



**GUYANA**

**ACT No. 17 of 2010**

**ELECTRICITY SECTOR REFORM (AMENDMENT) ACT 2010**

I assent.

*Bharat Jagdeo*  
Bharat Jagdeo,  
President.

*September 7, 2010*

**ARRANGEMENT OF SECTIONS**

**SECTIONS**

1. Short title.
2. Amendment of section 2 of the Principal Act.

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3. Amendment of section 24 of the Principal Act.
4. Amendment of section 38 of the Principal Act.
5. Amendment of section 42 of the Principal Act.
6. Repeal and re-enactment of section 60 of the Principal Act.
7. Repeal and re-enactment of section 61 of the Principal Act.

AN ACT to amend the Electricity Sector Reform Act 1999.

A.D. 2010

Enacted by the Parliament of Guyana:-

Short title.  
No. 11 of 1999.

1. This Act, which amends the Electricity Sector Reform Act 1999 may be cited as the Electricity Sector Reform (Amendment) Act 2010.

Amendment of  
section 2 of the  
Principal Act.

2. Section 2 (g) of the Principal Act is amended by inserting immediately after the word "consumers" the following words –

“, but shall not include any person for whom the generation of electricity is not its principal business and not more than 10 MW of electricity would be supplied by the person to a public supplier for transmission, distribution or sale to consumers”.

Amendment of  
section 24 of the  
Principal Act.

3. Section 24 of the Principal Act is amended as follows –

(a) by deleting the word “or” after the semicolon at the end of paragraph (b);

(b) by substituting for the fullstop at the end of paragraph (c) the following words “ ; or ”;

(c) by inserting immediately after paragraph (c) the following as paragraph (d) —

“(d) the person requesting the supply of electricity has been convicted of three or more offences under this Act, the regulations made thereunder, or, with regard to any offence involving the use of electricity under any other written law.”.

Amendment of  
section 38 of the  
Principal Act.

4. Section 38 of the Principal Act is amended as follows –

(a) in subsection (1) –

(i) by substituting for the words “subsection (2).” the words “subsection (2); and”;

- (ii) by inserting immediately after paragraph (b) the following as paragraph (c) –

“(c) a fifteen-year rolling demand forecast, and a summary of the public supplier’s long-term plans to address it, which forecast and plans shall be revised on an annual basis and shall be included in, and be consistent with, the public supplier’s one-and five-year sustainability programmes.”;

- (b) in subsection (2) –

- (i) by deleting the word “and” at the end of paragraph (i);

- (ii) in paragraph (j) by substituting for the words “direct.” the words “direct; and”

- (iii) by inserting immediately after paragraph (j) the following as paragraphs “(k)” to “(p)” –

“(k) planned acquisition of new generation capacity;

(l) loss reduction strategies;

(m) plans to regain industrial customers;

(n) plans for providing electricity for development and redevelopment projects in urban areas;

(o) a cost-benefit analysis for each investment project; and

(p) consistent with any applicable regulations, the following items –

(i) a maintenance programme for the inspection, repair, replacement and upgrade of the public supplier’s works;

(ii) a programme for the promotion of technical efficiency and economy in its supply of electricity and in the consumption of electricity by consumers; and

(iii) a report on the public supplier’s compliance with any technical standards required under the regulations.”.

Amendment of  
section 42 of the  
Principal Act.

5. Section 42 (12) of the Principal Act is amended as follows –
- (a) in paragraph (a) (i), by inserting immediately after the word “rights” the words “for easements, way-leaves and rights-of-way”;
  - (b) in paragraph (a) (ii), by inserting immediately after the words “With respect to” the words “easements, way-leaves and rights-of-way for”; and
  - (c) in paragraph (g), by inserting immediately after the word “electricity”, the words “, for the purposes of easements, way-leaves, and rights-of-way, but not for any other purpose”.

Repeal and re-  
enactment  
section 60 of the  
Principal Act.

6. Section 60 of the Principal Act is repealed and the following section re-enacted as section 60 –

“Enhanced  
penalties for  
stealing  
electricity; meter  
tampering;  
illegal  
connection;  
compensation  
for stolen

60. (1) Any person who dishonestly, fraudulently or by culpable negligence –

(a) taps, or otherwise makes or causes to be made any connection with, any electric line or other works of a public supplier, or otherwise in any manner abstracts, causes to be wasted or diverted, steals, consumes or otherwise uses, any electricity;

(b) tampers with or otherwise alters the registration of a meter used for measuring the amount of electricity supplied to any premises by a public supplier, or installs or uses a tampered meter, any meter not supplied by a public supplier, loop connection, or any other device or method which interferes with the accurate or proper registration, calibration or metering of electric current or otherwise constitutes a manner whereby electricity is abstracted, diverted, stolen, wasted, consumed or used;

(c) damages or destroys any meter, electric line, other electric apparatus or any other works of a public supplier, or causes or allows any of them to be so damaged or destroyed, so as to interfere with the proper or accurate metering of electricity;

(d) after the disconnection of his supply of electricity by a public supplier for any reason permitted by law, himself restores, or procures any other person to restore, a supply of electricity or to apply for a supply of electricity in the name of the other person but for the benefit of himself or

(e) gives, offers or promises anything of value to any official, employee, contractor, subcontractor, agent or representative of a public supplier, or to any other person, for the purpose of influencing or inducing any such official, employee, contractor, subcontractor, agent or representative, or other person, to commit, or to aid or abet him in committing, any offence under this subsection,

shall be guilty of an offence and, notwithstanding anything in sections 38 to 40 or any other provisions of the Summary Jurisdiction (Procedure) Act or any other law, on summary conviction shall be liable –

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- (i) in the case of premises that are classified, or where no relevant supply agreement exists would be classified, as residential premises for tariff purposes, for the following penalties –
- (A) upon conviction of a first offence, to a fine of not less than fifty thousand dollars and not more than one hundred thousand dollars;
  - (B) upon conviction of a second offence, to a fine of not less than one hundred thousand dollars and not more than five hundred thousand dollars; and
  - (C) upon conviction of a third or subsequent offence, for mandatory imprisonment of not less than six months and not more than one year and, in addition, to a fine of not less than five hundred thousand dollars and not more than one million dollars; and



- (ii) in the case of premises that are classified, or where no relevant supply agreement exists would be classified, as business, commercial or industrial premises or as street lighting for tariff purposes, for the following penalties –
  - (A) upon conviction of a first offence, to a fine of not less than one hundred thousand dollars and not more than five hundred thousand dollars;
  - (B) upon conviction of a second offence, to a fine of not less than five hundred thousand dollars and not more than one million dollars; and
  - (C) upon conviction of a third or subsequent offence, for mandatory imprisonment of not less than six months and not more than one year, and, in addition, to a fine of not less than one million dollars and not more than two million dollars.
- (2) In addition to and not in derogation of any other provision of any other law, any person who –
  - (a) aids, abets, counsels, causes, or procures the commission of any offence;
  - (b) demands, seeks, receives, accepts or agrees to receive or accept anything of value personally, or for any other entity, for the purpose of being influenced to commit, or to collude in, or allow, the commission of any offence; or
  - (c) conspires with any other person to commit any offence,

under subsection (1) shall be liable to be proceeded against and convicted for that offence, either together with the principal offender or co-conspirator, or before or after the principal offender's or co-conspirator's conviction, and shall be liable for the penalties provided in subsection (1) (i) or (ii) as such subparagraph would apply to the principal offender's or co-conspirator's tariff category or imputed tariff category:

Provided that, where a person convicted under this subsection is a current or former official, employee, contractor, subcontractor, agent or representative of a public supplier, the person shall be liable for double the fines and imprisonment provided for in subparagraph (1) (i) or (ii), whichever is applicable.

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- (3) Notwithstanding anything in sections 38 to 40 of the Summary Jurisdiction (Procedure) Act or any other law, or in subsection (1) or (2), a person convicted of an offence under subsection (1) or (2) and meted out the penalties provided for in subsection (1) (i) or (ii), but who does not pay any fine imposed thereunder in full on the date ordered by the Magistrate's Court imposing the fine, shall be imprisoned for a term of –
- (a) not less than one month and not more than three months, or until payment of the fine in full, whichever is earlier, in the case of the imposition of penalties under subsection (1) (i) (A) or (1) (ii) (A);
  - (b) not less than three months and not more than six months, or until payment of the fine in full, whichever is earlier, in the case of the imposition of penalties under subsection (1) (i) (B) or (1) (ii) (B); and
  - (c) notwithstanding anything in this section, one additional day for each day that such fine remains unpaid after the day of its imposition by the Magistrate's Court, the accumulated number of days not exceeding six months, in addition to the mandatory sentence imposed under subsection (1) (i) (C) or (1) (ii) (C).
- (4) (a) Where, in any proceeding under subsection (1) or (2), it is established that any offence thereunder occurred as to any residential premises, every person over the age of eighteen years occupying such premises at the time of such offence shall be deemed guilty thereof and shall be liable to be proceeded against and punished with the penalties provided for in subsections (1) and (2):



Provided that, where there is a supply agreement in effect between the public supplier and a person with regard to the relevant residential premises, and such person was occupying the premises at the time of the offence, such person shall be the sole person liable to be proceeded against and punished with the penalties provided for in subsections (1) and (2).

- (b) In addition to and not in derogation of any other provision of any law, where an offence under subsection (1) or (2) has been committed by a company or other body corporate or incorporate, every person who at the time the offence was committed was a director, officer, manager, corporate secretary, sole proprietor, partner, an individual acting under a power-of-attorney, or other individual responsible for the management of the company or other body corporate or incorporate, and the company or other body corporate or incorporate itself, shall be deemed to be guilty of having committed the offence and shall be liable to be proceeded against and punished with the penalties provided for in subsections (1) and (2):

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

- (5) Where a person has been convicted under subsection (1), in addition to the penalty imposed for the offence, he shall be ordered, contemporaneous with the conviction, to pay for the amount of electricity abstracted, diverted, stolen, wasted, consumed, improperly registered or otherwise used in the amount of the following standard back-billing charges per tariff category for the relevant premises (or if such person had had a supply contract with the public supplier, per tariff category that would

have been assigned to such person for the relevant premises), such charges to be paid directly by the convicted person to the public supplier no more than thirty days from the date of such order –

- Residential (capacity up to 25 KVA): \$ 200,000
- Small business (capacity up to 49.9 KVA): \$ 500,000
- Commercial and small industrial (capacity between 50 and 99.9 KVA): \$ 1,000,000
- Large industrial (capacity above 100 KVA): \$ 2,500,000:

Provided that the person convicted shall have a right to prove that the amount of electricity abstracted, diverted, stolen, wasted, consumed, improperly registered or otherwise used was actually less than the relevant standard back-billing charge provided for in this subparagraph.

- (6) (a) In addition to any other power granted to a public supplier under this Act, the regulations or the public supplier's Standard Terms and Conditions, any official authorised by a public supplier may, on the production of some duly authenticated document showing his authority, enter any public or private land and remove or replace any electric line, wire, pole, meter, or other equipment or apparatus of any kind whatsoever that may be, is being or has been used in furtherance of any conduct prohibited under subsection (1) or (2), regardless of whether any person has been charged with or convicted of any such conduct as to such land, or that has not been duly authorised by the owner of such land or the relevant national, regional or local governmental authority with authority over such land, and every person on, in or otherwise in control of such land shall ensure that such officials are permitted to enter the land for such purposes and to remove any such electric line, wire, pole, meter, or other equipment or apparatus.

- (b) A public supplier that, in good faith, exercises its powers under paragraph (a), or enters any public or private land to connect a supply of electricity in reliance upon any document provided by a person to demonstrate his right of ownership or occupancy of such land, shall not be liable to any owner or occupant of such land for trespass or any other ground, except for any damage caused to the property of the owner or any duly authorised occupant of such land by the gross negligence or wilful misconduct of the public supplier.”.

Amendment of  
section 61 of the  
Principal Act.

7. Section 61 of the Principal Act is repealed and the following section re-enacted as section 61 –

“Persons who  
may bring  
proceedings,  
penalties for  
continuing  
offences.

61. (1) Except as otherwise provided in this Act or any regulations made thereunder, if any offence of which a person is convicted is continued by such person after conviction, he shall be guilty of a further offence and liable to a fine of twenty thousand dollars for every day on which the offence is continued.

(2) (a) Except as provided in paragraph (b) or otherwise in this Act or the regulations made thereunder, no proceeding shall be instituted in respect of an offence except by or on behalf of the Minister.

(b) Proceedings in respect of any offence under section 60 may be instituted by the Minister, the Director of Public Prosecutions, the Police, or a public supplier.”

*Passed by the National Assembly on 5<sup>th</sup> August, 2010.*



S.E. Isaacs,

Clerk of the National Assembly.

**(Bill No. 11/2010)**