean and who holds a practicing certificate issued by the Institute.

“Chairperson” means the Chairperson of the Commission appointed pursuant to section 11(1);

“Commission” means the National Utilities Regulatory Commission established pursuant to section 5(1);

“commissioner” means a commissioner appointed by the Minister under section 9;

“consumer” means a person who uses a utility supply service;

“customer” means a consumer, other than a service licensee, who is obliged to pay periodically or on demand for a utility supply service;

“Chief Executive Officer” means the Chief Executive Officer to the Commission appointed pursuant to section 13(1);

“Deputy Chairperson” means the Deputy Chairperson of the Commission appointed pursuant to section 11(1);

“inspector” means an inspector appointed pursuant to section 14(1);

“Minister” means the Minister responsible for public utilities;

“person” includes a body corporate and an unincorporated body;

“prescribed” means prescribed in the Regulations;

“Regulations” means Regulations made pursuant to section 45;

“Regulatory Act” means an Act in respect of which the Commission has regulatory functions and powers;

“Reserve Fund” means the reserve fund established pursuant to section 28(3);

“service licence” means a service licence granted by the Commission pursuant to a Regulatory Act;

“Secretary” means the Secretary to the Commission appointed under section 14;

“service licensee” means a person who holds a valid service licence pursuant to a Regulatory Act;

“tariff” means the rate charged to the customer by the service licensee for a utility supply service;

“universal service” means the provision of a utility supply service directly to a dwelling;

“utility” means a commodity which is of basic importance to the public; and

“utility supply service” means the supplying of a utility to the public.

#### **Application of the Act**

3. This Act applies to the utility supply services specified in Schedule 1.

#### **Act to bind the Crown**

4. This Act binds the Crown.

### **PART 2**

#### **THE NATIONAL UTILITIES REGULATORY COMMISSION**

#### **Establishment of the Commission**

5. (1) There is established a body to be known as the National

Utilities Regulatory Commission for the purpose of regulating utility supply services.

(2) The Commission shall be a body corporate to which section 19 of the Interpretation Act, Cap.1.06 applies.

### **Functions and powers of Commission**

**6.—(1)** The Commission's functions include the following -

- (a) to advise the Minister on the formulation of national policy on matters relating to utility supply services;
- (b) to promote the efficient and economic development of the utility supply services sector;
- (c) to ensure the economic regulation of utility supply services;
- (d) to ensure compliance with the Government's international and regional obligations relating to utility supply services;
- (e) to be responsible for the technical regulation of utility supply services and the setting of technical standards having regard to international standards and best practice relating to utility supply services;
- (f) to receive, consider and determine applications for service licences to provide utility supply services pursuant the Regulatory Acts;
- (g) to establish, approve, monitor and review tariff schemes and tariffs in accordance with any Regulatory Act;
- (h) to monitor and ensure that service licensees comply with the conditions attached to their service licences;
- (i) to monitor and ensure compliance with standards set pursuant to section 45(2);
- (j) to ensure the protection of the interest of consumers in relation to the provision of the utility supply service;
- (k) to receive and evaluate consumer complaints and resolve disputes in accordance with section 39;

- (l) to promote competition and monitor anti-competitive practices in the utility supply services and advise the competent authority responsible for the regulation of anti-competitive practices accordingly;
- (m) to maintain a register containing records of service licensees in the prescribed form;
- (n) undertake in conjunction with other institutions and entities where practicable, training, manpower planning, seminars and conferences in areas of national and regional importance in utility supply services;
- (o) to conduct research relating to utility supply services as may be necessary;
- (p) to report to and advise the Minister on the economic, financial, legal, technical, environmental and social aspects of the utility supply services sector;
- (q) to require payment of and collect fees payable under this Act and the Regulatory Acts; and
- (r) to perform such other functions specified in this Act, any other Regulatory Acts or the Regulations.

(2) In addition to any other powers specified in this Act, the Commission shall have the power to do all things necessary or convenient to be done for or in connection with the performance of its functions.

(3) Without prejudice to the generality of subsection (2), where the Commission reasonably suspects that a service licensee is in breach of this Act, the Regulations or a service licence held by the service licensee as the case may be, or where an allegation of breach is made to the Commission against a service licensee, the Commission may conduct any investigation it considers necessary in relation to the service licensee and an inspector may perform any of the following in the course of such investigation –

- (a) compel the production of documents and records in the custody or control of the service licensee;
- (b) compel the appearance of an employee or officer of a

service licensee, or any other person for the purpose of ascertaining compliance with this Act, any Regulatory Act, the Regulations or the relevant service licence;

- (c) inspect, examine or make copies of any document or record in the possession of the service licensee relevant to the service licence held by the service licensee;
- (d) require verification of income and all other matters pertinent to the service licence or utility supply service;
- (e) enter or inspect any premises, owned or occupied by a service licensee for the purpose of ascertaining compliance with this Act, the Regulations, or the service licence;
- (f) seize, remove or impound any document or records relating to the service licence or utility supply service for the purpose of examination and inspection; or
- (g) seize any apparatus relating to the service licence for the purpose of examination and inspection.

(4) An inspector shall not seize any apparatus in exercise of the powers conferred on him or her by subsection (3)(g) without a court order.

(5) An inspector shall, on entering premises, identify himself or herself to the owner or occupier of the premises, at the time of entry, by showing the person the search warrant, together with his or her identity card issued under section 14(3).

(6) An inspector shall, on completing the search, leave with the owner or occupier of the premises a receipt in which it is recorded a list of documents or extracts taken by the inspector.

(7) An inspector may copy any document removed by him or her in accordance with the provisions of subsection (1), and return the document to the person in charge of the document within 14 days of removal.

(8) For the purpose of discharging its functions and duties under this Act, the Commission shall, as it reasonably requires, be entitled to request any information, matter or thing from any person the



Commission has reasonable grounds to believe is providing a utility supply service without a service licence.

(9) Where the Commission reasonably suspects that a person is in breach of a service licence or is committing an offence by providing a utility supply service without a service licence, a police officer may lay before a Magistrate, an information on oath setting out the grounds for the suspicion and apply for the issue of a warrant to search the premises of where the utility supply service is believed to be provided.

(10) Where an application for a warrant is made under subsection (9), the Magistrate may issue a warrant authorizing a police officer, whether named in the warrant or not, with such assistance, including assistance from an inspector or the Commission and by such force as is necessary and reasonable, to enter upon the premises, search and inspect the premises and-

- (a) examine, inspect, make copies of, seize or remove any document or record; and
- (b) seize any equipment or other property;

found on the premises in the course of the search that the police officer has reasonable grounds to believe is being used in the commission of the offence.

(11) A person shall not –

- (a) fail to comply with a requirement under subsection (3) or request of the Commission under subsection (8); or
- (b) hinder, obstruct, prevent or interfere with a police officer, a commissioner, the Executive Director or an employee of the Commission in the exercise of a power under this section.

(12) A person who contravenes subsection (11) commits an offence and is liable on summary conviction to a fine not exceeding \$50,000 or to a term of imprisonment not exceeding three years or to both.

(13) In exercising its power under this section, the Commission may consult any Department of Government or statutory body likely to be affected, and shall send to the Department of Government or

statutory body likely to be affected, a copy of any report prepared by the Commission in consequence of any investigation made pursuant to this section.

(14) In ensuring economic regulation of the utility supply services pursuant to subsection (1)(c), the Commission shall have regard to the principles specified in Schedule 3.

#### **Commission to regulate its own procedures**

7. Subject to the remaining provisions of this Act and the Regulations, the Commission shall regulate its own procedures and may make rules to regulate its own procedures.

#### **Minister may give directions**

8. The Minister may give directions in writing to the Commission of a general policy nature and the Commission shall comply with such directions.

#### **Composition of Commission**

9.—(1) Subject to subsection (2) and section 10, the Commission shall comprise not less than 5 or more than 7 commissioners who shall be appointed by the Minister after consultation with Cabinet on such terms and conditions as the Minister may specify in the commissioner's, instruments of appointment.

(2) The commissioners shall be persons of integrity, collectively having recognized experience and expertise in -

- (a) the regulation of utility supply services;
- (b) business administration;
- (c) consumer affairs;
- (d) commerce;
- (e) economics;
- (f) engineering;
- (g) the environment;
- (h) finance and accounting;
- (i) law;
- (j) natural resources;
- (k) project management; and
- (l) public health.
- (m) training in Utility Regulation

(3) Where under section 26 a vacancy exists in the membership of the Commission, the Minister shall in accordance with this section appoint a person to fill the vacancy.

(4) The Minister shall by notice published in the Gazette give notice of the names of the commissioners as the Commission is first constituted and every change in the constitution of the Commission.

(5) A person appointed as a commissioner shall act in the public interest to carry out the purposes of this Act and not based on his or her personal or business interest.

#### **Disqualification from being a commissioner**

**10.—**(1) A person shall be disqualified from being a commissioner and is not eligible to be appointed as a commissioner, or having been appointed, is not eligible to continue as a commissioner if that person

- (a) holds or is beneficially interested in more than 5% of any stock, share, bond, debenture or other security of, or other interest in, a service licensee;
- (b) has a pecuniary or other interest in a device, appliance, machine, article, patent or patented process which is required or used by a service licensee;
- (c) is a director, officer, employee, agent of a person providing a utility supply service or supplying goods to a service licensee under a contract;
- (d) has filed for bankruptcy in a court or is declared by a court to be a bankrupt;
- (e) is declared by a court to be mentally incapacitated by reason of unsoundness of mind;
- (f) has been convicted of a criminal offence except where the offence -
  - (i) is a minor traffic offence; or
  - (ii) is spent in accordance with Criminal Records (Rehabilitation of Offenders) Act, Cap. 3.13; or
- (g) is a member of Parliament.

(2) Notwithstanding subsection (1)(b), a person shall not be held to have a pecuniary or other interest in a service licensee in respect of which the Commission performs regulatory functions by reason only of the fact that, by general reception of a utility supply service, he or she is a consumer of a service licensee in respect of which the Commission performs regulatory functions.

(3) A decision of the Commission taken at a meeting is not invalidated merely because a disqualified person sits at the meeting as long as there was the quorum required pursuant to section 21(6).

(4) Where a disqualified person sits at a meeting of the Commission, the Commission may review and amend its decision within 2 months of that decision being made.

#### **Chairperson and Deputy Chairperson**

**11.**—(1) The Minister shall designate one of the commissioners as the Chairperson of the Commission.

(2) The commissioners shall designate one of their number as the Deputy Chairperson of the Commission.

(3) Where the Chairperson is absent, the Deputy Chairperson shall have all the powers of the Chairperson.

(4) The Minister shall by publication in the Gazette and in at least 2 newspapers in general and weekly circulation in Saint Lucia give notice of a designation made under this section.

#### **Terms of appointment**

**12.**—(1) Subject to subsection (2) and to reappointment for a further term, the appointment of a commissioner shall be for a period not less than 3 years or more than 7 years unless the commissioner resigns under section 24 or the commissioner's appointment is revoked under section 25.

(2) The appointment of the commissioners shall be staggered.

#### **Chief Executive Officer**

**13.**—(1) The Commission shall appoint a suitable person as the Chief Executive Officer to manage the day to day affairs of

the Commission on such terms and conditions as the Commission determines.

(2) Notwithstanding the generality of subsection (1), the Chief Executive Officer shall-

- (a) perform all the functions entrusted to him or her under this Act, a Regulatory Act, the Regulations or by the Commission; and
- (b) be an ex-officio commissioner and shall attend meetings of the Commission unless directed otherwise by the Chairperson but shall have no voting rights in the meeting.

#### **Appointment of Secretary, inspectors and other employees**

**14.—**(1) The Commission shall appoint, at such remuneration and on such terms and conditions as may be approved from time to time by the Commission, a Secretary and such inspectors and other employees as the Commission considers necessary for the performance of the powers, duties and functions of the Commission.

(2) An inspector or other employee appointed under subsection (1) shall perform the duties assigned to him or her under this Act and the Chief Executive Officer.

(3) The Commission shall issue to each inspector with an identity card containing a photograph of the holder which he or she shall produce on request in the performance of his or her functions.

#### **Advisory committees**

**15.—**(1) The Commission may, for the purpose of carrying out its functions pursuant to this Act, establish advisory committees to give advice to the Commission on such matters relating to the Commission's functions as the Commission may determine.

(2) The Commission may appoint persons as members of an advisory committee established under subsection (1), who are not commissioners or who are not employees of the Commission, and such persons shall hold office for such period as the Commission may determine.

(3) The recommendations made by an advisory committee established under subsections (1) and (2) are not binding on the Commission but may be considered by the Commission in making decisions for the purposes of the discharge of its functions.

### **Delegation**

**16.** The Commission may, for the purpose of carrying out its functions under this Act, delegate, in writing to one or more of its commissioners or to the Chief Executive Officer, the power to carry out on behalf of the Commission, such functions as the Commission may determine except the functions specified in section 6(1) (f) and (g).

### **Oath of secrecy and confidentiality**

**17.—(1)** A commissioner or an officer or employee of the Commission shall be required to take the oath of secrecy set out in Schedule 2.

(2) Subject to subsection (3), a commissioner, an officer, an employee, an agent or an adviser of the Commission shall not disclose to any other person any information relating to-

- (a) the business affairs of the Commission;
- (b) any application submitted to the Commission under this Act or a Regulatory Act;
- (c) the business affairs of a service licensee; or
- (d) the affairs of a customer, member, client of a service licensee,

that the commissioner, officer, employee, agent or adviser has acquired in the course of his or her duties or in the exercise of the Commission's functions under this Act or any other law.

(3) Subsection (1) does not apply to a disclosure-

- (a) in respect of the business affairs of a service licensee or of a customer, member, client of a service licensee, with the consent of the person or the customer, member, client, as the case may be, which consent has been voluntarily given;

- (b) for the purpose of enabling or assisting the Commission in exercising a function conferred on it under this Act or any other law;
- (c) if the information disclosed is or has been available to the public from any other source;
- (d) where the information disclosed is in a summary or in statistics expressed in a manner that does not enable the identity of a service licensee or any customer, member, client of a service licensee, to which the information relates, to be ascertained;
- (e) lawfully made to a person with a view to the institution of, or for the purpose of-
  - (i) criminal proceedings; or
  - (ii) disciplinary proceedings relating to the discharge of duties by a commissioner, officer or employee of the Commission;
- (f) for the purposes of any legal proceedings pursuant to a court order in connection with the winding up or dissolution of a service licensee; or
- (g) for the appointment or duties of a receiver of a service licensee.

(4) A person who contravenes subsection (2) commits an offence and is liable on summary conviction to a fine not exceeding \$10,000 or to a term of imprisonment not exceeding one year or to both.

#### **Seal**

**18.—(1)** The Commission shall have an official seal.

(2) The affixing of the official seal of the Commission shall be in the presence, and witnessed by-

- (a) the signature of the Chairperson or the Deputy Chairperson; and
  - (b) the Chief Executive Officer.
- (3) All documents, other than those required by law to be

under seal, which are executed by, and all decisions of, the Commission shall be signed by-

- (a) the Chairperson or any other commissioner duly authorized in writing by the Chairperson to act on behalf of the Chairperson; and
- (b) the Chief Executive Officer.

#### **Principal place of business**

**19.** The Commission shall establish and maintain an office and principal place of business within Saint Lucia.

#### **Service of documents**

**20.** The service of documents on the Commission is deemed to be effective if delivered at the principal place of business of the Commission.

#### **Meetings**

**21.—(1)** The Commission shall meet at such times as may be necessary or expedient for the transaction of business of the Commission.

(2) The meetings of the Commission shall be held at such places as the Chairperson shall determine.

(3) The Chairperson may at any time call a special meeting of the Commission and shall cause a special meeting to be held within 7 days of a written request for that purpose addressed to the Chairperson by any 3 commissioners.

(4) The Chairperson and any other commissioner shall be deemed to be present at a meeting of the Commission if the Chairperson or the other commissioner participates by telephone, video link or satellite, and all commissioners participating in the meeting are able to hear and to speak to each other.

(5) At a meeting of the Commission-

- (a) the Chairperson shall preside; or



- (b) if the Chairperson is not present, the Deputy Chairperson shall preside;
- (c) if neither the Chairperson nor the Deputy Chairperson is present, the commissioners present shall choose one of their number to preside.

(6) A meeting of the Commission is duly constituted for all purposes if at the meeting there is a quorum of not less than 3 commissioners participating in the meeting.

(7) Decisions of the Commission shall be taken by a simple majority of votes of commissioners present and voting at the meeting.

(8) The Chairperson shall have an original vote and in cases of equal division the Chairperson shall have the casting vote.

(9) The Commission may co-opt any person to attend any particular meeting of the Commission at which it is proposed to deal with a particular matter, for the purpose of assisting or advising the Commission, but a co-opted person shall not have the right to vote.

(10) Minutes of each meeting of the Commission shall be recorded and kept by the Secretary to the Commission appointed under section 14.

#### **Declaration of interest and abstention from voting**

**22.—**(1) A commissioner who either directly or indirectly, has a pecuniary or other interest in a matter before the Commission shall declare the nature of his or her interest at the first meeting of the Commission at which it is practicable to do so.

(2) Where a commissioner declares an interest under subsection (1), the commissioner shall leave the meeting upon the matter coming up for discussion and shall not receive any other communication on the matter.

(3) A declaration and the departure of a commissioner from the meeting in accordance with subsection (1) shall be noted in the minutes of the meeting.

- (4) A commissioner who -
  - (a) contravenes subsection (1);

- (b) votes in respect of a matter before the Commission in which he or she is interested, whether directly or indirectly; or
- (c) seeks to influence the vote of any other commissioner in relation to a matter before the Commission in which he or she is materially interested, whether directly or indirectly;

is guilty of misconduct and section 25 shall apply.

(5) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding \$10,000 or to a term of imprisonment not exceeding one year or to both.

#### **Protection from liability**

**23.—**(1) The Commission shall not be liable for the acts of a service licensee.

(2) No action or other proceeding shall lie against the Commission, a commissioner, or an officer or employee of the Commission in respect of an act done or omitted to be done in good faith in the exercise or purported exercise of his or her functions under this Act except in cases of personal injury.

(3) The Commission shall indemnify a commissioner or an officer or employee of the Commission for the legal cost of defending an action in respect of an act done or omitted to be done in good faith in the exercise or purported exercise of his or her functions under this Act.

#### **Resignation**

**24.—**(1) A commissioner, other than the Chairperson, may resign his or her office by notice in writing addressed to the Minister through the Chairperson.

(2) The Chairperson may, by notice in writing addressed to the Minister, resign from his or her office.

#### **Revocation**

**25.—**(1) The Minister shall at any time, in writing, revoke the

appointment of a commissioner if, upon evidence, the Minister is satisfied that the commissioner-

- (a) is disqualified from being a commissioner under section 10;
- (b) is unable to perform the functions of his or her office;
- (c) is guilty of misconduct;
- (d) has been disqualified or suspended on grounds of misconduct, by a competent authority, from practising a profession;
- (e) has failed to attend 3 consecutive meetings of the Commission or 5 meetings of the Commission in the aggregate during any 12 month period of his or her term of appointment, without presenting a medical certificate or without being excused by the Minister in writing, in the case of the Chairperson or by the Chairperson in writing in the case of any other commissioner.

(2) The Minister may revoke the appointment of a commissioner on grounds of national security.

#### **Vacancy**

**26.—**(1) The office of a commissioner is vacated -

- (a) upon the death of the commissioner;
- (b) if the commissioner becomes disqualified under section 10;
- (c) if the commissioner resigns under section 24;
- (d) if Minister revokes the appointment of the commissioner under section 25;
- (e) upon the expiry of a commissioner's term of appointment.

(2) A decision of the Commission taken at a meeting is not invalidated merely because there is a vacancy in membership as long as there was the quorum required by section 21(6).

**Remuneration**

**27.** A commissioner shall be paid by the Commission from of the funds of the Commission such remuneration as may be determined by Cabinet.

**Revenue of Commission**

**28.—(1)** The Revenue of the Commission shall comprise any or all of the following-

- (a) sums allocated to the Commission by Parliament;
- (b) any levies payable to the Commission under any Regulatory Act;
- (c) fees payable to the Commission under this Act or a Regulatory Act; and
- (d) revenue raised by the Commission in the form of loans, grants, investments or other lawful means; and
- (e) all other sums that may become payable to or vested in the Commission in respect of matters incidental to its powers and duties.

(2) The revenue of the Commission in any financial year shall be applied in payment of the following charges -

- (a) the interest and other charges on, and the repayment of, any loan payable by the Commission;
- (b) the remuneration and fees payable under this Act, a Regulatory Act or the Regulations; and
- (c) expenses incurred by the Commission in the discharge of its functions under this Act.

(3) The Commission shall establish a reserve fund into which maybe paid any surplus funds of the Commission.

(4) The Commission may withdraw any funds from the Reserve Fund in cases of a shortfall for purpose of exercising its functions or discharging its duties pursuant to this Act.

(5) Subject to any general or specific direction of Cabinet, the funds in the Reserve Fund may be invested in securities by

the Commission on such terms and conditions determined by the Commission except that the Commission shall not invest its funds in securities offered by any person under its supervision.

#### **Financial year of Commission**

**29.** The financial year of the Commission commences on 1st January and ends on 31<sup>st</sup> December in each year or such other period as the Commission may specify by notice in writing published in the Gazette.

#### **Budget and plan of action**

**30.—(1)** The Commission shall not later than October 31<sup>st</sup> in each year -

- (a) cause to be prepared and shall adopt a budget with the estimates of its income and expenditure and a plan of action for the Commission in respect of the next financial year; and
- (b) shall submit the budget and plan of action in the prescribed form to the Minister.

(2) The Minister shall within one month of receipt of the budget and plan of action under subsection (1), or if Parliament is not in session, within one month of the next Session of Parliament lay the budget and plan action in Parliament.

#### **Accounts**

**31.** The Commission shall keep proper records of accounts in accordance with generally accepted international accounting standards and principles and shall prepare and retain financial statements in respect of each financial year.

#### **Audit**

**32.—(1)** The Commission shall within 3 months after the end of each financial year have its accounts audited annually by an independent auditor appointed by the Commission who shall conduct the audit in accordance with generally accepted international auditing standards and provide the Commission with an audited financial statement and a report on the financial statement.

(2) The Commission, the commissioners, the Chief Executive Officer, officers and employees of the Commission shall grant to the auditor appointed under subsection (1), access to all books, deeds, contracts, accounts, vouchers, or other documents which the auditor may deem necessary and the auditor may require the person holding or accountable for such document to appear, make a signed statement or provide such information in relation to the document as the auditor deems necessary.

(3) A person who fails to comply with subsection (2) commits an offence and on summary conviction is liable to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding one year or to both and to revocation of his or her appointment as a commissioner, Chief Executive Officer, an officer or employee of the Commission in accordance with this Act.

#### **Annual report**

**33.—**(1) Subject to subsection (2) and not later than 4 months after the end of each financial year, the Commission shall submit to the Minister an annual report on the operations and activities and transactions of the Commission containing -

- (a) an assessment of the state of the utility supply services sectors its impact and significance for the development of Saint Lucia;
- (b) a description of the activities undertaken by the Commission including recommendations made in respect of licences;
- (c) a description of actions taken to implement the relevant national policies of the Government of Saint Lucia; and
- (d) the audited financial statement of the Commission.

(2) An annual report under subsection (1) shall be accompanied by the auditor's report under section 32(1).

**Submission of annual report to Parliament**

**34.** The Minister shall cause a copy of an annual report submitted under section 33 to be laid in Parliament within 28 days of its receipt by the Minister, or if Parliament is not in session, within 28 days of the next Session of Parliament.

**Exemption from taxes**

**35.** The Commission is exempt from the payment of taxes, levies, and fees on –

- (a) income;
- (b) imports or purchase of vehicles, furniture and equipment used in the discharge of the functions of the Commission;
- (c) property; and
- (d) documents.

**Public access to records of the Commission**

**36.—(1)** Subject to the remaining subsections of this section, upon request, the Commission shall make a record of the Commission available for public inspection at the offices of the Commission on payment of the prescribed fee.

(2) The Commission shall not, except in accordance with this section, make the following records available to the public for inspection -

- (a) records relating to the internal personnel rules and practices of the Commission;
- (b) personnel records, medical records, and other records the disclosure of which would constitute an invasion of personal privacy;
- (c) records of intra-governmental communications relating to governmental decision processes;
- (d) records of information obtained by the Commission in the course of the discharge of its functions;
- (e) records containing information relating to the valuation of the property of the service licensees;

- (f) records of trade secrets or proprietary commercial, financial or technical information which is customarily guarded from competitors of service licensees;
- (g) records of information which are subject to judicial privilege; and
- (h) records which are not open to public inspection by virtue of the provisions of any enactment.

(3) The Commission shall make available records referred to in subsection (2)(d) through the discovery process in court proceedings.

(4) The Commission shall not disclose an investigative record compiled for enforcement purposes for public inspection if to do so-

- (a) interferes with enforcement proceedings;
- (b) deprives a person of the right to fair trial or impartial adjudication;
- (c) constitutes an unjustified invasion of personal privacy;
- (d) discloses the identity of a confidential source;
- (e) discloses investigative techniques or procedures; or
- (f) endangers the life or physical safety of the law enforcement personnel or any other person.

(5) Records of information submitted in connection with an audit, investigation or examination shall not be made available for public inspection until the Commission makes its decision with regard to the audit, investigation or examination.

(6) The Commission shall cause to be published in the *Gazette* service licences issued, modified, renewed or revoked.

#### **Exchange of information**

**37.—**(1) The Commission may co-operate and enter into a memorandum of understanding with a competent authority for the purpose of exchanging of information and may, subject to subsections (2) (3) and (4), exchange information necessary to enable the competent authority or the Commission to exercise its functions.



(2) A memorandum of understanding pursuant to subsection (1) shall -

- (a) set out the scope, procedure and other details for exchange of information;
- (b) provide for reciprocal treatment;
- (c) not provide for disclosure beyond that which is provided for under this Act; and
- (d) not relieve the Commission of any of its functions or duties under this Act.

(3) The Commission may decline to exercise its power to exchange information under subsection (1) unless the competent authority undertakes to make such contribution towards the costs of the exchange of information as the Commission considers appropriate.

(4) Nothing in this section authorizes a disclosure by the Commission unless -

- (a) the Commission is satisfied that the competent authority is subject to adequate legal restrictions on further disclosures which shall include the provision of an undertaking of confidentiality or the Commission has been given an undertaking for the competent authority not to disclose the information provided without the consent of the Commission;
- (b) the Commission is satisfied that the assistance requested by the competent authority is required for the purposes of the competent authority's functions including the conduct of civil or administrative investigations or proceedings to enforce laws administered by that competent authority.

#### **Directions by the Commission**

**38.**—(1) For the purpose of ensuring compliance with this Act or any Regulatory Act, the Commission may, by notice in writing, direct a service licensee to take such measures or cease such activities as may be necessary.

(2) A service licensee who fails to comply with a direction of the Commission is deemed to be in breach of its service licence.

(3) A service licensee who is deemed to be in breach of his service licence may appeal the decision in accordance with Section 43.

#### **Dispute resolution by the Commission**

**39.—**(1) The Commission shall in accordance with this section and any Regulations made under section 45(2)(r) -

- (a) determine disputes between service licensees including disputes relating to unfair competition and dominance, service, service order delays and frequency use;
- (b) determine disputes between service licensees and aggrieved persons involving alleged breaches of this Act or the Regulations, other Regulatory Acts or service licences;
- (c) determine complaints by customers relating to billing, rates payable for utility supply services, service and service order delays;
- (d) determine claims by a service licensee for a change in rates payable for its utility supply services;
- (e) determine objections to agreements between service licensees;
- (f) of its own motion or at the instance of the Minister, review and determine the rate payable for any utility supply service;
- (h) determine complaints made by a person aggrieved by the decisions, actions or omissions of a service licensee;
- (g) determine complaints made by members of the public against service licensees;
- (h) determine disputes relating to interconnection or sharing of infrastructure between service licensees;

or

- (i) resolve complaints relating to harmful\ interference.

(2) The Commission shall for the purposes of this section have powers to -

- (a) issue summons to compel the attendance of witnesses;
- (b) examine witnesses on oath, affirmation or otherwise; and
- (c) compel the production of documents.

(3) A summons issued by the Commission under this section shall be under the hand of the Chairperson.

(4) A party to a matter before the Commission under this section, shall be entitled to appear at the hearing and may be represented by an attorney-at-law or any other person who is competent to assist the person in the presentation of the matter.

(5) The Commission may with respect to a matter brought before it under this section-

- (a) make a provisional or interim order or award relating to the matter or part thereof, or give directions under the hearing or determination;
- (b) dismiss any matter or part of a matter or refrain from further hearing or from determining the matter or part thereof if it appears that the matter or part thereof is trivial or vexatious or that further proceedings are not necessary or desirable in the public interest;
- (c) order any party to pay costs and expenses, including expenses of witnesses, as are specified in the order; or
- (d) generally give all such directions and do all such things as are necessary or expedient for the expeditious and just hearing and determination of the matter.

(6) The Commission may review, vary or rescind a decision or an order made by it; and where a hearing is required before that decision or order is made, the decision or order shall not be suspended or revoked without a further hearing.

(7) The Commission may in writing delegate its powers under this section to a committee established by the Commission for that purpose comprising the Chairperson and 2 other commissioners designated by the Chairperson.

(8) The decisions of a committee established under subsection (7) shall be binding on the Commission.

#### **Codes of practice**

**40.**—(1) The Commission may by notice published in the Gazette issue codes of practice relating to utility supply services.

(2) Codes of practice issued by the Commission under subsection (1) shall be -

- (a) available to the public at the office of the Commission during business hours or on the websites operated by the Commission; or
- (b) made available to a person on payment of the prescribed fee.

(3) A breach of the codes of practice issued by the Commission under subsection (1) is deemed to be a breach of a service licence.

### **PART 3 MISCELLANEOUS**

#### **False or misleading information**

**41.**—(1) A person shall not knowingly give false or misleading information to the Commission.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding one year or to both.

#### **Failure to attend to give evidence**

**42.**—(1) A person shall not -

- (a) refuse or fail, without reasonable excuse, to appear before the Commission, having been required to do so; or

- (b) refuse to take an oath or make an affirmation having appeared before the Commission as a witness.

(2) A person who contravenes subsection (1) commits an offence, and is liable, on summary conviction, to a fine not exceeding \$1000 or to imprisonment for a term not exceeding 6 months or to both.

### **Appeals**

**43.—**(1) There is hereby established an appeals tribunal for the purpose of hearing appeals against decisions of the Commission made pursuant to this Act (including decisions of the Commission made pursuant to dispute resolution pursuant to section 39) and other Regulatory Acts.

(2) The constitution and procedure of the Appeals Tribunal shall be as specified in Regulations made pursuant to section 45(2)(s).

(3) An appeal from a decision of the Commission under this Act lies to the Appeals Tribunal.

(4) A person may, within 28 days of a decision of the Commission appeal by notice in writing to the Appeals Tribunal against that decision.

### **Amendment of Schedules**

**44.** The Minister may, on the recommendation of the Commission, amend Schedules 1, 2, and 3 by Order published in the Gazette.

### **Regulations**

**45.—**(1) The Minister may, after consultation with the Commission make Regulations to give effect to this Act.

(2) Without limiting the generality of subsection (1), the Minister may, after consultation with the Commission, make Regulations providing, in particular, for or in relation to -

- (a) prescribing any matter which may be prescribed under this Act;

- (b) matters relating to the quality of utility supply services;
- (c) technical regulation and setting of technical standards;
- (d) the protection of customers and of the public generally against personal injury or damage to property arising from the operations of a service licensee;
- (e) to provide for enquiries in connection with any accident which is or may be attributed to a utility supply service;
- (f) tariff schemes and tariffs;
- (g) the publication of information regarding the utility supply service provided by a service licensee;
- (h) the form of applications and service licences pursuant to this Act;
- (i) the criteria for evaluating applicants for service licences;
- (j) the form of annual reports;
- (k) any fees payable pursuant to this Act;
- (l) the staggering of the terms of appointments of the members of the Commission pursuant to section 9;
- (m) creating offences for breach of any provision of the Regulations and for a penalty not exceeding \$5000 for any such an offence.;
- (n) the circumstances in which, and the methods by which, a utility is to be stored and treated on any premises;
- (o) governing installation, operation and maintenance of a utility supply system within a private development;
- (p) standards regarding-
  - (i) the quality of a utility and the provisions of a utility supply service;
  - (ii) to environmental performance;
- (q) the facilitation of access and interconnection of the

other service licensees who provide utility supply services;

- (r) dispute resolution pursuant to sections 39;
- (s) the constitution and procedure of the Appeals Tribunal established under section 43.

### **Repeal**

**46.** The Public Utilities Commission Act, Cap. 9.01 is repealed.

### **Consequential amendments**

**47.** The laws specified in Column 1 of the table in Schedule 4 are amended to the extent specified in Column 2 of Schedule 4.

### **Transitional provisions**

**48.** From the date of commencement of this Act the transitional provisions specified in Schedule 5 shall have effect.

## **SCHEDULE 1**

(Sections 3 and 44)

### **Utility Supply Services**

1. (1) Water supply service - including potable water supply service and raw water supply service.

(2) In this paragraph –

“potable water” has the meaning given to in section 2 of the Water and Sewerage Act , Cap. 9.03;

“potable water supply service” includes the -

- (a) treating of water to make it potable water;
- (b) storing, bottling, transporting, or distribution of potable water; and the sale or offer for sale of that water as potable water;

“raw water” has the meaning given to it in section 2 of the Water and Sewerage Act, Cap. 9.03;

“raw water supply service” includes the, storing, transporting and distribution of raw water and the offer for sale or the sale of raw water.

2. Sewerage service - the removal of sewage by pipe from the exterior of any domestic, commercial, governmental, industrial or other building and the collection, transportation, treatment and disposal of the such sewage.

3. Electricity supply service - generation, transmission, distribution and supply of electricity.

## **SCHEDULE 2**

(Sections 17 and 44)

### **Oath of Secrecy**

Form of oath to be taken by the Commissioners, officers and employees

I,.....(name) swear and affirm that I will well and faithfully carry out my duties and obligations under the National Utilities Regulatory Commission Act, 2015 and the Regulations, rules and instructions thereunder and that I will not without due authority in that behalf disclose or make known any matter or thing that comes to my knowledge by reason of my employment or office.

## **SCHEDULE 3**

(Sections 6(1)(c) and 44)

### **Economic Regulation**

The economic regulation of the utility supply services shall be based on the following principles -

1. non-discriminatory practices in the provision of utility supply services shall be pursued as much as possible;
2. fair competition practices will be promoted to the extent possible in the provision of utility supply services;
3. there will be no reuse of past benefits to -
  - (a) compensate deficits incurred as a consequence of business risk;
  - (b) revalidate inefficiencies in the provision of the utility supply services; and
  - (c) allow a service licensee to appropriate profits obtained from restrictive practices towards its competition or from the abuse of its dominant position;



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4. there will be a rational and efficient use of the resources involved and the utility supplied;
5. there will be consistent balance between utility supply and demand;
6. there will be universal service; and
7. there will be constant improvements in productivity and efficiency, without affecting the continuity and quality of service delivery.

**SCHEDULE 4**

(Section 47)

**CONSEQUENTIAL AMENDMENTS**

<b>Column 1</b>	<b>Column 2</b>
1. Water and Sewerage Act, Cap. 9.03	<p>1. In section 2 –</p> <p>(a) by inserting the following definitions in the correct alphabetical sequence –</p> <p>“abstraction” means the process by which water in its natural environment may be artificially removed through a manmade structure or through the process of changing the flow of the water from its usual course to another course;</p> <p>“water harvesting” means the practice of capturing, infiltrating or utilizing rainfall from roofs or constructed catchment surfaces;”;</p> <p>(b) by deleting the definitions for the terms - “Board”, “Bureau of Standards”, “Executive Director”, “Fund”, “low income household”, “Reserve Fund” and “Member”;</p> <p>(c) by deleting the definition of “auditor” and substituting the following definition –</p> <p>“auditor” means a person who is a member of the Institute of Chartered Accountants of the Eastern Caribbean and who holds a practicing certificate issued by the Institute;”;</p> <p>(d) by deleting the definition of “Commission” and substituting the following definition -</p> <p>“Commission” means the National Utilities Regulatory Commission established under section 5 of the National Utilities Regulatory Commission Act 2015;”;</p> <p>(e) by deleting the definition of “Minister” and substituting the following definition -</p> <p>“Minister”-</p> <p>(a) when referred to in Part 2 means the Minister responsible for water resource management;</p> <p>(b) when referred to in Part 3 means the Minister responsible for public utilities;”;</p>

Column 1	Column 2
	<p>(f) by deleting the definition of “universal service” and substituting the following definition –  “ “universal service” means the provision of a water supply service directly to a dwelling;”;</p> <p>(g) by deleting the definition of “water” and substituting the following definition -  ““water” includes-</p> <p>(a) water flowing or situated upon the surface of any land;</p> <p>(b) water flowing or contained in any natural course for water or any lake or spring whether or not it has been altered or artificially improved;</p> <p>(c) estuarine or coastal water;</p> <p>(d) groundwater;</p> <p>(e) rainwater; and</p> <p>(f) water contained by waterworks acquired, constructed, improved or operated by person providing a water supply service;”.</p> <p>2. In section 3(2) by deleting the words “Minister responsible for agriculture” and substituting the words “Minister responsible for water resource management”.</p> <p>3. In section 4(1) –</p> <p>(a) in paragraph (c) after the words “resources” by adding the words “and water harvesting”;</p> <p>(b) in paragraph (d) by deleting the words “advising on” and substituting the word “promoting”.</p> <p>4. By deleting section 6(2)(c) and substituting the following paragraphs -</p> <p>“(c) provide for the preservation of flora and fauna in gathering grounds;</p> <p>(ca) provide for the preservation and enhancement the ecological processes; and”.</p> <p>5. By deleting section 9(4) and substituting the following subsection –</p>

Column 1	Column 2
	<p>“(4) A person who contravenes an order made under this section commits an offence and upon summary conviction is liable to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding one year or to both.”.</p> <p>6. By deleting section 10(3) and substituting the following subsection –</p> <p>“(3) A person who contravenes a provision of an Order made pursuant to subsection (1)(b), (c) or (d) commits an offence and upon summary conviction is liable to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 3 years or to both.”.</p> <p>7. In section 11(1) by deleting the words “ordinarily resident on that land”.</p> <p>8. By deleting section 12(2) and substituting the following subsection –</p> <p>“(2) A person who contravenes subsection (1) commits an offence and upon summary conviction is liable to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 3 years or to both.”.</p> <p>9. By deleting section 22 and substituting the following section –</p> <p>“Offence of not complying with direction of Agency for abstraction licence</p> <p>22. An abstraction licensee who fails to comply with a direction of the Agency given under section 20 commits an offence and upon summary conviction is liable to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 3 years or to both.”.</p> <p>10. By deleting section 25(2) and substituting the following subsection –</p> <p>“(2) A person who contravenes subsection (1) commits an offence and upon summary conviction is liable to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 3 years or to both.”.</p>

Column 1	Column 2
	<p>11. By deleting section 35 and substituting the following section -</p> <p>“Offence of not complying with direction of Agency for permit</p> <p>35. A permit holder who fails to comply with a direction given by the Agency under section 33 commits an offence and upon summary conviction is liable to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 3 years or to both.”.</p> <p>12. In Part 3 –</p> <p>(a) by repealing Division 1 (sections 36 to 59);</p> <p>(b) in Division 2 –</p> <p>(i) in section 60(2), by deleting the words “and to a further fine not exceeding \$500 for each day during which the offence continues”.</p> <p>(ii) by deleting sections 61, 62, 63 and 64 and substituting the following sections –</p> <p><b>“Application for service licence</b></p> <p>61. (1) The Commission may by notice published in the Gazette and in at least 2 newspapers in general and weekly circulation in Saint Lucia and by any other public media invite persons to tender applications for the provision of a water supply service or sewerage service together with a closing date for tendering of applications.</p> <p>(2) Subject to subsection (3), a person wishing to carry on a water supply service or sewerage service shall, whether or not a notice is published pursuant to subsection (1), submit an application to the Commission for a service licence to provide a water supply service or sewerage service to the public or to a part of the public.</p> <p>(3) An application pursuant to subsection (2) shall be in the prescribed form and shall be accompanied by and an environmental impact assessment and the prescribed service licence fee.</p>

Column 1	Column 2
	<p><b>Request for further information</b></p> <p>62. (1) The Commission may within 14 days of an application being made under section 61(2) request additional information from an applicant for the purpose of considering the application.</p> <p>(2) Where the Commission makes a request for information pursuant to subsection (1), the applicant shall submit that information within 14 days of the request or within a further period of time granted and specified in writing by the Commission.</p> <p>(3) The Commission shall not refuse to grant a further time period pursuant to subsection (2) unless it is reasonable to so refuse.</p> <p>(4) An application shall not be taken to have been submitted to the Commission until the information requested under this section is received by the Commission.</p> <p><b>Grant or refusal of service licence</b></p> <p>63.(1) Where an application is submitted to the Commission pursuant to section 61, the Commission shall evaluate the applicant and within 28 days of receipt of the application under section 61 or information requested pursuant to section 62 being received, as the case may be, and –</p> <p>(a) if satisfied that an applicant has –</p> <ul style="list-style-type: none"> <li>(i) the requisite technical and managerial capacity and experience in the management of similar water supply service or sewerage service;</li> <li>(ii) the financial ability for the execution of the water supply service or sewerage service; and</li> <li>(iii) the ability to mitigate detrimental environmental impacts associated with the water supply service or sewerage service;</li> </ul> <p>and is the best applicant for the grant of a service licence, may grant the service licence to that applicant; or</p>

Column 1	Column 2
	<p>(b) if not satisfied that the applicant has met the requirements referred to in paragraph (a), shall refuse to grant a service licence to that applicant.</p> <p>(2) The Commission shall within 14 days of a decision under subsection (1) notify the applicant of the grant or the refusal and shall give the reasons in writing for a refusal.</p> <p>(3) A person aggrieved by the decision of the Commission shall have the right of appeal pursuant to section 96(5).</p> <p><b>No notice of grant or refusal for service licence</b></p> <p>64. (1) If no decision for the grant or refusal of an application for a service licence is given to the applicant within the period specified under section 63(2), the applicant shall, upon an application being made in accordance with subsection (2), have the right to be heard by the Commission.</p> <p>(2) The application for a hearing before the Commission under subsection (1) shall be made be in the prescribed form within 14 days of the end of the period specified in section 63(2).</p> <p>(3) A hearing before the Commission under this section shall be held within 14 days of an application being submitted under subsection (2) and the Commission shall grant or refuse the service licence and give notice of its decision to the applicant within 14 days of the hearing.</p> <p>(4) Where after a hearing under this section the Commission refuses to grant the service licence, the applicant shall have a right of appeal pursuant to section 96(5).</p> <p>(5) Where the Commission fails to comply with subsection (3), the service licence shall be deemed to be refused and the applicant shall have a right of appeal pursuant to section 96(5).”.</p>

Column 1	Column 2
	<p>13. In section 69(1) by inserting the word “written” between the words “the” and “approval”.</p> <p>14. By deleting section 72(3) and substituting the following subsection –  “(3) A person required to provide documents or information or to appear or make a signed statement under subsection (2) and who fails to comply commits an offence and upon summary conviction is liable to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding one year or to both.”</p> <p>15. By deleting section 75(1) and substituting the following section –  “75. Subject to subsection (2), a service licensee shall comply with the minimum standards for quality of the water supply service and sewerage service set pursuant to the Regulations made pursuant to section 97(2)(o).”.</p> <p>16. In section 82(5) by inserting the words “after consultation with the service licensee” between the words “shall” and “make”.</p> <p>17. By deleting section 83(1) and (2) and substituting the following subsections –  “83. (1) Cabinet may, by order published in the Gazette, grant a direct subsidy for the provisions of a service in order to ensure that households specified in the Order under subsection (2) have universal service.  (2) An Order pursuant to subsection (1) shall specify the households or category of households who are beneficiaries of the direct subsidy and the precise extent of the subsidy.”.</p> <p>18. By deleting section 84(1) and (2) and substituting the following subsections –  “(1) Cabinet may by Order published in the Gazette provide a cross subsidy for the provision of a service in order to ensure that categories of households specified in the Order under subsection (2) have universal service.</p>



Column 1	Column 2
	<p>(2) An Order pursuant to subsection (1) shall specify the categories of households who are beneficiaries to the cross subsidy and the precise extent of the cross subsidy.”.</p> <p>19. By deleting section 85(4) and substituting the following subsection -</p> <p>“(4) The service licensee shall submit the levy to the Commission within 28 days of collection and the levy shall form part of the revenue of the Commission in accordance with section 28(1)(b) of the National Utilities Regulatory Commission Act 2015-.”.</p> <p>20. By deleting section 89(1) and substituting the following subsection -</p> <p>“(1) Subject to subsection (2), a service licensee who fails to comply with a direction given by the Commission under section 87 commits an offence and upon conviction on indictment is liable to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 15 years or to both.”.</p> <p>21. By deleting section 90(2) and substituting the following subsection -</p> <p>“(2) A person who contravenes subsection (1) commits an offence and upon summary conviction is liable to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding one year or to both.”.</p> <p>22. By deleting section 91(2) and substituting the following subsection -</p> <p>“(2) A person who contravenes subsection (1) commits an offence and upon summary conviction is liable to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding one year or to both.”.</p> <p>23. By deleting section 92(2) and substituting the following subsection -</p> <p>“(2) A person who contravenes subsection (1) commits an offence and upon summary conviction is liable to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding one year or to both.”.</p>

Column 1	Column 2
	<p>24. By deleting section 96 and substituting the following section –</p> <p><b>“96. Appeal</b></p> <p>(1) There is hereby established an appeals tribunal for the purpose of hearing appeals against decisions of the Agency or the Minister responsible for water resource management.</p> <p>(2) The constitution and procedure of the Appeals Tribunal shall be as prescribed in the regulations made under section 97(2) (q).</p> <p>(3) An appeal from a decision of the Agency or the Minister responsible for water resource management lies to the Appeals Tribunal.</p> <p>(4) A person may, within 28 days of a decision of the Agency or Minister responsible for water resource management apply in writing to the Appeals Tribunal against that decision.</p> <p>(5) An appeal from the decision of the Commission lies to the appeals tribunal established under section 43 of the National Utilities Regulatory Commission Act 2015- in accordance with that Act.”.</p> <p>25. In section 97 –</p> <p>(a) by deleting subsection (2)(j);</p> <p>(b) in subsection (3), by deleting the words “one thousand dollars” and substituting the words “\$3,000”;</p> <p>(c) by deleting subsection (4) substituting the following subsection –</p> <p>“(4) For the purposes of this section- “relevant Minister” -</p> <p>(a) in the case of matters relating to water resource management, means the Minister responsible for water</p>

Column 1	Column 2																
	<p>resource management;            (b) in the case of matters relating to water supply service and sewerage service, means the Minister responsible for utility supply services.”.</p> <p>26. By deleting the Schedule.</p>																
<p>2. Water and Sewerage (Tariff) Regulations - Statutory Instrument 106/2008.</p>	<p>1. By deleting Schedule 1 and substituting the following Schedule -</p> <p style="text-align: center;"><b>“SCHEDULE 1</b> (Regulation 3)</p> <p style="text-align: center;"><b>WATER AND SEWERAGE RATES</b></p> <p><b>WATER RATES</b></p> <table border="1" data-bbox="439 860 990 1252"> <thead> <tr> <th></th> <th>Tariff</th> </tr> </thead> <tbody> <tr> <td>Domestic</td> <td></td> </tr> <tr> <td>First 9.09218m3</td> <td>\$8.22</td> </tr> <tr> <td>In excess of 13.63828m3</td> <td>\$15.61</td> </tr> <tr> <td>Minimum charge 0 to 9.09218m3</td> <td>\$16.44</td> </tr> <tr> <td>Commercial/Industry per (4.55409m3)</td> <td>\$20.66</td> </tr> <tr> <td>Hotel per (4.55409m3)</td> <td>\$22.02</td> </tr> <tr> <td>Government per (4.55409m3)</td> <td>\$12.82</td> </tr> </tbody> </table> <p>CONNECTION FEE - Variable, based on site conditions with respect to existing service networks and schemes.”.</p> <p>2. By deleting Schedule 2 and substituting the following Schedule:</p> <p style="text-align: center;"><b>“SCHEDULE 2</b> (Regulation 4)</p> <p style="text-align: center;"><b>INDEXATION FORMULA</b></p> <p>The indexation formula is:  <math display="block">T_t = T_{(t-1)} * [1 + (0.4rL + 0.3rE + 0.2rI + 0.1rCPI) + K]</math></p>		Tariff	Domestic		First 9.09218m3	\$8.22	In excess of 13.63828m3	\$15.61	Minimum charge 0 to 9.09218m3	\$16.44	Commercial/Industry per (4.55409m3)	\$20.66	Hotel per (4.55409m3)	\$22.02	Government per (4.55409m3)	\$12.82
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Government per (4.55409m3)	\$12.82																

Column 1	Column 2
	<p>Where:</p> <p>T = Tariff</p> <p>t = Year in which the adjustments will be implemented (current year),</p> <p>t - 1 = Year prior to the year in which the adjustments will be implemented</p> <p>L = Wage Index, measured by the wage rate for the lowest grade of worker at any similar utility company locally or regionally approved for this purpose by the Commission.”.</p> <p><math>\Delta L</math> = Change in wage index, as calculated by: <math>\frac{L_t - L_{t-1}}{L_{t-1}}</math></p> <p>E = Tariff for high voltage electricity supply (per kWh)</p> <p><math>\Delta E</math> = Change in electricity tariffs, as calculated by: <math>\frac{E_t - E_{t-1}}{E_{t-1}}</math></p> <p>I = Industrial index weighting for Maintenance costs as measured by changes to the following categories in the US Department of Labor Producer Price Index (This index does not take into account currency fluctuations and so shall be adjusted during a triennial tariff review to provide for exchange rate fluctuation if the currency in Saint Lucia is no longer pegged to the US Dollar):</p> <p>Abbr. Industry Product Change Calculated by:</p> <p>Category Category</p> <p>P Pump and Domestic</p> <p>P = <math>\frac{(P_t - P_{t-1})}{P_{t-1}}</math> pumping Water equipment mfg Systems</p> <p>FM Total fluid Liquid</p> <p>FM = <math>\frac{(FM_t - FM_{t-1})}{FM_{t-1}}</math> meter and Meters / counting device mfg</p> <p>I = Change in Industrial Index, as calculated by: <math>\frac{(P + FM)}{2}</math></p> <p>CPI = St Lucia Consumer Price Index, as published by the St Lucia Department of Statistics</p> <p>CPI = Change in CPI, as calculated by: <math>\frac{(CPI_t - CPI_{t-1})}{CPI_{t-1}}</math></p> <p>K = K factor. This is to be determined by the Commission during each triennial tariff review.”.</p>

Column 1	Column 2
3. Water and Sewerage (Water Resource Management) Regulations- Statutory Instrument 7/2009	By deleting the words “Minister [responsible for agriculture]” and “Minister responsible for Agriculture” wherever they appear in the forms in the Schedule and substituting the words “Minister responsible for water resource management”.

### SCHEDULE 5

(Sections 48)

### TRANSITIONAL PROVISIONS

#### Definitions

1. In this Schedule -

“Transferred function” means any function of the NWSC transferred to the Commission as a result of the amendments made to the Water and Sewerage Act, Cap. 9.03 “NSWC” means the National Water and Sewerage Commission which was established under section 36 of the Water and Sewerage Act, Cap. 9.03 prior to the commencement of this Act.

#### Rights, liabilities and agreements

2.—(1) All rights, liabilities and obligations of the NWSC arising out of a transferred function shall become the rights, liabilities and obligations of the Commission.

(2) Any agreement entered into by or on behalf of, or undertaking given to or to any person on behalf of, the NWSC in connection with a transferred function shall have effect as if the Commission were the original party to it, and any reference in such agreement or undertaking to the NWSC shall be construed as a reference to the Commission.

#### Uncompleted matters

1. Nothing done by the NWSC under or in consequence of a transferred function shall be invalidated by the coming into force of this Act, and anything commenced by the NWSC under or in consequence of a transferred function may be carried on and completed by the Commission.

#### Consents

2.—(1) Any licence or other permission granted by or on behalf of the NWSC under a transferred function shall be deemed to have been granted by or on behalf of the Commission on the date when it was in fact granted, issued made or given.

(2) Any condition, restriction or requirement imposed by the NWSC under a transferred function shall be deemed to have been imposed by or on behalf of the Commission on the date on which it was in fact imposed.

#### **Pending and refused applications**

4.—(1) Any application made to the NWSC under any National Water and Sewerage Act, Cap.9. 03 in respect of a transferred function which has not been finally determined or withdrawn shall be deemed to have been made to the Commission on the date when it was in fact made.

(2) Any application which has been refused by the NWSC, or which has been granted by the NWSC subject to conditions under a transferred function, shall be deemed to have been refused or to have been granted subject to those conditions, as the case may be, by the Commission on the date on which it was in fact refused or granted subject to those conditions.

#### **Actions and proceedings**

5. Any actions, proceedings and any like matter commenced or pending by or against the NWSC in relation to a transferred function may be continued as if the Commission were instead a party to it.

#### **Requirements and information**

6.—(1) Any requirement made by the NWSC for the purposes of a transferred function shall be deemed to be a requirement made by the Commission.

(2) Any information given or statement made to the NWSC and every document submitted to the NWSC shall be deemed to have been submitted to the Commission on the date when it was received by the NWSC.

(3) Any information passed to the Commission by the NWSC shall be held by the Commission on the same terms as it was held by the NWSC.

#### **Records and registers**

7.—(1) Any register required to be established and maintained, and any other record or document required to be kept by the NWSC under a transferred function shall, on the transfer of that function –

- (a) be delivered to the Commission; and
- (b) be deemed to have been established, maintained or kept by the Commission.

No. 3 ] *National Utilities Regulatory Commission Act* [ 2016

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.*