
CHAPTER 195**OUT ISLANDS ELECTRICITY****ARRANGEMENT OF SECTIONS**

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SCHEDULE

CHAPTER 195

OUT ISLANDS ELECTRICITY

An Act to repeal and re-enact the Out Islands Electricity Act.

8 of 1974
3 of 1993
7 of 1996
17 of 1999
38 of 1999

[Assent 18th May, 1965]

[Commencement 1st January, 1965
(except section 16 on 4th May, 1973)]

- Act.
1. This Act may be cited as the Out Islands Electricity Act. Short title.
 2. In this Act, unless the context otherwise requires — Interpretation.
 - “customs duties” means the duties of customs levied by the Tariff Act as well as any other duties or taxes now or hereafter imposed upon or payable in respect of goods imported into The Bahamas, except stamp duties; Ch. 295.
 - “electrical system” includes the whole of any plant or apparatus designed for the supply of electrical energy including prime movers, if any, and all necessary plant, buildings and land in connection therewith, pipe lines, supply lines, transformers and consuming apparatus, if any;
 - “generator” means a rotating machine of any type for changing mechanical energy into electrical energy; *8 of 1973, s. 2.*
 - “Government” means the Government of The Bahamas; *8 of 1973, s. 2.*
 - “licensed undertaker” means a person authorized under this Act to supply electrical energy to the public in any part of the Out Islands;
 - “materials” means — *S.I. 103/1973; 7 of 1996, s. 2.*
 - (a) plant and machinery including spare parts thereof and accessories therefor and tools;
 - (b) fuel and lubricating oils;
 - (c) structural steel, including stanchions, girders, trusses, nuts and washers, purlins, joists, beams, cranes and crane beams, bolts, gutter pipes,

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- flashings, windows and glass, galvanised steel and aluminium sheeting, fastenings and accessories therefor;
- (d) fresh and salt water filtering and treatment plant apparatus, including spare parts thereof and accessories therefor;
 - (e) air, steam, water, gas and oil pipes, valve fittings and accessories therefor;
 - (f) overhead and underground electricity distribution apparatus, materials and tools;
 - (g) insulating materials, including compounds, varnishes tapes, cloths, tubes and rods;
 - (h) street lighting apparatus, fittings, lamps, spare parts thereof and accessories therefor;
 - (i) electricity, thermal pressure and vacuum measuring apparatus and instruments, relays, signalling and radio apparatus, including spare parts thereof and materials;
 - (j) air filtering, cleaning and conditioning apparatus and instruments including spare parts thereof and materials;
 - (k) gas and electric welding and brazing rods and welding and brazing apparatus and equipment including spare parts thereof and materials, solder of all grades, soldering fluxes, materials and apparatus;
 - (l) fuel storage and road transporting tanks, flexible fuel pipes and valves and fuel measurement instruments, special vehicle bodies:

8 of 1973, s. 2.

“Minister” means the Minister responsible for Electricity.

Application shall be made to the Minister.

3. Any person who desires to construct an electrical system for the purpose of supplying electrical energy *inter alia* to the public in any part of the Out Islands may make application to the Minister for the approval thereof. Every such application shall be in writing and shall contain full particulars of the proposed electrical system and an estimate of the cost thereof and shall be accompanied by a plan of the location of the same, by plans and drawings of the system and by such other information as the Minister may require.

4. The Minister may, if satisfied that the construction of the electrical system in respect of which the application has been made will be in the best interests of The Bahamas, enter into an agreement with any person making application under section 3 of this Act licensing him to construct, maintain and operate an electrical system in any part of the Out Islands.

Minister may enter into agreement with applicant.

5. (1) Every agreement made under section 4 of this Act shall provide for the transmission of electrical energy for lights or power for the use of the general public in any part of the Out Islands subject to such terms and conditions for the protection of the interests of the public as the Minister may deem necessary.

Provisions of agreement.

(2) Every such agreement may provide for the following matters or any of them, namely —

(a) for the operation and maintenance of an electrical system over or under any public street or public lands in any part of the Out Islands;

¹(b) for the payment by the licensed undertaker of all customs duties in respect of the items set out in the Schedule to this Act which are imported for use by the licensed undertaker and necessary for the construction, maintenance and operation of the electrical system concerned.

17 of 1999, s. 2.

(c) for such other matters and concessions as the Minister shall deem fit and proper having regard to the nature and location of the electrical system concerned.

(3) Every such agreement shall contain such covenants on the part of the licensed undertaker for the construction, maintenance and operation of the electrical system and such safeguards as the Minister may deem fit and proper having regard to the nature and location of the same and shall be subject to such terms and conditions as the Minister may deem necessary for the protection of the revenue.

(4) Every such agreement shall contain mutual covenants on the part of the Minister and the licensed undertaker providing for the following matters, namely —

¹ Section 8 of Act 7 of 1996 provides that nothing in section 3 of that Act “shall affect any agreement which was made under the provisions of the Out Islands Electricity Act and which was in force immediately before the coming into force of this Act” [1st July, 1995].

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- (a) that nothing contained in the said agreement shall be deemed to make the licensed undertaker liable to pay to the Government any payments in respect of any matter or thing done, executed or happening prior to the date on which such agreement shall cease in respect of which matter or thing payment is waived thereby, or to refund or repay any customs duties which have been refunded to the licensed undertaker under the concession granted by such agreement except in the circumstances specified in section 12 of this Act;
 - (b) for the arbitration of all questions and differences between the Minister and licensed undertaker; and
 - (c) for the interpretation of such agreement according to the law of The Bahamas.

Minister shall
appoint
inspectors.

7 of 1996, s. 4.

6. The Minister shall appoint fit and proper persons to be inspectors for the purpose of this Act, and every agreement entered into under the provisions of section 4 shall provide for such safe-guards as the Minister may require as to inspection by any such inspector of the site of the electrical system concerned and of the buildings and installations constructed thereon and of any store-room, warehouse, storage tank or other place under the control of the licensed undertaker in which materials intended for use in connection with the electrical system shall be stored, so as to ensure that —

- (a) in the case of any agreement made under the authority of this Act prior to the coming into force of the Out Islands Electricity (Amendment) Act, 1996, customs duties shall only be refunded in respect of materials used, or which could reasonably be presumed to have been used, in the construction and equipping of the project; and
- (b) in the case of any other agreement, all materials in respect of which customs duties have been exempted or imposed pursuant to the provisions of any agreement made under the authority of this Act, are used, or can reasonably be presumed to have been used, in the construction and equipping of the project,

17 of 1999, s. 3.

17 of 1999, s. 3.

and for such other safe-guards and matters, including the keeping of records as the Minister shall deem fit and proper in the circumstances.

7. ²(1) A licensed undertaker of an existing electrical system desiring to remodel, equip, re-equip or extend the same may from time to time submit to the Minister in writing for approval full particulars of such remodelling, equipping, re-equipping or extension together with an estimate of the cost thereof, and shall supply to the Minister such other information as the Minister may require. If the Minister decides that the proposals, in whole or in part, set out in the particulars amount to remodelling, equipping, re-equipping or extension of the said electrical system and that such remodelling, equipping, re-equipping or extension will be in the best interests of The Bahamas, the Minister may enter into an agreement with the licensed undertaker for the payment by the licensed undertaker of the rate of customs duties specified in the Schedule to this Act in respect of all materials necessary for the purpose of carrying out all or such part of the proposals as the Minister has approved, which may be imported into The Bahamas, purchased or taken out of bond therein by the licensed undertaker during such period as the Minister may determine.

Minister may enter into agreement with licensed undertaker for remodelling etc., existing electrical systems.
7 of 1996, s. 5.

17 of 1999, s. 4.

³(2) A licensed undertaker of an existing electrical system may make application to the Minister for a reduction in the payment of all customs duties as specified in the Schedule in respect of all materials necessary for the maintenance and operation of such electrical system which may be imported into The Bahamas, and if the Minister considers that it will be in the best interest of The Bahamas, the Minister may enter into an agreement with the licensed undertaker for the payment of the customs duties specified in the Schedule.

17 of 1999, s. 4.

Schedule.

(3) Every agreement entered into pursuant to the provisions of this section shall contain such covenants on the part of the licensed undertaker and such safeguards as

² Section 8 of Act 7 of 1996 provides that nothing in section 5 of that Act “shall affect any agreement which was made under the provisions of the Out Islands Electricity Act and which was in force immediately before the coming into force of this Act” [1st July, 1995].

³ Section 8 of Act 7 of 1996 provides that nothing in section 5 of that Act “shall affect any agreement which was made under the provisions of the Out Islands Electricity Act and which was in force immediately before the coming into force of this Act” [1st July, 1995].

the Minister may deem fit and proper in the circumstances and shall be subject to such terms and conditions as the Minister may deem necessary for the protection of the revenue and for ensuring that the rates and charges to be made by the licensed undertaker in respect of the electrical energy to be supplied are reasonable having regard to the overall cost of the generation of such electrical energy.

How agreements
are to be made.
8 of 1973, s. 3.

8. Every agreement made under this Act shall be expressed to be made by and between the Minister acting for and on behalf of the Government of the one part and the licensed undertaker of the other part and shall be executed by the Minister under his hand and seal, and shall be executed by the licensed undertaker if a person, under his hand and seal, or if a company, under its common seal.

Powers and
duties of licensed
undertakers.

9. Where any licensed undertaker is authorised under the provisions of section 4 to construct, maintain and operate an electrical system, the Minister may by Order provide that the licensed undertaker within his area of supply shall have such of the powers, duties and responsibilities as appertain within the Island of New Providence to the Bahamas Electricity Corporation under the Electricity Act, subject to such modifications or exceptions as the Minister may prescribe in the Order and thereupon the provisions of the said Act shall apply *mutatis mutandis* to the licensed undertaker, his electrical system and consumers within his area of supply.

Ch. 194.

Installations
needing sanction.

10. (1) Subject to the provisions of section 15 of this Act, no part of any electrical system shall be constructed over or under any public street or public lands in the Out Islands and no electrical energy for the use of the general public shall be supplied in the Out Islands without the authority of the Minister.

5 of 1987, s. 2.

(2) Every person who contravenes the provisions of this section shall be guilty of an offence against this Act and shall be liable on summary conviction to a fine not exceeding four hundred dollars and in the case of a continuing offence, to a further fine not exceeding forty dollars or to imprisonment for a term not exceeding seven days for each day during which the offence continues.

Penalty for false
declaration.
7 of 1996, s. 6.

11. Every person knowingly making a false declaration for the purpose of obtaining a refund of customs duties, or an exemption from the payment of all customs

duties, pursuant to the provisions of any agreement made under the authority of this Act shall be guilty of an offence against this Act, and shall be liable on summary conviction to a fine not exceeding two thousand dollars, or to imprisonment for a term not exceeding one year, or to both such fine and imprisonment.

5 of 1987, s. 2.

12. (1) No materials, in respect of which customs duties shall have been refunded or exempted, pursuant to the provisions of any agreement made under the authority of this Act, shall be applied for any purpose other than for the purposes specified in such agreement:

Penalty for wrongful application of materials.
7 of 1996, s. 7.

Provided that materials which are being replaced may be used or disposed of for other purposes with the consent of the Minister and on payment of customs duties thereon based on the value of such materials at the time of such use or disposal.

(2) Every person who contravenes the provisions of this section shall be guilty of an offence against this Act and shall be liable on summary conviction to a fine not exceeding two thousand dollars, or to both such fine and imprisonment and if such person shall be the licensed undertaker, or if the licensed undertaker is a company, a director thereof, such agreement may be cancelled by the Minister, in which case all customs duties refunded to the licensed undertaker, and all customs duties from the payment of which the licensed undertaker has been exempted, pursuant to the provisions of any agreement made under the authority of this Act may be recovered as liquidated damages.

5 of 1987, s. 2.

7 of 1996, s. 7.

13. (1) All proceedings for offences against this Act for the recovery of any penalties under this Act shall be before a magistrate having jurisdiction in the place where the offence was committed, and the magistrate shall dispose thereof summarily.

Proceedings to be taken summarily.

(2) All such proceedings may be prosecuted in the name of the Minister or the Commissioner of Police, or by a revenue officer or peace officer. How proceedings to be prosecuted.

14. Nothing in this Act contained shall affect any electrical system for the supply of electricity to the public in the Out Islands which, prior to the commencement of this Act, had been sanctioned by an Act of the Legislature,

Saving of existing system.

4 of 1930.

by the Governor in Council or by the Minister under the Out Islands Electricity Act (repealed by this Act) and any such system shall continue to operate subject to the provisions of such Act or to the terms and conditions upon which the sanction of the Governor in Council or the Minister was given and such system shall be deemed to be an existing electrical system for the purposes of section 7 of this Act:

Provided that, with the agreement of any person authorized to supply electricity to the public in the Out Islands prior to the coming into force of this Act, the Minister may, in respect of that person, his electrical system and consumers, exercise, by Order, the power conferred on him by section 9 of this Act.

Saving of other Acts.
Ch. 261.

15. Nothing in this Act shall be construed as derogating from or abridging any provision of the Hawksbill Creek, Grand Bahama (Deep Water Harbour and Industrial Area) Act or of the Hawksbill Creek, Grand Bahama (Deep Water Harbour and Industrial Area) (Amendment of Agreement) Act whereby special provision is made with respect to the construction, operation and maintenance of utilities and the importation into The Bahamas, purchasing or taking out of bond therein free of customs duties of certain classes of materials and supplies mentioned in such Acts.

Ch. 262.

Restriction on use of certain generators in certain cases.
8 of 1973, s. 5.

16. (1) Except with the approval of the Minister and in conformity with any conditions to which any such approval may be made subject, no person shall install or operate in any Out Island any generator with a generating capacity exceeding twenty-five kilowatts:

Provided that the restriction imposed by this subsection shall not apply —

- (a) to any generator installed and in use immediately before the 4th day of May, 1973; or
- (b) to any standby generator.

(2) The Minister shall not refuse his approval to any person applying therefor under this section (hereafter in this subsection referred to as “the applicant”) in respect of any generator if the Minister is satisfied that the electrical energy proposed to be obtained by means of that generator

3 of 1993, s. 2.

⁴ This section had effect from 4th May, 1973.

cannot be supplied to the applicant by the Bahamas Electricity Corporation or a licensed undertaker, or cannot be so supplied within a reasonable time.

(3) In paragraph (b) of subsection (1) of this section the expression “standby generator” means a generator which is in fact used for the supply of electrical energy only in case of —

- (a) a failure of the energy supply of the Bahamas Electricity Corporation or a licensed undertaker; or
- (b) some other emergency,

and in no other case.

(4) Every person who contravenes the provisions of this section shall be guilty of an offence against this Act and shall be liable on summary conviction to a fine not exceeding three thousand dollars and, in the case of a continuing offence, to a further fine not exceeding one hundred and fifty dollars for every day or part of a day that the offence continues.

SCHEDULE (Section 16)

17 of 1999, s. 5.

Items	Rate of Duty	<i>38 of 1999, s. 2.</i>
Engines and generators	Free	
Petroleum product	10	
Accessories and tools	10	
Apparatus and equipment for cleaning and filtering petroleum products	10	
Structural steel, including stanchions, girders, trusses, joists, beams, purlins, cranes and crane beams, bolts, nuts and washers, gutter pipes, flashings, windows and glass, galvanised steel and aluminium sheeting, fastenings and accessories	10	
Fresh and salt water filtering and treatment plant apparatus, including spares and accessories	10	
Air, steam, water, gas and oil pipes, valve fittings and accessories therefor —	10	
Overhead and underground electricity distribution apparatus, materials and tools	10	
Insulating materials, including compounds, varnished, tapes, cloths, tubes and rods	10	

Street lighting apparatus, fittings, lamps, spare parts and accessories	10
Electricity, thermal, pressure and vacuum measuring apparatus and instruments, relays, signalling and radio apparatus, including spares and materials	10
Air filtering, cleaning and conditioning apparatus and instruments, including spares and materials	10
Gas and electric welding and brazing rods, welding and brazing apparatus and equipment, including spares and materials, solder of all grades, soldering fluxes, materials and apparatus	10
Fuel oil storage and road transporting tanks, flexible fuel pipes and valves and fuel measurement instruments, special vehicle bodies.	10