



REQUEST FOR FEEDBACK

AMENDMENTS TO ELECTRICITY ACT (CAP 89A)

Closing date for submissions of comments and feedback:
3 February 2006

20 JANUARY 2006 | ENERGY MARKET AUTHORITY
(SECTION 30C - UPDATED 25 JANUARY 2006) | 111 Somerset Road #15-05
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Disclaimer:

The information in this Request for Feedback is not to be treated by any person as any kind of advice. The Energy Market Authority and the Ministry of Trade & Industry shall not be liable for any damage or loss suffered as a result of the use of or reliance on the information given in this Request for Feedback. The information contained within this document is to be considered draft and further amendments to the Electricity Act not covered in this document or dissimilar to the form as indicated in this document may be introduced.

Aim

1. The Government intends to effect amendments to the Electricity Act to strengthen regulatory oversight of the electricity market. This document highlights the main intentions of the proposed amendments at Appendix 1. The public's feedback is sought on the proposed amendments.

Licensing Regime

2. In Oct 2003, Singapore Power (SP) applied to restructure PowerGrid Ltd, the transmission licensee, into two separate entities: SP PowerAssets Ltd (SPPA), an asset company; and SP PowerGrid Ltd (SPPG), a management company. SPPA holds the assets and business of power grid while SPPG, as SPPA's agent, manages the business of SPPA.¹ Given the new structures, it is proposed to amend the Act to license SPPG to allow for more adequate control over the grid infrastructure.

Security Safeguards

3. Control of ownership of critical infrastructure: As the electricity grid is critical infrastructure whose failure can have disproportionate effects on the economy, it is proposed that the Act be amended to give the Energy Market Authority ("EMA") oversight and powers of approval over the ownership of SPPA and SPPG, which owns and manages the electricity grid, respectively. This amendment will allow EMA, in consultation with the Ministry of Trade & Industry ("MTI") and any other relevant Government agencies, to reject any potential ownership transfer that is assessed to be detrimental to national security².

4. Control of key personnel appointed to operate critical infrastructure: It is proposed that EMA's approval be required before SPPA/SPPG can appoint a person as its chief executive officer, its director or the chairman of its board of directors.

Power to Obtain Information

5. The Electricity Act currently gives EMA the power to obtain information and also to set the restrictions on disclosure of confidential information. It is proposed to (i) vest EMA with greater powers to obtain information, (ii) make explicit that in carrying out its functions under the Act, EMA would be empowered to obtain relevant documents and materials from any person without payment, and (iii) empower EMA to disclose such information to a member of a committee or panel acting under delegation by the Minister.

Improvement to Penalty Structure

6. The Act currently provides only for a one-time financial penalty for infringements regarding the provision of electricity related activities without licences,

¹ A Management Services Agreement between SPPA and SPPG governs the details of their working arrangement.

² There are similar provisions in the Telecommunications Act.

and contravention of electricity licence conditions. However, the infringements may be on a continuous basis (e.g. consistently operating without holding a valid licence or consistently infringing licence conditions) for which one-off financial penalties/fines might not be sufficient. For the penalty to be effective, it is proposed to amend the Electricity Act to hence the penalty regime for offences and contraventions under the Electricity Act.

Ambit of Market Rules

7. Under the current Electricity Act, changes to the market rules governing the electricity market are evaluated by a Rules Change Panel, and upon endorsement, are submitted to the EMA for approval. For effectiveness in policy implementation, it should be a requirement for the market company (i.e. Energy Market Company) to ensure that the market rules are always updated to be in line with prevailing Government policy.

8. The Electricity Act currently provides that the market rules may include authorizing and governing the imposition of financial penalties on market participants. The market company (Energy Market Company) and the market support services licensee (SP Services) are currently not covered under the Electricity Act as they are not defined as market participants. However, as they play a vital role in the electricity market, it is proposed to widen the scope of the Electricity Act to subject these players to financial penalties, just like the current market participants.

Revised Appeal Process

9. Section 98 of the Act provides for a licensee or any other person aggrieved by EMA's exercise of any discretion vested in it by the Electricity Act, to be able to make an appeal to Minister, whose decision shall be final. In the interest of greater clarity, it is proposed that the Electricity Act be amended to be specific on the responsibility of the appellant to provide the grounds for the appeal, in a manner and within such period as specified by the Minister. It is proposed that any such appeal must be lodged with the Minister within 14 days after the EMA gives the relevant party notice in writing of the decision. This is consistent with the other appeal provisions in the Electricity Act.

10. It is also proposed to amend the Electricity Act such that the Minister would have the flexibility, on the merits of each case, to refer appeals of a technical nature (requiring specialized knowledge or experience) to an Appeal Panel (appointed by the Minister) for resolution.

Terms for Generation Companies to Supply Electricity

11. Currently, the Electricity Act requires any person who requires a supply of electricity to accept supply conditions, such as the right to use its premises, to enable the transmission licensee (i.e. SPPA) to comply with its licence. However, such conditions are not imposed on generation companies (gencos) who supply electricity. Therefore, gencos could potentially restrict the transmission licensee's

ability to develop and expand the electricity grid, which would be detrimental to the development of the electricity market.

12. It is thus proposed that the Electricity Act be amended so that the transmission licensee or its agent may perform any work on any premises for the purpose of developing the transmission system or effecting a connection to any person, notwithstanding any existing or future contracts signed between any parties. To guard against abuse of powers by the transmission licensee, it is proposed that an avenue of appeal to EMA be provided. EMA will investigate and decide on the appeal and its decision shall be final.

Request for Comments and Feedback

13. EMA invites comments and feedback on the proposed amendments to the Electricity Act as set out in Appendix 1.

14. If you have comments or feedback, please submit them in the format as shown in Appendix 2.

15. Please send your submission (preferably by e-mail) to:

teo_nan_shing@ema.gov.sg and lilian_lau@ema.gov.sg

16. Alternatively, you may also send your submission by post/fax to the following address:

Dy Director (Market Licensing & Control)
Energy Market Authority
111 Somerset Road, #15-05
Singapore 238164.

Fax: (65) 6 835 8084

17. Anonymous submissions will not be considered.

18. All comments and feedback must reach EMA by 5 pm on 3 February 2006.

19. If you need any clarifications, please contact Mr Teo or Ms Lau by e-mail at teo_nan_shing@ema.gov.sg or lilian_lau@ema.gov.sg, respectively, not later than 27 January 2006.

20. EMA will acknowledge receipt of all submissions. Please contact Ms Lau if you have not received an acknowledgement of your submission within two business days.

21. EMA reserves the right to make public all or parts of any written submissions made in response to this Request for Feedback and to disclose the identity of the source. Any part of the submission, which is considered by respondents to be commercially sensitive, should be clearly marked and placed in a

confidential annex. EMA will take this into account regarding disclosure of the information submitted.

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AMENDMENTS TO THE ELECTRICITY ACT (CAP. 89A)

Citation and commencement

1. This Act may be cited as the Electricity (Amendment) Act 2006 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

5 **Amendment of section 2**

2. Section 2 of the Electricity Act (referred to in this Act as the principal Act) is amended

(a) by deleting the definition of “transmission system” and substituting the following therefor:

10 ““transmission system” means a system of interconnected electric lines, electrical plants and substations used by a transmission licensee to transmit electricity;”.

(b) by deleting the definition of “transmit” and substituting the following therefor:

15 “transmit” means to convey electricity by means of a system which consists of electric lines, electrical plants and substations and is used for conveying electricity —

(a) from an electrical plant to a substation;

20 (b) from one electrical plant to another or from one substation to another; or

25 (c) from a substation or an electrical plant to the electrical installation serving the premises of a consumer or, where such premises are not served by an electrical installation, from a substation or an electrical plant directly to such premises;

Amendment of section 4

3. Section 4 of the Electricity Act is amended

(a) by inserting, immediately after the words “by or under this Act” in subsection (1), the words “or by the Minister under this Act or other written law”;

(b) by inserting, immediately after subsection (1), the following subsection:

“(1A) The power under subsection (1) to require a person to furnish any document or information includes the power —

(a) to require such person, or any person who is or was an officer or employee of his, to provide an explanation of the document or information after it is furnished;

(b) if the document or information is not furnished, to require such person to state, to the best of his knowledge and belief, where it is; and

(c) if the information is recorded otherwise than in legible form, to require the information to be made available to the Authority in legible form.”; and

(c) by inserting, immediately after subsection (5), the following subsection:

“(5A) The Authority shall be entitled without payment to keep any document or information, or any copy or extract thereof, furnished to it under subsection (1) or obtained under subsection (5).

Amendment of section 5

4. Section 5(4) of the Electricity Act is amended by deleting paragraph (b) and substituting the following paragraph:

“(b) from disclosing any information or document to the Minister or any agent, consultant, committee or panel acting for or under the direction of the Minister, or to an Appeal Panel.”.

Amendment of section 6

5. Section 6 of the Electricity Act is amended —

(a) by inserting, immediately after paragraph (b) of subsection (1), the following paragraph:

“(ba) act as an agent or contractor of a transmission licensee in the management or operation of a

transmission system (or any part thereof) used by the transmission licensee to transmit electricity;”;

(b) by inserting, immediately after “\$500,000” in subsection (2), the words “and, in the case of a continuing offence, to a further fine not exceeding \$12,500 for every day or part thereof during which the offence continues after conviction.”; and

(c) by inserting, immediately after subsection (2), the following subsection:

“(3) In this section —

“agent” shall not include an employee of the transmission licensee; and

“contractor” means any person who contracts with a transmission licensee to perform any service or do any work but shall not include an employee of the transmission licensee.”.

Amendment of section 9

6. Section 9 of the Electricity Act is amended —

(a) by inserting, immediately after paragraph (b) of subsection (1), the following paragraph:

“(ba) act as an agent or contractor of a transmission licensee in the management or operation of a transmission system (or any part thereof) used by the transmission licensee to transmit electricity;”;

(b) by deleting the word “and” at the end of subsection 7(a)(vi); and

(c) by inserting, at the end of sub-paragraph (vii) of subsection 7(a), the word “and”, and by inserting immediately thereafter the following sub-paragraph:

“(viii) where the electricity licensee is a transmission licensee, to undertake or execute any work related to the development of the transmission system used by the transmission licensee to transmit electricity under a transmission licence, or the supply of electricity to any premises.”.

Repeal and re-enactment of section 14

7. Section 14 of the Electricity Act is repealed and the following section substituted therefor:

“Enforcement

5 **14.** If the Authority is satisfied that an electricity licensee is
 contravening, is likely to contravene or has contravened any
 condition of its electricity licence, any code of practice or other
 standard of performance applicable to the licensee, any provision of
 this Act or any direction (including a direction referred to in
 10 paragraph (a)) issued by the Authority to or applicable to the
 electricity licensee, the Authority may by notice in writing to the
 electricity licensee do one or more of the following:

- (a) direct the electricity licensee to do or not do such things as
 are specified in such direction;
- 15 (b) require the electricity licensee to provide a performance
 bond, guarantee or any other form of security on such terms
 and conditions as the Authority may determine;
- (c) require the electricity licensee to pay a financial penalty of
 an amount not exceeding 10% of the annual turnover of that
 20 part of the licensee’s business in respect of which the
 licensee holds a licence, ascertained from the licensee’s
 latest audited accounts, or an amount not exceeding \$1
 million, whichever is higher.”

Amendment of section 21

25 **8.** Section 21 of the Electricity Act is amended by deleting subsections
 (2) and (3).

Amendment of heading to Part IV

30 **9.** Part IV of the Electricity Act is amended by inserting, immediately
 after the word “LICENSEES” in the Part heading, the words “AND
 TRANSMISSION SYSTEM”.

New sections 30A, 30B, 30C, 30D and 30E

10. The Electricity Act is amended by inserting, immediately after
 section 30, the following sections:

“Control of acquisition of equity interest in designated electricity licensee, etc.

5 **30A.—(1)** A designated electricity licensee shall give notice in writing, in the prescribed manner and within the prescribed period, to the Authority if any person acquires equity interest in —

(a) the designated electricity licensee, whether by a series of transactions over a period of time or otherwise, that would result in that person holding 5% or more but less than 12% of the total equity interest in the designated electricity licensee;

10 (b) any entity, not being a designated electricity licensee, which owns a transmission system used by the designated electricity licensee to transmit electricity, whether by a series of transactions over a period of time or otherwise, that would result in that person holding 5% or more but less than 12% of the total equity interest in the entity; or

15 (c) any business trust that is established wholly or partly in respect of a transmission system used by the designated electricity licensee to transmit electricity, whether by a series of transactions over a period of time or otherwise, that would result in that person holding 5% or more but less than 12% of the total equity interest in the business trust.

(2) Subject to subsection (3), no person shall, whether through a series of transactions over a period of time or otherwise, become a 12% controller, a 30% controller or an indirect controller of —

25 (a) a designated electricity licensee;

(b) any entity, not being a designated electricity licensee, which owns a transmission system used by a designated electricity licensee to transmit electricity; or

30 (c) any business trust that is established wholly or partly in respect of a transmission system used by the electricity licensee to transmit electricity,

without obtaining the prior written approval of the Authority in the prescribed manner and within the prescribed period.

35 (3) No person shall acquire as a going concern the business of a designated electricity licensee conducted pursuant to an electricity licence, unless the person and the electricity licensee obtain the prior

written approval of the Authority in the prescribed manner and within the prescribed period.

5 (4) No person shall acquire as a going concern the business of an entity which owns a transmission system used by a designated electricity licensee to transmit electricity, being a business conducted in relation to the transmission system, unless the person obtains the prior written approval of the Authority in the prescribed manner and within the prescribed period.

10 (5) Any approval by the Authority under this section may be given subject to such conditions as the Authority considers appropriate.

15 (6) Any condition imposed by the Authority under this section shall have effect notwithstanding the provisions of any other written law or anything contained in the memorandum or articles of association, or other constitution, of the designated electricity licensee, the entity referred to subsection (2)(b) or (4) or the business trust referred to in subsection (2)(c).

(7) Any approval granted by the Authority under this section shall be without prejudice to the operation of Part VII.

(8) In this section —

20 “12% controller” means a person, not being a 30% controller, who alone or together with his associates holds 12% or more of the total equity interest in the designated electricity licensee, the entity referred to in subsection (2)(b) or the business trust referred to in subsection (2)(c), as the case may be;

25 “30% controller” means a person who alone or together with his associates holds 30% or more of the total equity interest in the designated electricity licensee, the entity referred to in subsection (2)(b) or the business trust referred to in subsection (2)(c);

30 “business trust” has the same meaning as in section 2 of the Business Trust Act (Cap. 31A);

“corporation” has the same meaning as in section 4(1) of the Companies Act (Cap. 50);

35 “designated electricity licensee” means a person who has been granted a licence or to whom a licence has been extended under section 9(1) (b) or (ba);

“entity” includes a corporation and a limited liability partnership;

“equity interest” —

(a) in relation to a corporation, means a voting share in that corporation; and

5 (b) in relation to any entity other than a corporation, means any right or interest, whether legal or equitable, in the entity, by whatever name called, which gives the holder of that right or interest voting power in that entity;

10 (c) in relation to a business trust, means a unit in that business trust;

“indirect controller” means any person, whether acting alone or together with any other person, and with or without holding equity interest or controlling voting power in a designated electricity licensee, an entity referred to in subsection (2)(b) or
15 a business trust referred to in subsection (2)(c), as the case may be —

(a) in accordance with whose directions, instructions or wishes the directors of the designated electricity licensee, the directors or other officers of the entity or
20 the trustee-manager of the business, as the case may be, are accustomed to act or under an obligation, whether formal or informal, to act; or

(b) who is in a position to determine the policy of the designated electricity licensee, the entity or the business
25 trust, as the case may be,

but does not include any person —

(i) who is a director, executive officer or the chairman of the board of directors of the designated electricity licensee whose appointment has been approved by the
30 Authority under section 30C; or

(ii) in accordance with whose directions, instructions or wishes the directors of the designated electricity licensee, the directors or other officers of the entity or
35 the trustee-manager of the business trust, as the case may be, are accustomed to act by reason only that they act on advice given by him in his professional capacity;

“limited liability partnership” means a limited liability partnership formed under section 4(1) of the Limited Liability Partnerships Act 2005 (Act 5 of 2005);

5 “trustee-manager” has the same meaning as in section 2 of the Business Trust Act (Cap. 31A);

“unit” has the same meaning as in section 2 of the Business Trust Act (Cap. 31A);

10 “voting share” has the same meaning as in section 4(1) of the Companies Act (Cap. 50).

(9) For the purposes of the definitions of 12% controller and 30% controller in subsection (8), a person, A, is an associate of another person, B, if—

15 (i) A is the spouse or a parent, step-parent or remoter lineal ancestor, or a son, step-son, daughter, step-daughter or remoter issue or a brother or sister, of B;

20 (ii) A is a corporation whose directors are accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of B, or where B is a corporation, of the directors of B;

(iii) B is a corporation whose directors are accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of A, or where A is a corporation, of the directors of A;

25 (iv) A is a person who is accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of B;

30 (v) B is a person who is accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of A;

(vi) A is a related corporation of B;

- (vii) A is a corporation in which B, alone or together with other associates of B as described in sub-paragraphs (ii) to (vi), is in a position to control not less than 20% of the voting power in A;
- 5 (viii) B is a corporation in which A, alone or together with other associates of A as described in paragraphs (ii) to (vi), is in a position to control not less than 20% of the voting power in B; or
- 10 (ix) A is a person with whom B has an agreement or arrangement, whether oral or in writing and whether express or implied, to act together with respect to the acquisition, holding or disposal of equity interest in, or with respect to the exercise of their voting power in relation to, the designated electricity licensee, the entity referred to in subsection (2)(b) or the business trust referred to in subsection (2)(c).
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Objection to existing control of designated electricity licensee

20 **30B.** —(1) The Authority may serve a written notice of objection on any person referred to in sections 30A(1), (2), (3) or (4) if the Authority is satisfied that —

- (a) any condition of approval imposed on the person under section 30A has not been complied with;
- 25 (b) the person furnished false or misleading information or documents in connection with an application under section 30A to obtain the Authority's approval; or
- (c) the Authority would not have granted its approval under section 30A had it been aware, at that time, of circumstances relevant to a person's application for approval, which are against the public interest.
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- (2) Before the service of a written notice of objection, the Authority shall, unless he decides that it is not practicable or desirable to do so,

cause to be given to the person concerned notice in writing of his intention to serve the written notice of objection, specifying a date by which the person may make written representations with regard to the proposed written notice of objection.

5 (3) Upon receipt of any written representations, the Authority shall consider them for the purpose of determining whether to issue a written notice of objection.

(4) The Authority shall, in any written notice of objection, specify a reasonable period within which the person to be served the written notice of objection shall comply with such direction or directions as
10 the Authority may make under section 30C.

(5) Any person served with a notice of objection under this section shall comply with the notice.

Power to issue direction

15 **30C.**—(1) Without prejudice to section 17, if the Authority is satisfied that any person has contravened section 30A or has failed to comply with any condition of approval imposed under section 30A, or if the Authority has served a written notice of objection under section 30B, the Authority may, by notice in writing —

20 ~~(b)~~ (a) (in the case where a person has acquired an equity interest in the designated electricity licensee):

- (i) direct the transfer or disposal of all or any of the shares in the electricity licensee held by the person or
25 any of his associates (referred to in this section as the specified shares); and/or
- (ii) restrict the transfer or disposal of the specified shares,

30 within such time or subject to such conditions as the Authority considers appropriate;

(e) (b) (in the case where a person has acquired the business of the designated electricity licensee) direct that person to transfer or dispose of all or any part of the business within such time and subject to such conditions as the Authority considers appropriate; and

(d) (c) (in the case where a person has acquired an equity interest in the entity referred to in section 30A(2)(b) or a business trust referred to section 30A(2)(c)) direct that person to transfer or dispose of all or any part of that equity interest within such time and subject to such conditions as the Authority considers appropriate.

(2) Any person to whom a notice is given under subsection (1) shall comply with such direction or directions as may be specified in the notice.

(3) In the case of any direction made under subsection (1) (a) or (b), until a transfer or disposal is effected in accordance with the direction or until the restriction on the transfer or disposal is removed, as the case may be, notwithstanding any of the provisions of the Companies Act (Cap. 50) or anything contained in the memorandum or articles of association of the designated electricity licensee —

(a) no voting rights shall be exercisable in respect of the specified shares unless the Authority expressly permits such rights to be exercised;

(b) no shares of the designated electricity licensee shall be issued or offered (whether by way of rights, bonus or otherwise) in respect of the specified shares unless the Authority expressly permits such issue or offer; and

(c) except in a liquidation of the designated electricity licensee, no payment shall be made by the designated electricity licensee of any amount (whether by way of dividends or

otherwise) in respect of the specified shares unless the Authority expressly authorises such payment.

(4) In this section, “associate” has the meaning as ascribed in section 30A.

5 **Offences and Penalties**

30D.---(1) Any person who contravenes section 30A shall be guilty of an offence and shall be liable on conviction –

10 (a) in the case of an individual, to a fine not exceeding \$1,000,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$100,000 for every day or part thereof during which the offence continues after conviction; or

15 (b) in any other case, to a fine not exceeding \$2,000,000 and, in the case of a continuing offence, to a further fine not exceeding \$200,000 for every day or part thereof during which the offence continues after conviction.

(2) Where a person is charged with an offence in respect of a contravention of section 30A, it shall be a defence for the person to prove that —

20 (a) he was not aware that he had contravened section 30A; and
 (b) he has, within 14 days of becoming aware that he had contravened section 30A, notified the Authority of the contravention and, within such time as determined by the Authority, taken such actions in relation to his shareholding
 25 or control of the voting power in the designated electricity licensee as the Authority may direct.

(3) Where a person is charged with an offence in respect of a contravention of section 30A it shall also be a defence for the person to prove that, even though he was aware of the contravention —

- (a) the contravention occurred as a result of an increase in the shareholding of, or in the voting power controlled by, any of his associates;
- 5 (b) he has no agreement or arrangement, whether oral or in writing and whether express or implied, with that associate with respect to the acquisition, holding or disposal of shares or other interests in, or under which they act together in exercising their voting power in relation to, the designated electricity licensee; and
- 10 (c) he has, within 14 days of the date of the contravention, notified the Authority of the contravention and, within such time as may be determined by the Authority, taken such action in relation to his shareholding or control of the voting power in the designated electricity licensee as the Minister may direct.
- 15

(4) Except as provided in subsections (3) and (4), it shall not be a defence for a person charged with an offence in respect of a contravention of section 30A to prove that he did not intend to or did not knowingly contravene section 30A.

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Appointment of chief executive officer, director, etc., of designated electricity licensee

25 **30E.**—(1) No designated electricity licensee shall appoint a person as its chief executive officer, its director or the chairman of its board of directors unless it has obtained the written approval of Authority.

(2) Where a person has been appointed by a designated electricity licensee as its chief executive officer, its director or the chairman of its board of directors without the approval of the Authority in contravention of subsection (1), the Authority may issue a direction to the electricity licensee to remove the person as its chief executive

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officer, its director or the chairman of its board of directors, as the case may be.

(3) This section shall have effect notwithstanding the provisions of any other written law or of the memorandum or articles of association, or other constitution, of the electricity licensee.

(4) In this section —

“chief executive officer”, in relation to a designated electricity licensee, means any person, by whatever name described, who is —

- (a) in the direct employment of, or acting for or by arrangement with, the designated licensee; and
- (b) principally responsible for the management and conduct of any type of business of the electricity licensee,

and includes any person for the time being performing all or any of the functions or duties of a chief executive officer;

“designated electricity licensee” has the same meaning as in section 30A;

“director” has the same meaning as in section 4(1) of the Companies Act (Cap. 50).”.

Control of disposal or acquisition of transmission system, etc.

30F. —(1) No person shall —

- (a) dispose of, transfer or acquire a transmission system, or any part thereof;
- (b) create or acquire any interest in a transmission system or any part thereof by way of security; or
- (c) enter into any lease or contract for hire in relation to a transmission system or any part thereof,

without obtaining the prior written approval of the Authority in the prescribed manner and within the prescribed period.

(2) Any approval by the Authority under this section may be given subject to such conditions as the Authority considers appropriate.

(3) Any condition imposed by the Authority under this section shall have effect notwithstanding the provisions of any other written law or anything contained in the memorandum or articles of association, or other constitution, of any person referred to in subsection (1).

5 **Power of Minister to issue written order relating to transmission system**

10 **30G.** —(1) The Minister may issue a written order to any person who owns a transmission system, or any part thereof, or any person who has entered into any one or more of the transactions specified in section 30F(1) in relation to a transmission system or any part thereof, directing the person to —

- (a) transfer or dispose of the transmission system or any part thereof;
- 15 (b) transfer or dispose of any interest created by way of security in the transmission system or any part thereof; or
- (c) terminate any lease or contract for hire in relation to the transmission system or any part thereof,

within such time and subject to such conditions as the Minister considers appropriate, if the Minister is satisfied that —

- 20 (i) the person has contravened section 30F;
- (ii) any condition of approval imposed on the person under section 30F has not been complied with;
- (iii) the person has furnished false or misleading information or documents in connection with an application under section 30F to obtain the Authority's approval;
- 25 (iv) it is in the interest of the security and reliability of supply of electricity to the public to do so; or
- (v) it is in the public interest to do so.

30 (2) Before issuing the written order under subsection (1), the Minister shall, unless he decides that it is not practicable or desirable to do so, cause to be given to the person referred to in subsection (1) notice in writing of his intention to issue the written order, specifying

the date by which written representations may be made to the Minister with regard to the written order.

(3) Upon receipt of any written representation, the Minister shall consider it for the purpose of determining whether to issue the written order.

(4) The Minister may vary or revoke any written order issued under this section.

(5) Any person to whom a written order is issued under subsection (1) shall comply with the written order and the written order shall take effect notwithstanding the provisions of any other written law and anything contained in the memorandum or articles of association, or other constitution, of any person referred to in subsection (1).

(6) Any person who contravenes subsection (5) shall be guilty of an offence and shall be liable on conviction —

(a) in the case of an individual, to a fine not exceeding \$1,000,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$100,000 for every day or part thereof during which the offence continues after conviction; or

(b) in any other case, to a fine not exceeding \$2,000,000 and, in the case of a continuing offence, to a further fine not exceeding \$200,000 for every day or part thereof during which the offence continues after conviction.

Amendment of section 31

11. Section 31 of the Electricity Act is amended by inserting, immediately after the words “market support services licensee” in subsections (1), (2), (3), (4), (11), (12), (13), (14) and (15), the words “, person licensed under section 9(1)(ba)”.

New sections 31A

12. The Electricity Act is amended by inserting, immediately after section 31, the following section:

“Works for developments of transmission system

5 **31A.**—(1) Without prejudice to the generality of section 31, if a transmission licensee or a person licensed under section 9(1)(*ba*) has to undertake or execute any work necessary for the carrying on of any activity authorised by or required under its licence, the transmission licensee may by written notice to any generation licensee —

(a) enter or use any land or premises owned or occupied by any generation licensee; and

10 (b) execute any work to any electric line, electrical plant, structure or apparatus owned or operated by the generation licensee,

for such purpose.

15 (2) If a generation licensee receives a written notice from the transmission licensee referred to in subsection (1), the generation licensee shall comply with the terms of the notice notwithstanding any provision in any existing contract, agreement, instrument or undertaking to which the generation licensee is a party.

20 (3) Any generation licensee may, within 14 days of the receipt of the written notice referred to in subsection (1), lodge a written objection with the Authority and the Authority shall specify the date by which an inquiry into such objection shall be made.

25 (4) Where an objection lodged under subsection (3) is not withdrawn before the date fixed for an inquiry into the matter under that subsection, the Authority shall hold an inquiry, giving each party an opportunity to be heard.

(5) Upon the conclusion of the inquiry, the Authority may authorise, either unconditionally or subject to such terms, conditions and stipulations as it thinks fit, the carrying out of any of the works specified in the notice given under subsection (1).

30 (6) The decision of the Authority under subsection (5) shall be final and conclusive between the parties.”.

Amendment of section 46

13. Section 46 of the Electricity Act is amended by deleting subsections (2) and (3) and substituting the following subsections:

“(2) The markets rules may be varied by the Market Company in accordance with the market rules or in compliance with directions issued by the Authority.

5 (3) The market rules made or varied in accordance with this section shall be published by the Market Company in such manner as will secure adequate publicity.”.

Amendment of section 47

10 **14.** Section 47 of the Electricity Act is amended by inserting, immediately after the words “market participants”, the words “, the Market Company and market support services licensees”.

Amendment of section 49

15. Section 49 of the Electricity Act is amended —

(a) by deleting subsection (1) and substituting the following therefor:

“(1) The market rules shall have the effect of a contract —

15 (a) between each market participant and the Market Company;
and

(b) between each market support service licensee and the Market Company.”;

20 (b) by inserting, immediately after subsection (2), the following subsection:

“(3) Each market support service licensee and the Market Company shall be deemed to have entered into a contract with one another under which each market support service licensee and the Market Company severally agree to perform and observe the market rules as far as they are applicable to each market support service licensee and the Market Company as provided for in the market rules.”.

Amendment of section 59

16. Section 59 of the Electricity Act is amended by inserting, immediately after subsection (5), the following subsection:

30 “(5A) Where any appeal is made under Part VIII against any decision or direction of the Authority under this Part, that decision or direction shall be complied with until such time as the Appeal Panel decides the appeal.”

Amendment of section 64

17. Section 64 of the Electricity Act is amended—

(a) by inserting, immediately after subsection (3), the following subsections:

5 “(4) Where the Minister considers that an appeal lodged under section 98 involves issues of such nature or complexity that it ought to be considered and determined by persons with particular specialised knowledge or experience, he may establish by direction an Appeal Panel which consists of or includes one or more such
10 persons to consider and determine the appeal.

(5) The decision, direction or other thing appealed against in an appeal referred to subsection (4) shall be complied with until such time as the Appeal Panel decides the appeal.”; and

15 (b) by deleting the words “Request to establish” in the section heading.

Amendment of section 65

18. Section 65 of the Electricity Act is amended by inserting, immediately after the words “64(3)”, the words “or (4)”.

Amendment of section 66

20 **19.** Section 66 of the Electricity Act is amended by inserting, immediately after subsection (9), the following subsection:

“(9A) In the case of an appeal under section 98, the Appeal Panel that is established by the Minister to consider and determine the appeal under section 64(4) may determine the appeal by confirming,
25 varying or reversing any decision or direction of the Authority or by amending any code of practice issued or approved by the Authority, and the decision of the Appeal Panel shall be final.”

Amendment of section 80

30 **20.** Section 80 of the Electricity Act is amended by deleting the words “licensed cable detection work” in paragraph (c) and substituting the words “licensed cable detection worker”.

Amendment of section 98

21. Section 98 of the Electricity Act is amended —

(a) by deleting subsection (1) and substituting the following subsections:

5 “(1) An electricity licensee or other person aggrieved by any
 decision of the Authority in the exercise of any discretion
 vested in it by or under this Act may, except for section 26(1)
 or 31(12), appeal to the Minister, together with adequate
 10 details of the grounds for the appeal, within 14 days of the
 receipt of a notification by the Authority of the decision.”

(1A) Any person who has lodged an appeal under subsection
 (1) shall provide such information as may be required by the
 Minister in such manner and within such period as may be
 specified by the Minister.”;

15 (b) by inserting, immediately after the words “code of practice”
 subsection (3), the words “issued or”; and

(c) by inserting, immediately after subsection (4), the following
 subsection:

“(5) This section is subject to Part VIII.”.

FORMAT FOR SUBMISSION OF COMMENTS AND FEEDBACK ON THE PROPOSED AMENDMENTS TO THE ELECTRICITY ACT

	Comments and Feedback On:
1.	<u>Licensing Regime</u>
2.	<u>Security Safeguards</u>
3.	<u>Power to Obtain Information</u>
4.	<u>Improvement to Penalty Structure</u>
5.	<u>Ambit of Market Rules</u>
6.	<u>Revised Appeal Process</u>
7.	<u>Terms for Generation Companies to Supply Electricity</u>
8.	<u>Any other comments or feedback</u>