

LAW REGULATING THE ELECTRICITY MARKET OF 2003 AND 2004

Number 122(I) of 2003

For the purpose of harmonisation with the act of the European Union entitled:

“Directive 96/92/EC of the European Parliament and of the Council of 19 December 1996 concerning common rules for the internal market in electricity”.

N. 239(I)/2004 Directive 2003/54/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in electricity and repealing Directive 96/92/EC (O.J L 176, 15/07/2003, p. 37)

PART I - INTRODUCTORY PROVISIONS

The House of Representatives votes as follows:

Short title 1 This Law shall be referred to as the Law Regulating the Electricity Market of 2003.

Interpretation 2 In this Law, except where the context otherwise requires:

“ancillary service” means services other than the generation of electric power, that are necessary for operating a stable and reliable electric system and includes inactive operational standby power supply, voltage regulation and cold start;

“authorisation” means an authorisation granted pursuant to section 34;

“authorisation to construct a direct line” means an authorisation pursuant to section 86;

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(amendment)**

“applicant” means a person who submits an application for the granting of an authorisation pursuant to section 37;

“authorised officer” means a member of the staff of the Office of the Regulatory Authority of Electricity of Cyprus who is appointed by CERA pursuant to section 7 and authorised by CERA to perform the duties pursuant to section 86;

10 of 1960
16 of 1960
24 of 1963
45 of 1969
53 of 1977
31 of 1979
116 of 1990
250 of 1990
40(I) of 1995
15(I) of 1996
75(I) of 1998
143(I) of 1999
158(I) of 2000.

“Authority” has the meaning given to this term by the Electricity Development Law, CAP 171;

“CERA” means the Cyprus Energy Regulatory Authority;

1 of 1990
71 of 1991
211 of 1991
27(I) of 1994
83(I) of 1995
60(I) of 1996
109(I) of 1996
156(I) of 2000
4(I) of 2001
69(I) of 2001.

“civil post”, “civil service” and “civil servant” have the meanings ascribed to them by the Civil Service Laws of 1990 to 2001;

“combined heat and power” means the simultaneous production of utilisable heat and electricity, from an integrated thermo-dynamic process where both the overall process operating efficiency, and the integrated thermo-dynamic process satisfy such technical, operational, economic and environmental criteria as may be specified by the Minister from time to time, following consultations with CERA;

"commercially sensitive information" means any information the disclosure of which would materially prejudice the interests of any person;

“Commission” means the Commission of the European Communities;

“consumer” means a person, whether an eligible consumer or a non-eligible consumer, being supplied with electricity at specific premises for consumption on those premises;

“Cyprus Energy Regulatory Authority” means the Authority set up in accordance with section 4;

“Decision” means a decision of CERA, as prescribed by section 26;

“direct line” means an electric line **connecting:**

- (a) an isolated production site with an isolated customer; or**
- (b) an electricity producer and an electricity supply undertaking, supplying directly its own premises, subsidiaries and eligible customers;**

"direct pipeline" means a natural gas pipeline complementary to the gas pipeline system;

“distribution”, in relation to electricity, means the transport of electricity by means of a high and low voltage system which consists of electric lines, electric plant, electric equipment, transformers and switchgear and which is used for conveying electricity to consumers as well as between substations, **not including supply;**

“distribution system” means the system not consisting of any part of the transmission system and which consists, wholly or mainly, of

- (a) electric lines comprising the medium and low voltage networks between the medium voltage circuit breakers or isolators at the transmission substations which are owned by the Distribution System Owner and used for the distribution of electricity from generating units or other entry points to the point of delivery to customers or other users and
- (b) any electric apparatus which is owned or operated by the Distribution System Owner in connection with the distribution of electricity,;

“Distribution System Owner” means the Authority in its capacity as owner and operator of the distribution system);

“dominant position” and “abuse of dominant position” have the meaning given to them by the Law for the Protection of Competition of 1989 to (No. 2) of 2000;

“Draft Regulatory Decision” means a draft regulatory decision of CERA referred to in section 26;

“electric line” means any line which is used solely or among other things for carrying electricity for any purpose and includes:-

- (a) Any support for any such line, including, any structure, pole, or any other thing in, on, by or from which any such line may be supported, carried or suspended;

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2 (c) of N.
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(amendment)

207 of 1989
111(I) of 1999
87(I) of 2000
155(I) of 2000

(b) Any apparatus connected to any such line for the purpose of carrying electricity or providing other services; and

(c) any wire, cable, tube, pipe or similar thing, including its casing or coating, which surrounds or supports or is surrounded or supported by, or is installed in close proximity to, or is supported, carried or suspended in association with, any such line;

“electric plant” means any plant, apparatus or appliance used for, or for purposes connected with, the generation, transmission, distribution or supply of electricity, other than:

(a) an electric line;

(b) a meter used for ascertaining the quantity of electricity supplied to any installation; or

(c) an electrical appliance under the control of a consumer;

“Electricity Trading Rules” means the Rules in respect of the trading of electricity between authorisation holders which are drafted and published by the Transmission System Operator in accordance with section 79;

“Electricity Trading Rules Advisory Committee” means the Committee set up in accordance with section 81;

“electricity undertaking” means any person engaged in generation, transmission, distribution or supply of electricity, including any authorisation holder under this Law, or any person who has been granted an Order or permit under sections 4 and 9, respectively, of the Electricity Law;

Cap. 170.
2 of 1976
26 of 1979
141 of 1990
42(l) of 2002.

“eligible consumer” means any consumer able to conclude agreements for the purchase of electricity in accordance with section 43;

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“energy efficiency or “demand-side management” means a global or integrated approach aimed at influencing the amount and timing of electricity consumption in order to reduce primary energy consumption and peak loads by giving precedence to investments in energy efficiency measures, or other measures, such as interruptible supply contracts, over investments to increase generation capacity, if the former are the most effective and economical option, taking into account the positive environmental impact of reduced energy consumption and the security of supply and distribution cost aspects related to it;

“exemption” means an exemption from the requirement to hold an authorisation granted pursuant to section 35;

“forecast report” means the report the contents of which are prescribed by section 87;

“natural gas” means any hydrocarbons or mixture of hydrocarbons and other gases consisting primarily of liquid natural gas;

“natural gas pipeline systems” means any transmission networks and/or distribution networks and/or liquid natural gas facilities owned and/or operated by a natural gas undertaking;

“generate”, in relation to electricity, means to produce electricity;

“generating station” means a station for the generation of electricity;

“generator” means a person generating electricity whether under an authorisation issued under section 34 or pursuant to an exemption issued under section 35;

“high voltage” means the nominal voltage of which the root mean square (RMS) value exceeds 36kV;

“interconnector” **means equipment used to link electricity systems;**

“authorisation holder” means any person granted a authorisation pursuant to section 34;

“low voltage” means the nominal voltage of which the root mean square (RMS) value does not exceed 1kV;

“medium voltage” means the nominal voltage of which the root mean square (RMS) value exceeds 1kV but does not exceed 36kV;

“Member of CERA” means a person appointed by the Council of Ministers in accordance with section 4 including the President and the Vice President of CERA;

“member state” means a member state of the European Union;

“Minister” means the Minister of Commerce, Industry and Tourism;

“Ministry” means the Ministry of Commerce, Industry and Tourism;

“non-eligible consumer” means any consumer not designated as an eligible consumer pursuant to a Ministerial Order issued pursuant to section 44 and who is supplied with electricity by the Authority;

“Office of CERA” means the statutory body established by virtue of section 7;

“person” means a natural or legal person and includes a company, partnership, municipality, club, foundation, or any other union or any other union or association of persons with or without legal personality;

“Public Service Obligation” means any obligation placed on electricity undertakings pursuant to section 88 and which takes account general social, economic and environmental factors;

“published” means any document made available to the general public, either in a printed or an electronic form;

“record” means any book, document or any other written or printed material in any form including any information stored, maintained or preserved by means of any mechanical or electronic device, whether or not stored, maintained or preserved in a legible form;

“Register” means a register kept by CERA in accordance with section 20;

“regulatory decision” means a decision of CERA relating to any issue relating to the electricity market, as prescribed by section 26;

“Regulations” means any regulations issued under this Law;

“Republic” means the Republic of Cyprus;

“renewable, forms of energy” means energy used in the production of electricity which uses as its primary source one or a combination of more than one of the following:

- (i) wind,

- (ii) solar,
- (iii) wave,
- (iv) tidal,
- (v) hydropower,
- (vi) biomass,
- (vii) landfill gas,
- (viii) sewage treatment plant gas,
- (ix) biogases,

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(insertion)

"security" means both security of supply and provision of electricity, and technical safety;

"self production" means the production of electricity for own use;

"standards of performance" means the standards set in Regulations issued by CERA pursuant to section 90);

"supplier" means a person who is the holder of an authorisation under section 34(1)(b) or (c);

"supply", in relation to electricity, means the supply of electricity through electric lines to consumers for consumption;

"transmission", in relation to electricity, means the transmission of electricity by means of a transmission system, that is to say, a system which consists, wholly or mainly, of high voltage lines and electric plant and which is used for conveying electricity from a generating station to a substation, from one generating station to another, from one substation to another or to or from any interconnector or to consumers but shall not include any such lines which the Authority may, from time to time, with the approval of CERA, specify as being part of the distribution system, but shall include any interconnector owned by the Authority;

"Transmission and Distribution Rules Advisory Committee" means the Committee set up pursuant to section 76;

"Transmission and Distribution Rules" means the rules in respect of all technical aspects relating to connection to and operation of the transmission system and distribution system prepared and published by the Transmission System Operator and the Distribution System Owner pursuant to section 72;

"transmission system" means the system consisting, wholly or mainly, of high voltage electric lines owned by the Authority and used for the transmission of electricity from one power station to a sub-station or to another power station or between sub-stations and includes any equipment, apparatus and meters owned by the Authority in connection with the transmission of electricity;

"Transmission System Operator" means the Transmission System Operations Unit set up in accordance with section 57; authorisation

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~~"Transmission System Director" means the person appointed as Transmission System Director in accordance with section 57(2);~~

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(insertion)

“Transmission System Operator Director” means the person appointed as Transmission System Operator Director in accordance with the provisions of section 57(2);

“Transmission System Owner” means the Authority in its capacity as owner of the transmission system;

“Transmission System Protocol” means a Protocol concluded between the Transmission System Owner and the Transmission System Operator in accordance with the provisions of section 66, the contents of which are prescribed by section 68;

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“TSO Account” means an account opened by and in the name of the TSO Director and in respect of which only the Transmission System **Operator** Director and persons authorised by the TSO Director are signatories;

“universal electricity service provider” means the holder of an authorisation who is prescribed as the universal service provider in accordance with the Law with respect to the activity for which he holds an authorisation;

«universal service for the provision of electricity» means satisfying the reasonable requests of the occupier of any premises, for the provision of electricity at affordable prices, irrespective of their geographical location, in the light of the conditions within the Republic;

- Purpose. 3 This Law provides for the regulation of the electricity market of the Republic and, among other things,
- (a) Establishes the Regulatory Authority of Energy of Cyprus;
 - (b) Provides for the creations of a new licensing regime in respect of the generation, transmission, distribution and supply of electricity;
 - (c) Establishes the framework for the arrangements between the Transmission System Owner and the Transmission System Operator;
 - (d) Regulates access to the transmission system and the distribution system;
 - (e) Allows for provision to be made in respect of Public Service Obligations and
 - (f) Regulates issues concerning consumer protection.

PART II – ESTABLISHMENT OF THE REGULATORY AUTHORITY OF ENERGY OF CYPRUS

Establishment of the Regulatory Authority of Energy of Cyprus and appointment of its members and operations thereof.

- 4 (1) The Regulatory Authority of Energy of Cyprus is hereby appointed which shall hereinafter be referred to as CERA.
- (2) CERA shall consist of three members.
- (3) The Council of Ministers shall appoint, having deliberated with the House Committee on European Affairs, persons as members of CERA. The Council of Ministers shall appoint one such member as the President of CERA and another as the Vice President of CERA.
- (4) Before taking up their duties, the members of CERA shall give assurance before the President of the Republic of Cyprus that they shall faithfully execute their duties.
- (5) CERA's operations shall be regulated by Regulations issued in accordance with section 97. The said Regulations shall inter alia prescribe the manner in which CERA shall make decisions.

Terms of
appointment,
remuneration,
pensions

- 5 (1) The persons appointed to the positions of member of CERA must be of the highest moral and professional level and must have experience and knowledge and must have demonstrated their capabilities over one or more of the following fields:
- (a) Industry;
 - (b) engineering;
 - (c) commerce;
 - (d) economics;
 - (e) law;
- (2) During their term of office the members of CERA:
- (a) Shall not have any financial or other interest, including shareholdings, in any company carrying on any business in the energy sector;
 - (b) shall not accept or hold any other employment, office or post in respect of which it is reasonably expected that there is remuneration, irrespective of whether it is paid or not; and
 - (c) be a member of a political party;
- (3) The posts of the members of CERA shall not be subject to the civil service..
- (4) The appointment of a persons to hold office as member of CERA shall be:
- (a) for a term not exceeding 6 years in each case; and
 - (b) limited to a maximum of two terms of office
- (5) The members of CERA shall be paid such remuneration and such travelling and other allowances as may be determined by the Council of Ministers.
- (6) The Council of Ministers may determine payment of:
- (a) Such allowances or gratuities to or in respect of a person who has served as member of CERA; or
 - (b) such sums towards provision for the payment of allowances or gratuities to or in respect of a person who has served as member of CERA.

Termination of
appointment

- 6 (1) A person holding office as member of CERA may, prior to the termination of his term of office:
- (a) resign from that office by giving notice in writing to the Council of Ministers;
 - (b) be removed from that office by the Council of Ministers for one of the following reasons:
 - (i) he is suffering from a mental or physical incapacity which renders him incapable of performing his duties and exercising his powers for the rest of his term;
 - (ii) he is behaving improperly or acting negligently in performing his duties and exercising his powers;
 - (iii) is behaving in a manner which is inconsistent with his responsibility to maintain the independence of his position as defined in subsection (2); or

- (iv) has, prior to his appointment, failed to disclose a fact or event which may have constituted a bar to his appointment as a result of any one of the grounds set out in this subsection.
- (v) has been sentenced by a decision of a competent court for a criminal offence for violating this Law; or
- (vi) has been sentenced by a decision of a competent court for a criminal offence concerning the lack of honesty or immorality.

(2) For the purposes of subsection (1), behaviour incompatible with the independence of the position of member of CERA includes, but is not limited to:

- (a) the acceptance of an office of employment of which the salary is subject to the control of the Republic or the acceptance or maintenance of any position or capacity in the civil service or municipality or at any legal person or organisation of public law; or
- (b) the employment or acceptance of employment at the Authority, any company or organisation controlled by the Authority, or any person holding an authorisation pursuant to section 34 or exemption issued pursuant to section 35; or
- (c) the acceptance of any office with a political party or the active connection or involvement with any political affairs; or
- (d) the acceptance or maintenance of any employment, office or position anywhere in the private sector for salary of any form or under any circumstances in the light of which it is reasonably expected that a salary will be paid, irrespective of whether a salary is actually paid or not.

(3) In the event that the President of CERA is removed from office or resigns, or in the event of permanent absence or incapacity of the President of CERA, until a replacement is appointed, the Vice President of CERA shall exercise the functions, powers and duties of the President of CERA

(4) The Council of Ministers shall communicate its decision regarding the resignation or removal of any member of CERA to the House of Representatives.

(5) The members of CERA shall perform their functions, powers and duties notwithstanding a temporary vacancy in the position of a member of CERA.

(6) (a) A member of CERA shall not for a period of 3 years following resignation, removal or retirement hold any office or employment or act as consultant where he may be liable to use or disclose information acquired by him in the exercise of his duties and powers as member of CERA.

(b) A person, who violates the provisions of paragraph (a), shall be guilty of a criminal offence and if sentenced shall be liable to imprisonment not exceeding twelve months or to a fine not exceeding five thousand pounds or to both such penalties.

PART III. ESTABLISHMENT AND OPERATION OF THE OFFICE OF CERA

Establishment
of the Office of
CERA

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(1) The Office of CERA shall be hereby established

(2) CERA shall head, supervise and exercise control over the Office of CERA

(3) The Office of CERA shall be staffed, it shall operate and it shall be managed in accordance with this Law and any Regulations in force from time to time which may be issued by virtue of this Law.

(4) The staff of the Office of CERA shall act in accordance with the orders or directions of CERA.

(5) The Office of CERA shall provide CERA every facilitation possible, as CERA may, at its absolute discretion, deem necessary from time to time in order for CERA to perform its functions and powers in accordance with section 25 and to fulfil his duties in accordance with section 24.

Staff of the
Office of CERA

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(1) CERA may appoint such members of the staff of the Office of CERA as are necessary to allow CERA to discharge its duties and exercise its powers and functions.

(2) The members of the staff of the Office of CERA shall be appointed either on a permanent basis or a temporary basis with a contract in accordance with the provisions and procedures set out in Regulations issued by CERA under this Law.

(3) (a) The Regulations concerning the members of the staff of the Office of CERA shall regulate and set out the procedures relating to the appointment, employment terms and promotion of the members of staff of the Office of CERA along with the types of position, retirement benefits and the disciplinary code and the disciplinary power exercisable by CERA.

(b) The retirement bonuses of the members of the staff of the Office of CERA who hold a permanent position, and the bonuses and pensions of the persons dependent from these members and of the families thereof shall be governed, *mutatis mutandis*, by the provisions of the Retirement Laws of 1997 to 2001.

97(I) of 1997
3(I) of 1998
77(I) of 1999
14(I) of 2001

(4) The duties, responsibilities and qualifications of the members of the staff of the Office of CERA shall be defined in service schemes drafted by CERA and approved by the Council of Ministers.

(5) The organogram for the staff of the Office of CERA shall be included in CERA's annual budget.

(6) Despite the provisions of any other law or regulations that may be in force, CERA may:

(a) Itself obtain services in matters related to the exercise of its duties, functions and powers and the performance of its duties according to this Law or the training of the staff of the Office for this purpose, and

(b) Engage such experts or consultants, as it may consider necessary to assist it in the exercise of its powers and functions. Any fees due to an expert or consultant engaged under this section shall form part of the expenses of CERA.

(7) CERA may perform its duties, functions and powers as it may deem proper through any member of the staff of the Office of CERA and any duty, function or power assigned to CERA may be carried out by any member of the staff of the Office of CERA who is authorised by CERA.

Independence of the Office of CERA	9	The Office of CERA shall not be subject to any Ministry or Government Department.
Powers of the Office of CERA in relation to the acquisition, disposal and investment of property.	10	<p>For the purpose of carrying out a direction of CERA and in accordance with any terms and conditions, that CERA may think expedient to set out, the Office of CERA may-</p> <ul style="list-style-type: none"> (a) Acquire by purchase, exchange, donation or any other way, movable or immovable property for the housing and operational needs of CERA and of the Office of CERA; (b) accept the provision of funding from the Government of the Republic of Cyprus, the European Union or from an international organisation, (c) sell, exchange, lease, concede or in any other way dispose of any movable or immovable property of the Office and to mortgage or charge the said property for the needs of the Office of CERA or CERA; (d) take on lease or secure a authorisation for the use of any movable or immovable property for the housing and operational needs of the Office of CERA and CERA; (e) with the approval of CERA, take out loans necessary for the realisation of anything which is included in paragraphs (a), (c) and (d) above; (f) conclude contracts and do all such things, which are necessary for the fulfilment of the provisions of (a) to (e) above or that shall contribute to their fulfilment.
Fund of the Office of the Commissioner.	11	<p>The Office of CERA shall have a separate Fund, in which it shall be mandatory to deposit-</p> <ul style="list-style-type: none"> (a) All amounts payable and receivable by the Office of CERA under this Law and/or under any Regulations issued under it, (b) every funding granted to CERA or to the Office of CERA by virtue of section 10(b) of this Law and every other income received under this Law, (c) all revenues deriving from property assets of the Office of CERA according to the provisions of section 10, (d) all amounts of salaries, emoluments, benefits, pensions and wages paid by the Government of the Republic to the Office of CERA according to the provisions of section 12, for payment by the latter to the members of the Office of CERA or to dependent persons and families of these members or to persons with whom CERA has concluded agreements for the provision of services under section 8(6), as the case may be.
Payment by the Government to the Office of salaries etc. of the staff of the Office.	12	<p>(1) Until CERA is able to perform all duties, functions and powers by collecting sums from fees coming from authorisations or any other sums under this Law, the Government of the Republic shall pay annual funds to the Office of CERA by depositing payments in the Fund.</p> <p>(2) All the amounts that the Government of the Republic shall pay to the Office of CERA according to subsection (1), shall be returnable to it and shall be paid in whole by the Office of CERA:</p> <p>Provided that the Government of the Republic shall not proceed with any collection from the Office of CERA of any of the above paid amounts, before the Office has collected sufficient amounts of fees and revenues under this Law.</p>

(3) Any excess of the revenue of the Office of CERA over its expenditure in any year shall be used by the Office of CERA to meet future expenses incurred in exercising the duties, functions and powers of CERA.

Budget

13 (1) CERA shall have an annual budget of income and expenditure for itself and for the Office of CERA.

(2) The said budget shall be submitted by CERA to the Council of Ministers by the 1st of July of each year and shall be subject to the approval of the Council of Ministers and the House of Representatives.

(3) The Budget, as it may be amended by the Council of Ministers, shall be submitted to the House of Representatives by the 30th of September of each year.

(4) The budget shall cover the financial plan of CERA and of the Office of CERA for each financial year which shall commence on the 1st of January and end on the 31st of December:

Provided that the first financial plan of CERA and of the Office of CERA shall commence from the date of operation of CERA and of the Office of CERA and shall terminate on the 31st of December of that same year.

(5) The manner in which the budget shall be drawn up and in which the budget breakdown shall appear in the income and expenditure table, shall be similar to the way in which the State budget is drawn up.

(6) The Office shall see to the drawing up of the budget referred to in subsection (2) and to the drawing up of the financial plan referred to in subsection (4), under the directions of CERA according to the provisions of section 7(5) of this Law.

(7) In case of the untimely passing of the budget, CERA and the Office of CERA shall operate on the basis of the implementation of the 12-monthly provisions of the Constitution pertaining to the State Budget, but without the two-month restriction.

Payments from the Fund

14 CERA shall use monies deposited in the Fund established pursuant to section 11 to make the following payments:

(a) All sums repayable to the Government of the Republic in accordance with section 12;

(b) All the day to day operating costs of the Office of CERA;

(c) all the sums for salaries, wages, benefits and pensions which are payable to CERA and the members of the staff of the Office of CERA as well as all the amounts for payment which are payable according to agreements for the provision of services which have been concluded by CERA;

(d) the interest on any loans which CERA has taken out;

(e) any sums payable under any agreement which has been concluded by CERA according to this Law or under Regulations or Orders issued according to this Law;

(f) any sums payable for legal fees or for payment in relation to the representation of CERA before the courts or any administrative or other authority or in relation to the provision of legal advice to the Office of CERA or CERA; or

- (g) any amount which becomes legally payable as a result of the exercise of any duty, function or power of CERA according to the provisions of this Law or Regulations or Orders issued under this Law.

Consultations	15	<p>(1) Except where otherwise expressly required by this Law and Regulations in force from time to time for the carrying out of consultations in relation to the taking of decisions by CERA, CERA may carry out consultations in relation to any of the issues affecting the electricity and natural gas markets.</p> <p>(2) The intent to carry out a consultation as well as the matters relevant to the consultation shall be published in two newspapers that are distributed to the public in general in the Republic as well as in the Official Website of CERA.</p> <p>(3) With the aforementioned publication, CERA:</p> <p>(a) Shall call any interested party to submit information in writing relevant to the consultation issues within one month from the date of publishing that which is referred to in subsection (2); and</p> <p>(b) establish the procedure to be followed so as to preserve commercially sensitive information, confidential information and, where necessary, the anonymity of persons taking part in the consultation.</p> <p>(4) Without prejudice to the provisions of this Law and the Regulations issued under it, CERA may, in his absolute discretion, as part of a consultation:</p> <p>(a) publish a draft regulatory decision or draft decision; and/or</p> <p>(b) specify that public hearings should be made part of the consultation process.</p> <p>(5) The procedure for the carrying out of public hearings shall be prescribed by means of internal regulations prepared by CERA and which it shall communicate to the public in any manner it deems expedient.</p>
Authorisation fee regulations	16	<p>For the purposes of meeting expenses incurred by CERA and of the Office of CERA in the performance of their duties, functions and powers under this Law, CERA may issue Regulations for authorisation fees authorising CERA to collect authorisation fees from such classes of electricity and gas undertakings each year and in such amounts as specified from time to time in the said Regulations.</p>
Official Seal	17	<p>CERA shall have an official seal for the authentication of documents required for the purposes of the performance of its duties, functions and powers.</p>
Annual Reports	18	<p>(1) CERA shall be accountable for the performance of its duties, functions and powers as well as for those of the Office of CERA, to the President of the Republic and for this purpose, it shall, within three months after the end of each calendar year, submit a report to the President of the Republic on its activities during that year.</p> <p>(2) The aforementioned report shall:</p> <p>(a) Include a survey of developments in respect of matters falling within the scope of CERA's duties, functions and powers, including, in particular, developments in competition matters in the field of electricity;</p> <p>(b) set out the regulatory decisions, decisions and any enforcement measures taken by CERA during that year;</p> <p>(c) include a general survey of the activities during that year and a report on progress on the forward work plan for that year; and</p>

(d) report on such other matters as may be deemed expedient.

(3) CERA shall lay a copy of every report made under subsection (1) to the House of Representatives and arrange for the public to have easy access to the report.

(4) CERA may also prepare other reports with respect to any matter falling within the scope of its duties, functions and powers and may arrange for the public to have easy access to the reports.

Bookkeeping

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(1) CERA will keep suitable records and accounts relating to its activities and those of the Office of CERA in the form specified by the Auditor-General of the Republic.

(2) An account shall be prepared in the form specified by the Auditor-General of the Republic with respect to the financial management of each financial year for which the Office of CERA shall be responsible.

(3) CERA's accounts and those of the Office of CERA shall be audited by the Auditor-General of the Republic.

(4) CERA shall submit the account of financial management within one month of the accounts being audited to the Council of Ministers and the House of Representatives for the purpose of keeping them up to date.

(5) The Office of CERA shall make sure that the keeping of books and accounts and the drafting of the accounts are made subject to CERA in accordance with the provisions of section 7(5).

Keeping of Register

20

(1) Subject to the requirements of section 92, CERA shall, maintain a Register for all of the authorisations issued pursuant to section 34 of this Law. CERA shall prescribe the manner in which the Register shall be kept.

(2) The contents of the Register shall be available for inspection during working hours.

(3) Any person may, on the payment of such fee prescribed by Regulations, require CERA to supply him with a copy of an extract from the Register, duly certified by CERA to be a true copy or extract.

Representation of the Office and of the Commissioner.

21

(1) The Office of CERA shall have civil liability and it may sue and be sued and be a party in any civil proceedings initiated in relation to the performance of the duties, functions and powers of CERA and those of the members of the staff of the Office of CERA.

(2) In any proceedings before the courts or before any administrative authority, the Office of CERA shall be represented either by a practising lawyer and/or by a member of the staff of the Office of CERA.

Liability of the members of CERA and of the staff of the Office of CERA.

22

(1) Subject to the provisions of this Law and the Regulations and Orders issued under it, the members of CERA and the members of the staff of the Office of CERA shall not be liable for anything occurred or omitted or said, or for any opinion they have expressed, or report or other document they prepared, under the bona fide performance of their duties, functions and powers under this Law and the Regulations and Orders issued under it.

Recourse to the Supreme Court against the actions of CERA. 23 Without prejudice to the provisions of Article 146 of the Constitution and of the jurisprudence pertaining thereto, decisions, orders and administrative fines which may be issued or imposed by CERA, as the case may be, by virtue of the provisions of this Law or the Regulations issued under it, including the decisions on the granting, amendment or revocation of authorisations, may be declared void by the Supreme Court under the said Article following a judicial review by the filing of a recourse to the Supreme Court in accordance with Article 146 of the Constitution against the decision or order or the imposition of a fine; the said recourse may be exercised by the holder of an authorisation or by a person who has been granted an exemption or by any consumer or any person in general whose any existing legitimate interest is adversely and directly affected within the meaning of Article 146.

PART IV – DUTIES AND POWERS OF CERA

Duties of CERA 24 (1) In performing the duties conferred to it under this Law, CERA shall act the following manner so that in relation to the electricity industry:

3 of N.
239(I)/2004

- (a) in accordance with the provisions of this Law, it **safeguards effective** competition in the electricity market and avoids undue discrimination between both authorisation holders and applicants for authorisations;
- (b) it protects the interests of consumers;
- (c) it secures that all reasonable demands and needs for electricity are satisfied;
- (d) it secures that authorisation holders operating efficiently are capable of financing the undertaking of the activities which they are licensed to undertake;
- (e) it promotes the development of an economic and efficient electricity industry;
- (f) it promotes the security, safety, continuity, quality, and reliability of supplies of electricity;
- (g) it takes account of the protection of the environment;
- (h) it encourages the efficient use and production of electricity;
- (i) it takes account of the needs of rural customers, the disadvantaged consumers and the elderly;
- (j) it encourages research and development into the generation transmission, distribution, and use of electricity; and
- (k) it promotes the use of renewable forms of energy.

(2) In carrying out its duties, CERA shall also take such measures as are necessary to comply with such Public Service Obligations in accordance with section 88.

(3) In carrying out his duties, CERA shall publish information regarding its activities in order to keep the public informed without, at the same time, violating the need to protect the commercial interests of authorisation holders and others and to safeguard national security.

3 of N.
239(I)/2004
(Article 4
Directive)

(4) **CERA shall publish every two years and not later than the 31st of July, a report outlining the findings resulting from the monitoring of security of supply issues, as well as any measures taken or envisaged to address them and shall forward this report to the Commission forthwith.**

Powers and functions of CERA.

25 (1) It shall be the function and power of CERA, *inter alia*, to –:

- (a) grant, monitor, enforce, modify or revoke authorisations, including where necessary invite the submission of applications for authorisations issued under this Law;
- (b) advise the Minister on all matters concerning electricity;
- (c) ensure that the Trading and Settlement Rules and Trading Rules are prepared and approved in accordance with sections 72 and 79 respectively;
- (d) secure that all reasonable needs and demands for electricity are satisfied;
- (e) regulate tariffs, charges and other terms and conditions applied by licensees for any services provided under the terms of their authorisations;
- (f) set out, publish and enforce quality standards to be complied with by authorisation holders;
- (g) determine rules or procedures under which complaints concerning the services provided by licensees will be dealt with, including where it considers it appropriate, investigation and resolution of such complaints;
- (h) investigate and resolve disputes arising between authorisation holders in accordance with the Arbitration Law;
- (i) to act in accordance with the instructions of the Council of Ministers in an event involving national security or the defence of the Republic;
- (j) issue Regulations in accordance with this Law; and
- (k) take decisions and regulatory decisions as provided by this Law and the Regulations issued under it.

(2) CERA may, with the written consent of the Minister, take out loans under such terms and in such a way as this may be necessary for the proper performance of its duties, functions and powers.

(3) Subject to this Law and the general policy that may be prescribed by the Minister, CERA shall have the power to take all necessary and expedient measures enabling it to better perform its duties, functions and powers for the purpose of effectively and properly applying this Law.

(4) CERA may participate in meetings or other activities of international bodies, and co-operate with foreign or international authorities, to the extent that they are relevant to its duties, functions and powers.

Without derogation from subsections (1) and (2), the Regulator also has such powers as may be conferred on him from time to time by any other legislation.

- (1) In performing his duties and exercising his functions and powers CERA may:
 - (a) Take regulatory decisions setting out how it shall regulate the electricity market and which authorisation holders shall be bound by such regulatory decision; and
 - (b) Take decisions in accordance with this Law and the Regulations issued under it.
- (2) Prior to taking a regulatory decision CERA may:

- (a) Consult any authorisation holder, applicant for a authorisation or other interested person in relation to any of the issues to which the regulatory decision will relate; and
- (b) publish a draft of the regulatory decision inviting comments from authorisation holders, applicants for authorisations or other interested persons.

(3) Every draft regulatory decision, regulatory decision, or decision made by CERA shall be published in such a way as CERA may deem necessary for notifying same to interested parties.

Investigation of
infringements

27

Cap 170
2 of 1976
26 of 1979
141 of 1990
42(I) of 2002.

(1) CERA may, on its own initiative or, after receiving a complaint, investigate whether a license holder, or holder of an Order or prior permit issued under sections 4 and 9 respectively of the Electricity Law or holder of an exemption in accordance with the provisions of section 35, either by itself or through an employee or other representative, is infringing or omitting to comply with:

- (a) any authorisation condition or condition of an exemption;
- (b) any Regulatory Decision or decision issued by CERA.

(2) After carrying out an investigation in accordance with section 96, CERA shall notify a notice to the aforementioned persons in accordance with the provisions of section 105 by which it shall determine:

- (a) The term of the license or exemption or the regulatory decision or decision which, in CERA's opinion may be infringed at first sight or which is likely to be infringed by the license holder or the holder of an Order or prior permit or the person who has been granted an exemption.
- (b) The acts or omissions which in CERA's opinion may or are likely to constitute an infringement of the relevant term, decision or regulatory decision of CERA.
- (c) The deadline within the license holder or the holder of an Order or prior permit or the person who has been granted an exemption may submit objections in writing, which deadline shall not exceed the 30 day time limit from the date that the notice is notified.

(3) CERA shall examine any objections submitted in accordance with subsection (2).

(4) In examining any objection, CERA may issue a decision by which it shall order the license holder or the holder of an Order or prior permit or the person who has been granted an exemption to take such measures as may be necessary for remedying the infringement or preventing future infringements.

(5) In the event that the license holder or the holder of an Order or prior permit or the person who has been granted an exemption fails to remedy the infringement within one month from being notified of the decision of CERA, in accordance with subsection (4) or within a reasonable period of time as CERA may prescribe by its decision, CERA may:

- (a) impose an administrative fine on the license holder or the holder of an Order or prior permit or the person who has been granted an exemption depending on the nature, seriousness and duration of the infringement or omission as may be prescribed by Regulations issued under this Law; and/or

(b) decide that an administrative fine depending on the seriousness of the case, shall be owed for each day on which the infringement or omission is continuing as referred to above; and/or

(c) revoke an authorisation, exemption, Order or prior permit in accordance with the procedure prescribed by Regulations issued by CERA in accordance with section 97.

(6) CERA's decision to impose an administrative fine or to revoke a license, Order or prior permit must be in writing and duly reasoned.

Imposition of administrative fines

28

(1) CERA's reasoned decision to impose an administrative fine pursuant to section 27(6) shall be notified to the person who has been considered to be responsible for the infringement or omission.

(2) Such person may, after being notified of the decision in accordance with the provisions of subsection (1), make written representations to CERA which must be lodged within 30 days of the notification of the decision.

(3) CERA shall collect the administrative fine if the 75 day time limit for filing a recourse before the Supreme Court of Justice has passed without any action being taken from the date of notification of the decision to impose such administrative fine, or, in the event that the recourse has been filed, following the issuing of a court decision which does not annul the fine.

(4) If a fine imposed by CERA in accordance with this Law and the Regulations issued under it is not paid, CERA shall initiate court proceedings and shall collect the sum as a civil debt due to the Fund of the Office of CERA.

Taking of measures for the protection of competition

29

(1) CERA may take such measures, by the issuing of an order in accordance with subsection (2)(e), without prejudice to the provisions of section (1) of article 22 of the Law for the Protection of Competition, as he considers necessary in order to:

(a) prevent or remedy the abusive exploitation of a dominant position by any authorisation holder by virtue of section 34; or

(b) prohibit or declare invalid, as the case may be, the intentional conclusion or attempt to conclude an agreement by any authorisation holder which has the object or result or will have the result of limiting, obstructing or falsifying competition in the electricity market.

(2) For the purpose of exercising its functions prescribed by subsection (1), CERA:

(a) Shall not be permitted to prohibit or declare invalid any concentration:

(i) Falling within the category of concentrations which has been exempted from those concentrations which are prohibited by virtue of the provisions of the Law for the Protection of Competition of 1989 to (No. 2) of 2000, by order of the Council of Ministers or by publication of a relevant notice by the Commission for the Protection of Competition, by virtue of the said Law;

(ii) Which has been exempted from the said prohibited concentrations by a decision of the aforementioned Commission by virtue of the said Law or in relation to which the Commission is examining an application for exemption,

207 of 1989
111(I) of 1999
87(I) of 2000
155(I) of 2000.

207 of 1989
111(I) of 1999
87(I) of 2000
155(I) of 2000.

207 of 1989
111(l) of 1999
87(l) of 2000
155(l) of 2000.

- (b) May not prohibit, by order issued under paragraph (e), acts of abusive exploitation of dominant position that are prohibited by the for the Protection of Competition of 1989 to (No. 2) of 2000 or concentrations which have been concluded or carried out for the purpose of obstructing, limiting or falsifying competition within the meaning of the said Law;
- (c) May prohibit the intended carrying out of acts of abusive exploitation of dominant position or the intended conclusion or conclusion of agreements that have as their object or shall have the result of obstructing, limiting or falsifying competition, provided that they have not been the subject of a decision in any manner of the Commission for the Protection of Competition and are not pending before the Commission for the taking of a decision in relation thereto;
- (d) May declare invalid such acts of abusive exploitation of dominant position that have already been committed or concentrations that have already been concluded or carried out and have as their object or shall have the result of obstructing, limiting or falsifying competition, provided that, on the one hand, the Commission for the Protection of Competition has not already taken a decision following an own initiative examination or an examination following a complaint, to the effect that there is no abusive exploitation of a dominant position or obstruction, limitation or falsification of competition and, on the other hand, provided that such matter is not pending for examination thereof by the said Commission;
- (e) Issue an order only following consultations and deliberations with the Commission for the Protection of Competition.

Functions of
CERA in respect
of the Natural
Gas Industry

- 30 CERA shall have the following functions in respect of the natural gas industry:
- (a) granting of authorisations for the construction and operation of gas pipeline systems, including direct pipelines;
 - (b) granting authorisations for the generation, transport, distribution, supply or storing of natural gas;
 - (c) taking measures to avoid the abuse of any dominant position in the gas industry;
 - (d) the settlement of disputes with respect to access to gas pipeline systems;
 - (e) ensuring that necessary measures are in place to allow interested persons to obtain access to gas pipeline systems and other facilities including the terms upon which access to the gas pipeline systems will be granted.

PART V – TARIFFS AND CHARGES

Principles
governing Tariffs
and Charges

- 31 (1) Without prejudice to the provisions of this Law and the Regulations that may be issued under it, all tariffs and charges for services regulated by this Law must reflect the costs of providing those services and shall not unduly discriminate between different purchasers of those services.
- (2) CERA may, on the basis of the policy guideline set by the Minister by means of a policy decision, require a licensee or holder of an exemption under this Law, to set prices which depart from the principles specified in subsection (1), provided that such person shall be able to recover all costs incurred in accordance with this Law; and that charges concerning eligible and non-eligible consumers do not lead to an abuse of the dominant position of the Authority or of another licensee.

(1) Persons that have been granted a authorisation or an exemption under this Law, to the extent that their authorisations or exemptions, require, shall ensure that the tariffs or charges they levy for the services they provide under the terms of those authorisations or exemptions have been:

- (a) set in accordance with Regulations and the methodology that is relevant thereto which is prescribed by CERA reflecting costs including reasonable profits;
- (b) approved by CERA; and
- (c) publicly notified in accordance with CERA's requirements.

(2) CERA shall ensure that the terms, conditions and the procedure for reviewing and approving tariffs and charges is specified either in Regulations as well as in the methodology that is relevant thereto which is prescribed by CERA and that this procedure shall include:

- (a) A timetable for the consideration by CERA of applications for approval; and
- (b) Opportunity for customers and other persons to comment on such applications.

(3) CERA shall ensure that licensees or holders of exemptions, are permitted to recover all reasonable costs incurred in the operation of the business on an efficient basis, including but not limited to:

- (a) The costs of fuel, wages and salaries, other operating and maintenance costs;
- (b) Provision for capital depreciation;
- (c) A reasonable return on the capital employed; and
- (d) The costs of Public Service Obligations imposed on the licensee in accordance with this Law or other laws, and
- (e) The costs arising from ancillary services.

(4) In deciding on the appropriate level of tariffs or other charges, CERA shall also have regard to the following, in addition to that which is provided by subsections (1), (2) and (3) above:

- (a) The protection of consumers against monopolistic prices; and
- (b) Encouraging efficiency and quality of services in the operations of the holder of the authorisation or exemption.

(1) The Minister may, following a proposal made by CERA and after having obtained the necessary approvals from the Commission, issue an Order providing for the payment of an annual sum for generating stations for which the Authority holds a n authorisation of exemption, in relation to which the Authority is unable to recover specified costs or revenue authorisation.

(2) This Order may provide for the recovery from final customers of the amounts to be paid by the Authority for its stranded investments.

(3) The sum referred to in subsection (1) shall be calculated in accordance with the Order in respect of the annual specified amounts of unrecovered costs or revenue that may occur in each single year applied.

(4) Notwithstanding the generality of subsections (1) and (2), the Council of Ministers may issue regulations (the "standard cost regulations") which provide for:

- (a) A levy on final customers in respect of electricity provided to such customers;
- (b) The collection of payments by the use of the procedure provided in paragraph (a) above by authorisation holders under this Law;
- (c) The making of payments to the Authority, out of such payments so collected under paragraph (b);
- (d) a condition that any amount paid to the Authority under the Ministerial Order referred to in subsection (1) shall be used for purposes specified in the stranded cost Regulations and that CERA shall have the power to ascertain whether such a condition is being complied with;
- (e) Conditions, according to which the collected levy would be paid to the Authority;
- (f) the recovery from the Authority of an amount or part thereof paid to it under the Ministerial Order referred to in subsection (1) where this amount has not been used in accordance with the stranded cost Regulations; and
- (g) The certification by CERA in respect of each year in the specified period of years that in that particular year the conditions specified in the stranded cost Regulations have been satisfied.

(5) The stranded cost Regulations referred to in subsection (4) may:

- (a) Require that the Authority furnish records or other information or afford facilities for determining the level of stranded costs;
- (b) Provide for the time at which payments, whether payments by way of levy or payments to Authority are to be made;
- (c) provide for the require the amount of any overpayment or underpayment which is made by or to any person to be set off against or added to any subsequent liability or entitlement of that person; and
- (d) Provide for the date of termination of the arrangement.

(6) The Minister shall exercise the powers conferred by this section so as to ensure that the sums realised by the levy are sufficient, after the payment of the administrative expenses of authorisation holders to supply under section 31 incurred in the collection of the levy. The aforementioned sums shall be used for paying the Authority the payments required to be made by the aforementioned Regulations.

(7) A draft of the Order referred to in subsection (1) shall be given to the Authority by the Minister one month before the Order is issued.

PART VI – ISSUING OF AUTHORISATIONS AND PROVISION OF EXEMPTIONS

Requirement to
hold a
Authorisation

34

(1) Subject to section 35 no person shall carry out any of the following activities unless that person has been granted an authorisation by CERA under the terms of this Law:

- (a) Constructing a generating plant or generating electricity;
- (b) Supplying electricity to eligible consumers;
- (c) Supplying electricity to non-eligible consumers;

- (d) Discharging any of the functions of the Transmission System Operator in accordance with section 59;
- (e) Discharging any of the functions of the Transmission System Owner in accordance with section 46; or
- (f) Discharging any of the functions of the Distribution System Owner in accordance with section 52.

(2) A person who has been granted an authorisation to supply electricity in accordance with the provisions of this Law shall have available sufficient generating capacity installed in the Republic.

(3) An authorisation granted under the terms of this Law shall not exempt the authorisation holder from obtaining any other approvals required under any law.

Provision of Exemptions
4 of N. 239(I)/2004 (replacement)

35 (1) CERA may grant an exemption from the requirement to hold an authorisation for activities referred to in paragraphs (a) and (b) of section 34(1), subject to such terms and conditions as it may specify.

(2) An exemption may be granted for:

- (a) **The self generation of electricity of power not exceeding 1MW capacity by any person or persons of a particular class;**
- (b) **The generation of electricity from renewable sources of energy not exceeding 5MW capacity; or**
- (c) **The supply of electricity by a particular person the total capacity of which does not exceed 0,5 MW for each generating station.**

(3) **Any person intending to exercise one or more of the activities referred to in paragraphs (a) to (c) of subsection (3) shall submit an application to CERA for the granting of an exemption in a form specified by CERA.**

(4) **Exemptions granted under this section shall be filed in the Register.**

(5) **The provisions of section 16 shall apply *mutatis mutandis*.**

(6) An exemption, which has not been previously revoked in accordance with any term contained in the exemption, shall continue to be in force for such period as may be specified in or determined by the exemption.

Authorisation Conditions

36 (1) Without prejudice to the provisions of section 38(2) and of the Regulations that may be issued in accordance with section 97(2)(d), an authorisation granted under this Law may contain such terms, conditions and limitations as CERA considers necessary in the circumstances.:

Provided that the aforementioned terms, conditions and limitations do not create or allow for undue discrimination between authorisation holders.

(2) Any authorisation granted under this section shall contain terms specifying that:

- (a) The authorisation shall be subject to modification for the purposes of compliance with any amendment or review of the legislation;
- (b) The authorisation holder shall pay such fee as specified in relevant Regulations on authorisation fees;

		(c) The authorisation holder shall maintain separate accounts for each of the activities that are required to be licensed under section 341).
Applications for the granting of Authorisations	37	(1) Any application for the granting of an authorisation under this Law shall be submitted to CERA in the form laid down by Regulations relevant to the granting of authorisations, and shall be accompanied by such information and any fees as the Regulations may provide.
5 of N. 239(I)/2004 (new subsection)		(2) A person may submit an application according to the provisions of subsection (1) only if:
		(a) He is a natural person, he is a citizen of a member state and resides in a member state;
		(b) If he is a legal person, it is established in a member state and in the case of a company, it has been incorporated in accordance with the legislation of a member state and has its statutory place of establishment, its central management or its main place of establishment within the European Community.
Consideration of Applications and Granting of Authorisations	38	(1) Where CERA issues a decision for the granting of an authorisation, CERA shall follow such procedure as may be laid down by Regulations which are relevant to the granting of authorisations and shall take into consideration the following criteria and such instructions relating to government policy as the Minister may publish from time to time:
		(a) the safety and security of the electricity system, installations for generating electricity and electricity lines;
		(b) the protection of the environment including the limitation of emissions to the atmosphere, water or land;
		(c) the siting of electricity generating stations and associated land use;
		(d) the efficient use of energy,
		(e) the nature of the primary source of energy to be used by a generating station,
		(f) the qualifications of an applicant, including the technical and financial qualifications of the applicant for carrying out the activity, and
		(g) Public Service Obligations in accordance with section 88.
Rejection of the application for the granting of an authorisation	39	Where CERA rejects any application for the granting of an authorisation:
		(a) It shall notify the applicant in writing, of the reasons for the refusal,
		(b) Within 28 days of rejecting the application, it shall notify the Commission in writing the reasons for the rejection of the application.
Modification and Revocation of Authorisations	40	An authorisation granted under this Law shall be subject to modification or revocation in accordance with procedures laid down in Regulations relevant to the granting of authorisations issued by CERA.

Orders and prior permits Cap 170 2 of 1976 26 of 1979 141 of 1990 42(I) of 2002	41	<p>(1) Without prejudice to the provisions of section 35, any person who has been granted an Order or prior permit under section 4 and section 9 respectively of the Electricity Law on or before the date on which sections 34 and 35 enter into force shall submit an application for the granting of an authorisation or exemption under the aforementioned section of this Law within 6 months or such other period as may be decided by CERA from the entry into force of this section.</p> <p>(2) Any application submitted to the Minister or the Director of the Department of Electromechanical Services for the issuing of an Order or permit under section 4 and section 9, respectively, of the Electricity Law which has not been the subject of a decision by the Minister or the Director of the Department of Electromechanical Services before the date on which sections 34 and 35 enter into force, respectively, shall be deemed to be an application for the issuing of an authorisation or for the granting of an exemption under sections 34 and 35, respectively and shall be considered accordingly by CERA.</p> <p>(3) An authorisation issued by CERA to replace an Order granted pursuant to section 4 of the Electricity Law shall contain conditions which place the authorisation holder in substantially the same economic position as he was in when operating under the Order.</p> <p>(4) An exemption issued by CERA to replace a permit granted pursuant to section 9 of the Electricity Law shall contain conditions which place the holder of the exemption in substantially the same economic position as he was when operating under the permit.</p> <p>(5) Any Order or prior permit granted pursuant to sections 4 and 9 of the Electricity Law, respectively, issued on or before the date on which sections 34 and 35 enter into force, shall expire either 12 months after the date on which CERA grants an authorisation CERA or an exemption replacing such Order or prior permit, whichever is the earlier. The time limit of 12 months as referred to above shall be extended where this is deemed necessary due to the extension of the 6 month time period for the submission of an application as referred to in subsection (1).</p> <p>(6) From the date on which sections 34 and 35 enter into force, only CERA shall exercise the power to modify or revoke an Order or prior permit issued under sections 4 and 9, respectively, of the Electricity Law.</p>
Cap 170 2 of 1976 26 of 1979 141 of 1990 42(I) of 2002		
Cap 170 2 of 1976 26 of 1979 141 of 1990 42(I) of 2002		
Cap 170 2 of 1976 26 of 1979 141 of 1990 42(I) of 2002		
Cap 170 2 of 1976 26 of 1979 141 of 1990 42(I) of 2002		
Tendering Procedure for New Generating Capacity	42	<p>(1) If, at any time, CERA is satisfied, having regard to section 24(1)(f), that the electricity generating capacity being built is not sufficient to ensure security of supply of electricity in the Republic, it shall notify the Minister.</p> <p>(2) The Minister shall, following consultation with CERA and the Transmission System Operator, issue an order to be published in the Official Gazette of the Republic by which he shall establish the procedure for submitting tenders, the necessary generation, as well as the manner and terms for making this new capacity available and shall require CERA to see to the carrying out of the procedure for the construction of new generating capacity.</p> <p>(3) As soon as possible following the publication of the Order referred to above, CERA shall prescribe by decision published in the Official Gazette of the Republic, the terms, conditions and criteria that applicants to the tendering procedure shall have to meet.</p>

(4) CERA shall invite applications for the construction of new generating capacity in the Republic in accordance with the procedures specified in the Order made pursuant to subsection (2).

Eligible Consumers 43 An eligible consumer may enter into contracts for the purchase of electricity from any person holding an authorisation for the supply of electricity.

Eligible Consumer Order 44 (1) The Minister may, following consultation with CERA, issue an Order concerning eligible consumers prescribing the manner of and criteria by which the consumption of electricity is to be calculated for the purpose of establishing whether a consumer is an eligible consumer or not.

(2) The Order issued pursuant to subsection (1) shall:

- (a) Set out the manner of and criteria by which the consumption of electricity is to be calculated;
- (b) Set the electricity consumption threshold, in GWh, measured over a twelve-month period, which shall define whether a consumer is an eligible consumer or a non-eligible consumer.

(3) The Minister may amend the Order issued by virtue of subsection (1), after having published a notice in the Official Gazette of the Republic on his intention to make such an amendment.

(4) The Minister shall carry out a consultation, before making any amendment to the Order.

PART VII – PROVISIONS CONCERNING THE TRANSMISSION SYSTEM OWNER AND THE DISTRIBUTION SYSTEM OWNER

General duties of the Transmission System Owner 45 It shall be the duty of the Transmission System Owner to construct and maintain an efficient, co-ordinated, safe, secure, reliable and economical transmission system, in accordance with the Transmission System Operator's development plan and the Transmission Control Protocol and having due regard for the protection of the environment.

Functions of the Transmission System Owner 46 The Transmission System Owner shall:

- (a) Carry out maintenance and construction work in accordance with the development plan and the terms of the Transmission Control Protocol and such design and development work as assigned to the Transmission System Owner under the Transmission Control Protocol;
- (b) Implement any other works required under the development plan, and comply with any other requirement applicable to it under this Law, having due regard for the protection of the environment;
- (c) Inform the Transmission System Operator and CERA, within such period as shall be specified in a decision of CERA, the measures which it proposes to take to implement the development plan in accordance with the Transmission Control Protocol.

Restriction on the disposal of the assets of the transmission system 47 The Transmission System Owner shall not dispose of or decommission any assets constituting part of the transmission system nor create any encumbrance over the transmission system without prior approval, in writing, from CERA.

Duty of non-discrimination by the Transmission System Owner	48	In carrying out its functions, the Transmission System Owner shall not act in such a way so as to discriminate unfairly between persons or classes of persons, or between system users or classes of system users, and in particular, it shall not act in such a way so as to discriminate unfairly in favour of its subsidiaries, associated or affiliated undertakings, joint ventures or shareholders where it participates.
Approval of use of the Transmission System for non energy related purposes.	49	<p>(1) Notwithstanding the provisions of section 34 and without prejudice to the provisions of section 12(3) of the Electricity Development Law concerning the issuing of a permit, the Transmission System Owner may, upon obtaining the written approval of CERA as well as any other authorisation, permit, or approval that may be necessary under the laws of Cyprus, use the transmission system for other non-energy related purposes.</p> <p>(2) CERA having consulted with the Transmission System Operator, shall only approve the use of the transmission system for other non-energy related business proposed by the Transmission System Owner, on condition that CERA is satisfied that the carrying on of the proposed non-energy related business will not conflict with or restrict:</p> <p>(a) The performance of the obligations of the as Transmission System Owner in accordance with its authorisation as Transmission System Owner; or</p> <p>(b) The performance by the Transmission System Operator of its authorisation obligations under the Transmission System Operator's authorisation.</p>
Cap 170 2 of 1976 26 of 1979 141 of 1990 42(I) of 2002		
Transmission System Owner's allowed revenue	50	The Transmission System Owner shall collect revenue to be used for the discharge of its authorisation obligations. Such revenue shall be through tariffs and charges approved by CERA pursuant to section 32 and 85.
General duties of the Distribution System Owner	51	It shall be the duty of the Distribution System Owner to develop and maintain an efficient, co-ordinated, safe, secure, reliable and economical distribution system, with a view to ensuring that all reasonable demands for electricity are met and having due regard and care to the protection of the environment,
Functions of the Distribution System Owner	52	<p>The Distribution System Owner shall:</p> <p>(a) Operate a safe, secure, reliable and economical and efficient distribution system;</p> <p>(b) Establish protocols with the Transmission System Operator furthering the operation of a co-ordinated transmission system and distribution system;</p> <p>(c) charge for the connection to and use of the distribution system in accordance with tariffs and charges approved by CERA pursuant to section 32 and 85; and</p> <p>(d) Offer terms and enter into connection agreements or protocols with electricity undertakings seeking to connect to or use the distribution system.</p>
Restriction on the disposal of assets of the distribution system	53	The Distribution System Owner shall not dispose of or decommission any assets constituting part of the distribution system nor create any encumbrance over the distribution system without prior approval, in writing, of CERA.

Duty of non-discrimination by Distribution System Owner 54 In carrying out its functions, the Distribution System Owner shall not discriminate unfairly as between persons or classes of persons, or between system users or classes of system users, particularly in favour of its subsidiaries, associated or affiliated undertakings, joint ventures or shareholders.

Approval of use of the Distribution System Owner for non energy related purposes Cap. 171 10 of 1960 16 of 1960 24 of 1963 45 of 1969 53 of 1977 31 of 1979 116 of 1990 250 of 1990 40(I) of 1995 15(I) of 1996 75(I) of 1998 143(I) of 1999 158(I) of 2000 55 (1) Notwithstanding the provisions of section 34, regarding the issuing of an authorisation, the Distribution System Owner may, upon obtaining the written approval of the Minister in accordance with section 12 of the Electricity Development Law and CERA's written approval, use the distribution system for other non-energy related purposes.

(2) CERA having consulted with Distribution System Owner will only approve the use of the distribution system for other non-energy related business proposed by the Distribution System Owner provided it is satisfied that the carrying on of the proposed non-energy related business will not conflict with or restrict the Distribution System Owner's performance of its authorisation obligations.

Distribution System Owner's allowed revenue 56 The Distribution System Owner's allowed revenue for the discharge of its authorisation obligations shall be through tariffs and charges approved by CERA pursuant to section 32(1)(b);

PART VIII – CREATION OF THE TRANSMISSION SYSTEM OPERATOR

Licensing of Transmission System Operator 57 (1) A division called the "Transmission System Operations Unit" shall be created on the basis of a decision of the Board of Directors of the Authority.

(2) (a) The Council of Ministers shall appoint a person to the office of Director of the Transmission System Operator who shall be referred to from here on as the TSO Director.

Provided that the Council of Ministers may previously deliberate with the Board of Directors of the Authority.

6 of N. 239(I) of 2004.

(b) Deleted

224 of 1990
106(I) of 1992
15(I) of 1993
31(I) of 1993
53(I) of 1993
44(I) of 1996
34(I) of 1997
15(I) of 2002
24(I) of 2002
221(I) of 2002
19(I) of 2003

(3) The TSO Director shall be of the highest moral and professional level and must have experience and knowledge in the field of electrical engineering and must be a registered member of the Scientific and Technical Chamber of Cyprus in the relevant field in accordance with the Scientific and Technical Chamber of Cyprus Law of 1990 to 2003

(4) The TSO Director shall be appointed for a period of 6 years.

(5) The holding of the office of TSO Director shall not be compatible with the maintenance or holding of any post within the Authority or any other service, company or organisation. A person appointed as TSO Director must not exceed his 63rd year of age in the calendar year during which he is appointed for a second term in that post.

(6) The appointment of a person to hold office as TSO Director shall be limited to a maximum of two terms of office.

(7) The Transmission System Operations Unit shall be the Transmission System Operator following the grant of an authorisation by CERA in accordance with section 34.

Termination of the appointment of the TSO Director

58 The TSO Director may:

- (a) Resign from that office by giving notice in writing to the Council of Ministers;
- (b) Be removed from office by the Council of Ministers if in the opinion of the members of the Council of Ministers he has become incapable through ill health of effectively performing his duties or for behaviour that is incompatible or improper in relation to his duties. A statement of the reasons for such removal shall be made before the House of Representatives.

Staff and performance of functions of the Transmission System Operator

59 (1) (a) The staff of Transmission System Operator shall come from the staff of the Authority and shall be subject to the TSO Director concerning the exercise of the functions of the Transmission System Operator. The said staff shall be subject to the procedures, Regulations and service schemes regulating the employees of the Authority with regard to the procedures of appointment, employment terms and promotions schemes, benefits, retirement and disciplinary code.

(b) The TSO Director, immediately following his appointment in that post by the Council Of Ministers, shall prepare and submit to the Authority and CERA his proposals regarding the needs of the TSO in staff and other expenditures. On the basis of such proposals, the Authority shall deliberate with the TSO Director and with CERA regarding the preparation of the budget of the Transmission System Operator as provided in section 60(1).

(c) Following the approval of the budget of the Transmission System Operator by the House of Representatives, the Authority shall, by means of a decision of the Board of Directors of the Authority, place suitable staff in the Transmission System Operator for covering the needs of the unit in man power.

(2) (a) The TSO Director shall be paid such remuneration and such travelling or other allowances as may be determined by the Council of Ministers on the basis of a proposal of the Ministers of Commerce, Industry and Tourism and Financial Affairs which proposal shall be prepared following consultations with the Authority and CERA.

(b) The Council of Ministers may also prescribe the payment of such allowances, bonuses towards or in relation to a person who has served as TSO Director or such other sums for the purpose of paying allowances or bonuses to a person who has served as TSO Director on the basis of a proposal made by the Ministers of Commerce, Industry and Tourism and Financial Affairs which is prepared following consultations with the Authority and CERA.

(c) The remuneration, allowances and other benefits referred to in paragraphs (a) and (b) above shall be included in the annual budget of the Transmission System Operator provided in section 60(3) and shall be approved by the House of Representatives.

(3) The TSO Director shall exercise the functions of the Transmission System Operator as he deems proper either in person or through any member of his staff and any function assigned to the Transmission System Operator may be carried out by him in person or by any member of the staff of the Transmission System Operator who is authorised by the TSO Director for this purpose.

(4) The TSO Director may engage such consultants or advisers as he may consider necessary to assist him in the discharge of his functions. Any fees due to any consultant or adviser engaged under this section shall form part of the expenses of the Transmission System Operator.

(5) During his term of office the TSO Director shall not:

- (a) Have any financial or other interest, including shareholdings, in any company engaged in the energy sector;
- (b) Hold any other office or employment in respect of which emoluments are payable; and
- (c) Be a member of a political party.
- (d) For a period of 3 years after his resignation, removal or end of term of appointment, hold any post or be employed or act as consultant where he may use or disclose confidential information acquired while exercising his duties and powers as TSO Director.

(6) A person violating the provisions of subsection (5)(d) shall be guilty of an offence and shall be liable on conviction to imprisonment not exceeding twelve months or to a fine not exceeding five thousand pounds or to both such penalties.

(7) (a) The TSO Director shall have civil liability and he may sue and be sued and be a party in any civil proceedings initiated in relation to the performance of the duties, functions and powers of the TSO Director and those of the members of the staff of the Transmission System Operator.

(b) In any proceedings before the courts or before any administrative authority, the TSO Director shall be represented either by a practising lawyer and/or by a member of the staff of the Transmission System Operator.

(8) Subject to the provisions of this Law and the Regulations and Orders issued under it, the TSO Director and the members of the staff of the Transmission System Operator shall not be have personal civil liability for anything occurred or omitted or said, or for any opinion they have expressed, or report or other document they prepared, under the bona fide performance of their duties, functions and powers under this Law and the Regulations and Orders issued under it.

(1) Following discussions with CERA and the TSO Director, the Authority shall agree the budget for the Transmission System Operator for every year of operation of the Transmission System Operator and shall submit the budget to the Council of Ministers and the House of Representatives for approval.

(2) If, following such consultation, the Authority, the TSO Director and CERA are unable to agree the budget for the Transmission System Operator then CERA shall set the budget and submit it to the Council of Ministers and the House of Representatives for approval.

(3) The budget referred to in the above subsections shall concern the payment of expenses in relation to remuneration, allowances and any other expenses concerning the staff of the Transmission System Operator as well as any other expenses of Transmission System Operator.

The budget of the Transmission System Operator shall also include the expenses concerning the TSO Director and which are prepared in accordance with section 59(2) (a), (b) and (c).

Functions of the
Transmission
System Operator

61

(1) The Transmission System Operator shall have the following exclusive functions:

- (a) To operate an efficient, co-ordinated, safe, secure, reliable and economical transmission system;
- (b) To ensure the development and ensure the maintenance of a safe, secure reliable, economical and efficient transmission system;
- (c) To explore and develop any possibility for interconnection of the transmission system with other systems **following directions of the Minister**;
- (d) To ensure the availability of all generating and other services which are necessary to carry out its functions outlined in paragraph (a);
- (e) To establish protocols with the Distribution System Operator furthering the operation of a co-ordinated transmission system and distribution system;
- (f) To operate a system of dispatch and use of the transmission system on objective, non-discriminatory, economical and technical criteria in accordance with:
 - i. The conditions in the authorisation granted in accordance with section 34;
 - ii. The Transmission and Distribution Rules prepared from time to time under section 72; and
 - iii. The Electricity Trading Rules prepared from time to time pursuant to section 79 of this Law,
- (g) To operate and administer the electricity trading arrangements in accordance with the Electricity Trading Rules;
- (h) Should the opportunity arise, to develop, and publish procedures for the use of interconnectors with other transmission and distribution systems;
- (i) To charge for the connection to and use of the transmission system in accordance with section 85;
- (j) to offer terms and enter into protocols or agreements for connection to and use of the transmission system with all those using and seeking to use the transmission system.

7 of N. 239(I) of
2004.

(2) In discharging its functions, the Transmission System Operator shall take into account the objective of minimising the overall costs of the generation, transmission, distribution and supply of electricity to consumers.

(3) The TSO Director shall prepare an annual report on his activities which he shall promptly send to CERA. The annual report of the TSO Director shall form part of CERA's annual report which shall be prepared in accordance with the provisions of section 18.

Preparation of a Development Plan for the transmission system. 62

(1) The Transmission System Operator shall prepare a development plan for the development of the transmission system in order to guarantee security of supply of electricity.

(2) The transmission system development plan shall cover a period of ten calendar years.

(3) The transmission system development plan shall be submitted by the Transmission System Operator to CERA for approval. The plan shall enter into force from the date of it being approved by CERA.

(4) The Transmission System Operator shall, at least once each year, revise the aforementioned transmission system development plan, and submit the revised development plan to CERA for approval.

(5) The development plan shall take account of:

(a) Existing and planned generation, transmission, distribution and supply on a regional basis in the Republic;

(b) Forecast statement prepared under section 87;

8 of N. 239(I) of 2004.

(c) **interconnections or opportunities for interconnections with other transmission and distribution systems which have been examined following the instructions of the Minister according to the provisions of section 61(1)(c); and**

8 of N. 239(I) of 2004.

(d) **complete and regional development objectives in the Republic.**

(6) The development plan shall indicate the manner in which the Transmission System Operator shall discharge its functions under subsection (1).

(7) The Transmission System Operator shall:

(a) engage in a public consultation process, including any other form of consultation require as a result of a decision by CERA, before submitting the transmission system development plan to CERA for approval, and

(b) report in writing to CERA on the results of such consultations made on the basis of paragraph (a) when submitting the development plan to CERA for approval.

Independence of the Transmission System Operator 63

(1) The Transmission System Operator shall not engage in the generation, distribution or supply of electricity in the Republic.

(2) The Transmission System Owner shall neither direct nor give any instructions to the Transmission System Operator in relation to any of the functions conferred on the Transmission System Operator.

(3) The Transmission System Owner shall, within such period as shall be specified in a Regulatory Decision of CERA, comply with any requirements considered necessary by the Transmission System Operator to enable the Transmission System Operator to exercise its functions.

(4) Subject to section 66(1) and (2), the Transmission System Protocol made under section 66 shall be the basis of the relationship between the Transmission System Operator and the Transmission System Owner.

(5) The Transmission System Owner shall not exercise its property rights in a manner which would interfere with the obligations on the Transmission System Operator in carrying out its functions.

(6) Nothing in subsection (3) shall be construed as affecting:

(a) any terms or conditions in the authorisations issued to the Transmission System Operator and the Transmission System Owner;

(b) any protocols or agreements for connection to and use of the transmission system.

Allocation of resources to Transmission System Operator

64

(1) The Transmission System Owner shall, subject to section 60 and subsection (2) of this section, make available to the Transmission System Operator such resources, including financing, staff and premises, as are necessary for the Transmission System Operator to discharge its functions.

(2) CERA may make a Regulatory Decision instructing the Transmission System Owner in respect of the allocation of resources for the purposes of subsection (1).

Duty of non-discrimination by Transmission System Operator

65

In carrying out its functions, the Transmission System Operator shall not discriminate unfairly between persons or classes of persons, or between system users or classes of system users, particularly in favour of its subsidiaries, associated or affiliated undertakings, joint ventures or shareholders.

Transmission System Protocol

66

(1) The Transmission System Operator and the Transmission System Owner shall, subject to the approval of CERA, enter into a Transmission System Protocol for the purpose of enabling the Transmission System Operator to exercise its functions.

(2) Subject to subsection (1), CERA may make a Regulatory Decision requiring the Transmission System Operator and the Transmission System Owner to include such terms in the Transmission System Protocol as CERA considers necessary.

(3) When, in the opinion of CERA and the Minister, the Transmission System Protocol should be amended, CERA shall make a Regulatory Decision requiring the Transmission System Operator and the Transmission System Owner to agree such amendments as identified by CERA.

(4) CERA may, for the purposes of exercising its power to approve the Transmission System Protocol, consult with the Commission for the Protection of Competition.

(5) CERA shall, in particular, ensure that the Transmission System Protocol incorporates terms and conditions which,:

(a) enable the Transmission System Operator fully and effectively to discharge its functions;

(b) ensure that the Transmission System Owner will facilitate the discharge by the Transmission System Operator of its functions; and

(c) ensure the performance of the Transmission System Owner of its own duties and functions.

(6) The Transmission System Protocol shall provide for the Transmission System Owner to maintain the transmission system and carry out construction work in accordance with the Transmission System Operator's development plan, using the Transmission System Owner's resources and contractors.

Allowed Revenue 67 The Transmission System Operator's allowed revenue shall be through tariffs and charges approved by CERA pursuant to section 32(1)(b) and 85 and shall be paid to the Transmission System Owner for covering any part or the whole, if there is enough, of the expenses incurred by the Transmission System Owner on the basis of section 64(1).

Form of Transmission System Protocol 68 The Transmission System Protocol shall include the following in such type or form as shall be approved by CERA:

- (a) a specification of which assets of the Transmission System Owner shall constitute the transmission system, including the technical operating limits of such assets, and how this specification may change over time;
- (b) provisions for maintenance and development of the transmission system;
- (c) provisions regarding construction, connection to and use of the transmission system by third parties;
- (d) arrangements for the transfer of information between the Transmission System Owner and the Transmission System Operator in relation to the development plan, its implementation and costs thereof;
- (e) provisions regarding rights and responsibilities for de-energisation and disconnection;
- (f) provisions relating to the insurance cover to be carried by the Transmission System Owner and Transmission System Operator;
- (g) provisions regarding the term, expiry and renewal of the Transmission System Protocol;
- (h) provisions regarding review of the Transmission System Operator's and Transmission System Owner's performance of the Transmission System Protocol

Compliance with the Transmission System Protocol 69 (1) CERA shall monitor the operation of the Transmission System Protocol, including the specific measures provided for in section 70.

(2) Where CERA is of the opinion that either the Transmission System Operator or the Transmission System Owner is systematically failing to comply with the terms of the Transmission System Protocol, or with any provision of Part VI of this Law, in a way which is likely to materially affect the public interest, CERA may make a new decision following deliberations with the Minister which:

- (a) Requires the Transmission System Operator or the Transmission System Owner, as appropriate, to comply with the Transmission System Protocol or with the provisions of Part VI of this Law, and
- (b) prescribes the manner in which the Transmission System Operator or the Transmission System Owner, as appropriate, shall comply with CERA's Decision so issued.

(3) If the Transmission System Owner materially breaches its obligations under the Transmission System Protocol, the Transmission System Operator shall, upon obtaining the approval of CERA, take immediate steps to arrange for work to be undertaken by a contractor approved pursuant to the provisions included in the Transmission System Protocol and the costs of such work to be undertaken shall be borne by the Transmission System Owner.

Emergencies 70

(1) Where, in the opinion of the Transmission System Operator, an emergency occurs where the safety or security of the transmission system, persons, apparatus or installations is threatened, the Transmission System Operator may take whatever safeguarding or remedial measures it thinks fit to remedy the emergency, and shall inform CERA and the Transmission System Owner forthwith of the nature of the emergency and the action taken or proposed to be taken.

(2) Where, in the opinion of the Transmission System Owner, an emergency occurs where the physical safety or security of persons is threatened, the Transmission System Owner shall, subject to such arrangements or conditions as may be provided for in the transmission control protocol, take whatever safeguarding or remedial measures it thinks fit to remedy the emergency, and shall inform CERA and the Transmission System Operator forthwith of the nature of the emergency and the action taken.

(3) When, in the opinion of CERA, the emergency referred to in subsections (1) and (2) has been remedied to CERA's satisfaction, CERA may make a Regulatory Decision requiring the Transmission System Operator to cease the safeguarding or remedial measures it is taking, and to make such arrangements as provided for in CERA's Regulatory Decision for any further maintenance, development or other work on the transmission system as may be necessary.

Decision on Disputes 71

(1) CERA shall decide on any difference or dispute between the Transmission System Operator and the Transmission System Owner and following deliberations with the Minister shall issue a Decision regarding its findings, regarding the matter in dispute

(2) The Transmission System Operator and the Transmission System Owner shall have to comply with such a Decision of CERA referred to in subsection (1).

PART IX – ACCESS TO THE TRANSMISSION AND DISTRIBUTION SYSTEM

Transmission and Distribution Rules 72

(1) Subject to the provisions of subsection (3), CERA shall issue a regulatory decision by which it shall instruct the Transmission System Operator to draft and publish technical rules, subject to the approval of CERA, relating to the operation of the transmission system which will form part of the Transmission and Distribution Rules.

(2) Subject to the provisions of subsection (3), following consultations, CERA shall issue a regulatory decision by which it shall instruct the Distribution System Owner to draft and issue technical rules, subject to the approval of CERA, relating to the distribution system which will form part of the Transmission and Distribution Rules.

(3) CERA may from time to time instruct the Transmission System Operator and the Distribution System Owner in respect of:

- (a) The matters to be specified in the Transmission and Distribution Rules, and
- (b) The review and revision by the Transmission System Operator and the Distribution System Owner from time to time of the Transmission and Distribution Rules.

(4) The Transmission System Operator shall not publish the Transmission and Distribution Rules until:

		<ul style="list-style-type: none"> (a) CERA has completed a consultation in respect of the Transmission and Distribution Rules with the Transmission and Distribution Committee and any other person whom CERA wishes to involve in such consultation; and (b) CERA has approved the Transmission and Distribution Rules.
Scope of the Transmission and Distribution Rules	73	<p>(1) The Transmission and Distribution Rules shall:</p> <ul style="list-style-type: none"> (a) govern the technical requirements and constraints that will apply wherever authorisation holders wish to connect to the transmission system and/or distribution system or use the transmission system or distribution system for the transportation of electricity; (b) ensure that the technical conditions that apply to authorisation holders who wish to connect to or use the transmission system or distribution system do not result in them being subject to undue discrimination; (c) foster efficiency, reliability, and economy in the use and development of the transmission system and the distribution system; and <p>(2) The provisions of the Transmission and Distribution Rules shall be observed by all authorisation holders or persons who have been granted exemptions, respectively, to the extent that their authorisations or exemptions require respectively.</p>
Revision and amendment of the Transmission and Distribution Rules	74	<p>(1) Following the initial approval of the Transmission and Distribution Rules pursuant to section 72, the Transmission System Operator shall from time to time review the Transmission and Distribution Rules and, where it considers it necessary recommend changes to the Transmission and Distribution Rules where:</p> <ul style="list-style-type: none"> (a) CERA requests such a review; or (b) the Transmission System Operator determines that such a review is desirable, on the basis of views expressed by authorisation holders or other interested parties. <p>(2) Any such review of the Transmission and Distribution Rules shall be carried out by the Transmission System Operator in consultation with all relevant authorisation holders and all other interested persons. Such consultation shall be carried out fully in accordance with any provisions contained in the Transmission and Distribution Rules governing procedures for consideration of changes thereto.</p> <p>(3) Where following a review of the Transmission and Distribution Rules, the Transmission System Operator determines that changes to the Transmission and Distribution Rules are necessary, it shall publish and submit to CERA for approval details of the proposed changes.</p>
Entry into force of changes to the Transmission and Distribution Rules	75	No changes proposed by the Transmission System Operator to the Transmission and Distribution Rules shall enter into force until they have been approved by CERA and published.
Establishment of Transmission and Distribution Rules Advisory Committee	76	(1) The Transmission and Distribution Rules Advisory Committee is established by virtue of this section.

(2) The Transmission and Distribution Rules Advisory Committee shall be chaired by the TSO Director who shall summon the Advisory Committee which shall be comprised of one representative from the following:

- (a) The Transmission System Owner;
- (b) The Distribution System Owner;
- (c) The Authority generation;
- (d) The generators and/or suppliers other than the Authority;
- (e) The trade unions of workers in the electricity field;
- (f) Eligible consumers;
- (g) Non-eligible consumers;
- (h) **CERA or the Office of CERA;**
- (i) The Ministry;
- (j) The Department of Electromechanical Services of the Ministry of Communications and Works;

9 of N. 239(I) of 2004.

(3) The Transmission and Distribution Rules Advisory Committee shall regulate its operations by means of internal regulations.

(4) Any amendment to the Transmission and Distribution Rules proposed by the Chairman or a member of the Transmission and Distribution Rules Advisory Committee in accordance with section 74 shall be submitted by the Chairman of the Transmission and Distribution Rules Advisory Committee to CERA along with the comments of the other members of the Transmission and Distribution Rules Advisory Committee.

Payment of appearance costs, refunds, travelling costs and other benefits to the Chairman and members of the Transmission and Distribution Rules Advisory Committee.

77 The Chairman and members of the Transmission and Distribution Rules Advisory Committee shall be remunerated by the Transmission System Operator such appearance costs, refund for each meeting of the Transmission and Distribution Rules Advisory Committee, travelling costs as well as any other benefits as may be decided by the Council of Ministers from time to time for Chairmen and members of semi-governmental organisations.

Functions and powers of the Transmission and Distribution Rules Advisory Committee.

78 The Transmission and Distribution Rules Advisory Committee shall have the function and power to:

- (1) assist in any periodic review of the Transmission and Distribution Rules which are carried out following the instructions of CERA or the Transmission System Operator;
- (2) bring any provision in the Transmission and Distribution Rules which may require amendment to the attention of the Transmission System Operator;
- (3) monitor and inform the Transmission System Operator of any changes in international best practice in relation to the technical rules governing the transmission and distribution systems of other states.

Electricity Trading Rules

79 (4) Subject to subsection (2), CERA may instruct the Transmission System Operator to draft and publish the Electricity Trading Rules.

(2) The Transmission System Operator shall not publish the Electricity Trading Rules until:

- (a) CERA has completed a consultation relating the Electricity Trading Rules with the Transmission and Distribution Rules Advisory Committee; and

- (b) it receives a written approval of the Electricity Trading Rules from CERA and the Minister.

(3) CERA may from time to time following the first publication of the Electricity Trading Rules, and following such consultation with such authorisation holders and other persons as CERA may deem necessary to involve in the consultation, instruct the Transmission System Operator in respect of:

- (a) The review and revision of the Electricity Trading Rules by the Transmission System Operator; and
- (b) the issues that may be prescribed by the Electricity Trading Rules;

Scope of the
Electricity Trading
Rules

80

(1) The Electricity Trading Rules shall:

- (a) govern the mechanisms, prices, and other terms and conditions that will apply wherever authorisation holders purchase or sell electricity through arrangements operated by the Transmission System Operator;
- (b) ensure that all authorisation holders who are required to participate in the purchase or sale of electricity through such arrangements are not subject to undue discrimination;
- (c) foster efficiency, economy, and competition in the purchase and sale of electricity through such arrangements;

(2) The Electricity Trading Rules shall be observed by all authorisation holders or persons who have been granted exemptions, on the basis of section 35 to the extent that their authorisations or exemptions require.

(3) Following the first approval of the Electricity Trading Rules pursuant to section 79, the Transmission System Operator shall from time to time review and, where it considers it necessary recommend changes to the Electricity Trading Rules where:

- (a) the Minister or CERA request such a review; or
- (b) the Transmission System Operator determines that such a review is desirable, on the basis of views expressed by authorisation holders or other interested parties.

(4) Any such review of the Electricity Trading Rules shall be carried out by the Transmission Operator in full consultation with all relevant authorisation holders and all other interested parties. Such consultation shall be carried out fully in accordance with any provisions contained from time to time in the Electricity Trading Rules and governing procedures for consideration of changes.

(5) Where following a review of the Electricity Trading Rules the Transmission System Operator determines that changes to the Electricity Trading Rules are necessary, it shall publish and submit to CERA for approval details of the proposed changes.

(6) No changes proposed by the Transmission System Operator shall be put into effect until they have been approved by CERA and published.

Establishment of
Electricity Trading
Rules Advisory
Committee

81

(1) The Electricity Trading Rules Advisory Committee is established by this section.

(2) The Electricity Trading Rules Advisory Committee shall have the function and power to:

- (a) assist in any periodic review of the Electricity Trading Rules Trading and Settlement Rules which CERA or the Transmission System Operator instructs to be carried out;
- (b) bring any provision in the Electricity Trading Rules which may require amendment to the attention of the Transmission System Operator;
- (c) monitor and inform the Transmission System Operator of any changes in international best practice in relation to the technical rules governing the transmission systems and distribution systems of other states.

(3) The Electricity Trading Rules Advisory Committee shall be chaired by the TSO Director who shall summon the Committee which shall be comprised of one representative from the following:

- (a) The Transmission System Owner;
- (b) The Distribution System Owner;
- (c) The Authority generation;
- (d) The generators and/or suppliers other than the Authority;
- (e) The trade unions of workers in the electricity field;
- (f) Eligible consumers;
- (g) Non-eligible consumers;
- (h) **CERA or the Office of CERA;**
- (i) The Ministry;
- (j) The Department of Electromechanical Services of the Ministry of Communications and Works;

(4) The Electricity Trading Rules Advisory Committee shall regulate its operations by means of internal regulations.

(5) Any amendment to the Electricity Trading Rules proposed by the Chairman or a member of the Electricity Trading Rules Advisory Committee in accordance with section 80(3) shall be submitted by the Chairman of the Electricity Trading Rules Advisory Committee to CERA along with the comments of the other members of the Electricity Trading Rules Advisory Committee.

10 of N. 239(l) of 2004.

Payment of appearance costs, refunds, travelling costs and other benefits to the Chairman and members of the Electricity Trading Rules Advisory Committee.

82 The Chairman and members of the Electricity Trading Rules Advisory Committee shall be remunerated by the Transmission System Operator such appearance costs, refund for each meeting of the Transmission and Distribution Rules Advisory Committee, travelling costs as well as any other benefits as may be decided by the Council of Ministers from time to time for Chairmen and members of semi-governmental organisations.

Connection and use of system agreements

83 (1) Subject to subsection (4), where an application is made to the Transmission System Operator by any electricity undertaking, the Transmission System Operator shall offer to enter into an agreement or protocol governing connection to or use of the transmission system.

(2) Subject to subsection (4) where an application is made to the Distribution System Owner by any person, the Distribution System Owner shall offer to enter into an agreement for connection to or use of the distribution system.

(3) Without prejudice to the generality of subsections (1) and (2), Regulatory Decisions made by CERA under this section may provide for:

- (a) The matters to be specified in an agreement or protocol for connection to and use of the transmission or distribution system;
- (b) the matters to be specified in an agreement for use of the transmission or distribution system;
- (c) the terms and conditions upon which an offer for connection to the transmission or distribution system is made;
- (d) the methods for determining the proportion of the costs to be borne by the person making the application for connection to the transmission or distribution system and the Transmission System Owner or Distribution System Owner being costs which are directly or indirectly incurred in carrying out works under an agreement or protocol for a connection or modification of an existing connection;
- (e) the terms and conditions upon which applications for an agreement or protocol governing connection to and use of the transmission distribution system are to be made and the period of time within which an offer or refusal pursuant to such an application is to be made by the Transmission System Operator or the Distribution System Owner; and
- (f) any other matters which CERA considers necessary or expedient for the purpose of making an offer for connection to or use of the transmission or distribution system;

(4) The Transmission System Operator and the Distribution System Owner shall under subsection (1) and (2) respectively not enter into an agreement or protocol where:

- (a) this would be likely to involve the Transmission System Operator or the Distribution System Owner being:
 - (i) in a breach of this Law;
 - (ii) in a breach of Regulations that may be issued under this Law;
 - (iii) in a breach of the Transmission and Distribution Rules in force from time to time; or
 - (iv) in a breach of any condition of the authorisations granted to the Transmission System Operator or the Distribution System Owner, or
- (b) the person making the application does not undertake to be bound by the terms of the Transmission and Distribution Rules in so far as those terms are applicable to that person.

(5) Where the Transmission System Operator or the Distribution System Owner refuses to offer to enter into an agreement under this section the Transmission System Operator or the Distribution System Owner shall serve notice on the applicant of the reasons for such refusal.

(6) Any dispute between the Transmission System Operator or Distribution System Owner and any person who is, or claims to be, a person to whom the Transmission System Operator or Distribution System Owner is obliged to make an offer for connection to and use of the transmission or distribution system, whether as to the making of an offer, the terms offered, the proposed charges or otherwise-

- (a) Where an offer is made by the Transmission System Operator or Distribution System Owner; or

- (b) Where an offer is refused by the Transmission System Operator or Distribution System Owner;

may, upon the application of that person, be resolved by a Decision made by CERA within 30 days.

Non-discrimination

84. The Transmission System Operator or Distribution System Owner shall not discriminate unfairly as between any persons or classes of persons where it provides for the use of the distribution or transmission system or where offering terms for the carrying out of works for the purpose of connection to the distribution or transmission system, .

Charges for Connection and use of transmission or distribution system

85. (1) Subject to subsection (3), within such time as CERA may direct, the Transmission System Operator shall following consultation with the Transmission System Owner prepare a statement for the approval of CERA setting out the basis upon which charges shall be imposed:

- (h) for use of the transmission system; and
- (i) for connection to the transmission system.

(2) Subject to subsection (3), within such time as CERA may direct, the Distribution System Owner shall prepare a statement for the approval of CERA setting out the basis upon which charges shall be imposed:

- (a) for the use of the distribution system; and
- (b) for connection to the distribution system.

11 of N. 239(l) of 2004.

(3)(a) Where there is an intention to connect a direct line with the transmission or distribution system after having first examined the technical specifications and approving same by the Transmission System Operator or the Distribution System Owner, respectively, CERA shall instruct the owner of the direct line constructed in accordance with subsection (1) to transfer the ownership of the direct line to the Transmission System Owner or the Distribution System Owner in accordance with such terms, including terms for refunds, as may be agreed between the Transmission System Operator, the Distribution System Owner and the owner of the direct line.

(b) Where the aforementioned agreement between the Transmission System Operator and the Distribution System Owner is not achieved, then CERA shall decide.

(4) Notwithstanding the generality of subsection (3), Regulatory Decisions made by CERA under this section may provide for:

- (a) the methods of charging to be included in the statements to be prepared by the Transmission System Operator and Distribution System Owner;
- (b) the form and the extent of the information to be provided by the Transmission System Operator and Distribution System Owner to applicants;
- (c) the form of charges and information about those charges to be included in the statement to be prepared by the Transmission System Operator and Distribution System Owner; and
- (d) the procedure to be adopted in the submission to CERA by the Transmission System Operator and Distribution System Owner of a statement of charges and the approval by CERA of such statement.

(5) A charge for connection to or for the use of the transmission system or distribution system shall be calculated in accordance with Decisions issued by CERA under this section so as to enable the Transmission System Operator or the Distribution System Owner to recover:

- (1) the appropriate proportion of the costs directly or indirectly incurred in carrying out any necessary works; and
- (2) a reasonable rate of return on the capital represented by such costs.

(6) CERA will have the sole responsibility for determining what constitutes an appropriate proportion under subsection (5) (a) and a reasonable rate of return under subsection (5)(b).

(7) The Transmission System Operator and the Distribution System Owner shall each send their statements prepared in accordance with subsection (1) and (2) respectively to CERA for its approval and the statement, and in particular any charges referred to therein, shall not apply until such time as it has been approved of by CERA.

(8) CERA shall consult with the Transmission System Operator and Distribution System Owner and have regard to any submission made by the Transmission System Operator and Distribution System Owner to CERA prior to making a decision as to whether to approve any statement submitted in accordance with subsections (1) and (2).

(9) A statement submitted in accordance with subsections (1) and (2) and, in particular, charges referred to therein, shall not take effect until such time as it is approved of by CERA, subject to such modifications, if any, as CERA considers appropriate.

(10) Any charges imposed by the Transmission System Operator or the Distribution System Owner on or before the commencement of this section shall, subject to the approval of CERA, continue in force until statements have been approved of by CERA under this section and thereafter all charges shall be in accordance with a statement approved of by CERA.

Direct Lines

86. (1) Where access to the transmission system or distribution system for holders of authorisations or permits or eligible consumers is refused by the Transmission System Operator or the Distribution System Owner respectively due to lack of capacity CERA may authorise the electricity undertaking to whom such refusal is made to construct a direct line or an eligible consumer to connect with an existing direct line.

(2) An authorisation to construct a direct line granted by CERA under this subsection shall require the person to whom the permission was granted to comply with such technical and other conditions specified in the authorisation issued by CERA.

(3) Where there is a connection made between a direct line and the transmission or distribution systems, on the application of the Transmission System Operator and the Distribution System Owner respectively, CERA shall direct the owner of a direct line constructed under subsection (1) to transfer the ownership of the direct line to the Transmission System Owner or Distribution System Owner on such terms, including terms as to compensation, as may be agreed between the Transmission System Operator and the Distribution System Owner and the owner of the direct line.

(4) In default of agreement between the Transmission System Operator or the Distribution System Owner and the owner of the direct line as to compensation, such compensation shall be assessed under the provisions of the Expropriation of Property Laws of 1962 to 1999.

15 of 1962
25 of 1983
148 of 1985
84 of 1988
92(I) of 1992
63(I) of 1996
74(I) of 1996
30(I) of 1998
135(I) of 1999

Preparation of a
forecast
statement

87. (1) At such intervals as CERA may require by Decision, the Transmission System Operator shall prepare a forecast statement, to be referred to as a "forecast statement" based on the information available to it, in a form approved of by CERA.

(2) A forecast statement shall include forecasts in respect of capacity, forecast flows and loading on each part of the transmission system and fault levels for each electricity transmission node together with:

- (a) such further information as shall be reasonably necessary to enable any person seeking use of the transmission or distribution systems to identify and evaluate the opportunities available when connecting to and making use of the transmission or distribution systems;
- (b) a statement identifying those parts of the transmission system most suited to new connections and to the transport of further quantities of electricity;
- (c) the generating capacity which is likely to be connected to the transmission system;
- (d) the demand for electricity on a national and regional basis in the period to which the statement relates; and
- (e) a statement on the demand for electricity generated from renewable, sustainable or alternative sources generally and a statement on arrangements for the supply of electricity to customers who have opted to purchase such electricity.

(3) The Transmission System Operator may revise from time to time the information set out in the forecast statement and, with the approval of CERA, alter the form of each forecast statement and shall, at least once in every year, revise such statements.

(4) The Transmission System Operator shall give a copy of a forecast statement and of each revision of the forecast statement under subsection (3) to CERA.

(5) Subject to subsection (6), the Transmission System Operator shall give a copy of a forecast statement or, as the case may be, of the latest revision of the forecast statement, to any person who requests a copy of such statement or statements within fourteen days of the date that the request was received.

(6) The Transmission System Operator may, with the prior consent of CERA, omit from a forecast statement given under subsection (4) any confidential details as to the capacity, loading or other information, where disclosure of that information would, in the opinion of CERA, prejudice the commercial interests of the Transmission System Operator or any other person.

(7) The Transmission System Operator may make a charge for each forecast statement given under subsection (4) of an amount which shall not exceed the maximum amount specified by CERA for the purpose of this section.

(8) The period to which the forecast statement relates shall be ten calendar years on and after the date on which the statement is prepared by the Transmission System Operator.

PART X – PUBLIC SERVICE OBLIGATIONS AND CONSUMER PROTECTION

Public Service
Obligations

12 of N.
239(I)/2004.

88. The Minister may, by a decision published in the Official Gazette of the Republic instruct CERA to impose by the issuing of a regulatory decision or where it is deemed necessary by the issuing of Regulations on any authorisation holder, Public Service Obligations which may include obligations in relation to-

- (a) **security of supply;**
- (b) **regularity, quality and price of electricity supply;**
- (c) **environmental protection;**
- (d) **energy efficiency; and**
- (e) **use of indigenous energy sources.**

Renewable
Energy
obligations

89. (1) The regulatory decision or Regulation issued pursuant to section 88 may impose obligations on any authorisation holders a requirement to make such arrangements as are necessary to ensure that, in any calendar year, there shall be available to such authorisation holders a specific quantity of electricity from generating stations chosen as a result of a competitive process, which use as their primary fuel source such renewable, sustainable or alternative forms of energy which operate as combined heat and power plants.

(2) Subject to subsection (1), a regulatory decision or Regulations issued in accordance with section 88 shall provide, inter alia, for:

- (a) the recovery, by way of a levy on consumers in respect of electricity provided to such consumers, of the additional costs including a reasonable rate of return on the capital represented by such costs, where appropriate, incurred by any authorisation holder in complying with the regulatory decision or Regulations issued pursuant to section 88, including costs that may have been incurred by the holder after the variation or revocation of such regulatory decision or Regulations issued pursuant to section 88,
- (b) the collection of payments in that respect by the authorisation holder,
- (c) the making, out of such payments so collected pursuant to paragraph (a), to authorisation holders, as appropriate.

(3) The regulatory decision or Regulations issued pursuant to section 88 may provide that the recovery of any additional costs shall be in respect of a specified period of years and that the amount to be paid in respect of each year in that period to authorisation holders shall be the amount of the additional costs certified by CERA as having been incurred by such authorisation holder in accordance with the Public Service Obligations.

(4) The Minister shall ensure that the sums realised by the levy or otherwise are sufficient for the recovery of sums paid as provided in subsection (2) after the payment of the administrative expenses of holders of authorisations for the collection of the levy).

(5) The Minister may amend or revoke the regulatory decision or Regulations issued pursuant to section 88.

Provided that where a decision is amended or revoked, such amendment or revocation shall contain a provision for the continuation of the imposition of levies referred to in subsection (4) until such time as the licensee recovers the costs which he has incurred in accordance with the amended or revoked regulatory decision issued by the Minister pursuant to section 88.

It is further provided that CERA shall certify that any sums referred to in the aforementioned proviso have been reasonably incurred with reference to each year or part of that period within the prescribed period of years which has not expired, irrespective of the amendment or revocation.

Standards of
Performance

90. (1) Regulations issued pursuant to section 97 shall govern the establishment and setting of standards of performance and the procedures by which authorisation holders shall comply with such performance standards.

(2) Suppliers and the Distribution System Owner shall propose to CERA such standards of performance to be included in Regulations issued pursuant to section 97. such standards, following the approval thereof, shall be included in the Consumer Card which shall be issued by suppliers and the Distribution System Owner and which shall provide for the performance standards for the purpose of keeping consumers up to date.

(3) Standards of performance prepared by suppliers and the Distribution System Owner and approved by CERA shall be non-discriminatory but may differ for different categories of consumer.

(4) The Regulations issued pursuant to section 97 may impose obligations on authorisation holders relating, but not limited, to:

- (a) Procedures for the submission or re-submission of standards of performance;
- (b) the timetable for the implementation of the standards of performance;
- (c) procedures for periodic review of the standards of performance;
- (d) certain basic standards of performance that must be complied with by suppliers and the Distribution System Owner
- (e) maintenance and publication of a record of performance;
- (f) administrative fines for failure to comply with standards of performance relating to the preparation or implementation or review of standards of performance;
- (g) compensation or other remedies to consumers for failure to meet standards of performance laid down in the standards of performance Regulations;
- (h) provision of information to CERA from authorisation holders concerning actual performance in relation to approved standards of performance;
- (i) notification to consumers of the standards of performance and any remedies that are available to them;
- (j) review and approval or rejection of standards of performance submitted by suppliers, including timetable; and
- (k) provisions governing compliance with standards of performance;

(5) CERA shall consult with suppliers and the Distribution System Owner before introducing any obligatory standards of performance .

CERA

(6) CERA shall require suppliers and the Distribution System Owner to review their standards of performance and re-submit them to CERA at intervals of not less than five years.

Regulations concerning the protection of consumers of electricity.

91. (1) CERA shall issue Regulations concerning the protection of consumers of electricity requiring that suppliers and the Distribution System Owner, within a prescribed time period, propose and implement procedures for the submission of complaints by consumers that allow consumers to register complaints and prescribing how suppliers and the Distribution System Owner shall respond to complaints received by consumers.

(2) The Regulations issued pursuant to subsection (1) may impose requirements on suppliers and the Distribution System Owner relating, but not limited, to:

- (a) Procedures for the submission and, where appropriate, re-submission of proposed complaints procedures for approval;
- (b) the timetable for the implementation of the complaints procedures;
- (c) penalties for failure to comply with the consumer complaints regulations relating to the preparation or implementation or review of complaints procedures;
- (d) a requirement that suppliers and the Distribution System Owner review their complaints procedures at intervals of not more than five years; and
- (e) establishing procedures to deal with complaints from consumers that are not settled through complaint procedures to the satisfaction of consumers.

PART XI – POWERS TO REQUIRE INFORMATION AND OTHER POWERS OF CERA

Powers to require information

92. (1) CERA may require that an authorisation holder or any other person shall provide any information, document or other material that may be reasonably necessary for CERA to carry out its duties, functions and powers.

(2) Any request for the provision of information must be made in a written notice that identifies the information or document and that specifies:

- (a) by when the requirement must be complied with; and
- (b) in what form the information or document is to be given.

(3) Save as otherwise provided in this Law, or Regulations or Rules made under this Law, CERA shall not disclose any confidential information with respect to any particular individual or business without the consent of that individual or business.

(4) The restrictions contained in subsection (3) shall not apply to any disclosure of information which is made:

- (a) for the purpose of facilitating the carrying out by CERA of any of his duties and powers, provided that CERA only discloses such information as is necessary to discharge its duties and exercise its powers and, where appropriate, obtains an undertaking in respect of the preservation of the confidential information from the persons to whom such information is disclosed; or

- (b) in connection with the investigation of any criminal offence or for the purposes of any criminal proceedings; or
- (c) for the purposes of any civil proceedings to which the information is relevant.
- Rights of Entry and Warrants 93. (1) For the purposes of the exercise by CERA of its duties, functions and powers under this Law, an authorised officer may:
- (a) Enter at any reasonable time in any premises, other than private premises, owned or occupied by an authorisation holder to whom this section applies for the purposes of exercising any powers conferred on CERA by section 92;
- (b) require a authorisation holder to whom this section applies or any member, officer or employee of the authorisation holder to whom this section applies to produce to the authorised officer any documents or other material which are in his or her power or control, and in the case of information in a non-legible form to reproduce it in a legible form;
- (c) inspect and take extracts from or make copies of any books, documents and records, including in the case of information in a non-legible form and copy of or extract from such information in a legible form; and
- (d) Require an authorisation holder to whom this section applies to maintain such books, documents and records for such period or periods from time to time as the authorised officer may direct.
- (2) Where an authorised officer in exercise of his or her powers under this section is prevented from entering any premises an application may be made to the court for an order to authorise such entry.
- Power to publish information or documents 94. Subject to the provisions of section 92(3) and (4), CERA may proceed with the publication of such information and documents as it may deem appropriate for the purposes of promoting awareness and understanding by the public on electricity matters.
- Power to issue Orders 95. (1) For the purposes of this Law, CERA shall have the power issue Orders which are necessary for ensuring compliance with the provisions of this Law.
- (2) Before issuing an Order pursuant to subsection (1) CERA shall notify any person who is affected or who, in its opinion may be affected by the Order that will be issued and shall provide the opportunity to such person to be heard within thirty days from the issuing of the Order, on whether the Order must be revoked or amended.
- (3) After a hearing pursuant to the provisions of subsection (2), CERA shall issue and notify its final decision to all interested parties as soon as possible.
- (4) A person who, without reasonable cause, fails to comply with the terms of the Order issued by CERA under this Law, shall be guilty of an offence and shall be liable to imprisonment not exceeding six months or to a fine not exceeding four hundred and fifty pounds or to both such imprisonment and fine.
- Conducting Investigations 96. (1) Subject to the provisions of section 27, CERA may, *ex proprio motu* or on its own initiative or following the filing of complaints, conduct investigations into the activities and operations of any electricity undertaking.
- (2) For the purposes of conducting an investigation in accordance with subsection (1), CERA may:

- (a) summon and compel witnesses and interested parties to be present according to the manner which is defined in regulations and adduce, produce or present document, books, plans and records; or
- (b) examine personally or through an advocate, witnesses and interested parties.

(3) Every interested party may:

- (a) Be represented before CERA by advocate; and
- (b) call any witnesses in accordance with the rules of the Civil procedure Law, the Court of Justice Law and the Civil Procedure Rules which shall be complied with as far as possible.

11 of 1965
161 of 1989
228 of 1989
51(I) of 1999
134(I) of 1999

14 of 1960
50 of 1962
14 of 1963
8 of 1969
40 of 1970
58 of 1972
1 of 1980
35 of 1982
29 of 1983
91 of 1983
16 of 1984
51 of 1984
83 of 1984
93 of 1984
18 of 1985
71 of 1985
89 of 1985
96 of 1986
317 of 1987
49 of 1988
64 of 1990
136 of 1991
149 of 1991
237 of 1991
42(I) of 1992
43(I) of 1992
102(I) of 1992
26(I) of 1993
82(I) of 1995
102(I) of 1996
4(I) of 1997
53(I) of 1997
90(I) of 1997
27(I) of 1998
53(I) of 1998
110 (I) of 1998
34(I) of 1999
146(I) of 1999
41(I) of 2000
82(I) of 2001
40(I) of 2002
80 (I) of 2002
140(I) of 2002

(4) CERA shall preside over the procedure before it and shall have the power to suspend or circumvent an abuse of the procedure before it.

PART XII – MISCELLANEOUS PROVISIONS

Powers to issue regulations

97. (1) For the better implementations of the provisions of this Law, CERA shall issue regulations with the approval of the Council of Ministers.

(2) Without prejudice to the generality of subsection (1), Regulations issued pursuant to subsection (1), may regulate the following matters:

- (a) the appointment of and administrative procedures to be followed by the staff of the Office of CERA pursuant to section 8(2);
- (b) procedures for the registration of authorisation holders pursuant to section 20;
- (c) the methods of assessment, prescription and enforcement procedures in respect of the administrative penalties imposed by CERA pursuant to section 28;
- (d) the procedure for granting authorisations pursuant to section 34 and revoking and amending authorisations pursuant to section 40;
- (e) the rules and procedures for the setting of the tariffs and charges imposed in accordance with section 31 and connection charges and use of transmission and distribution system charges imposed pursuant to section 85;
- (f) the issues and procedures for examination and submission of complaints by consumers in respect of consumer protection pursuant to section 91;
- (g) the procedure for authorising, setting and collecting authorisation fees pursuant to section 36(2)(b);
- (h) the procedures to be followed by CERA and authorisation holders pursuant to section 96 when CERA is investigating the conduct of any authorisation holder or authorisation holders;
- (i) standards of performance in respect of authorisation holders or classes of authorisation holder pursuant to section 90;
- (j) Public Service Obligation pursuant to section 88; and
- (k) any other issue that should or needs to be regulated or in relation to which this Law provides for the issuing of Regulations.

The Council of Ministers may issue Regulations further empowering CERA to exercise and perform his duties and powers under this Law.

(3) Regulations issued pursuant to this Law, shall be submitted to the House of Representatives. If following a period of 60 days from the date on which they are submitted to the House of Representatives they have not been amended or annulled by the House of Representatives, in whole or in part, then they will be published in the Official Gazette of the Republic immediately after the expiration of the aforementioned period, and they shall enter into force within such time as may prescribed for this in the Regulations or, where no time for their entry into force is prescribed, they shall enter into force from the day of their publication in the Official Gazette of the Republic. Where the Regulations are amended, either in full or in part by the House of Representatives, then they shall be published in the Official Gazette of the Republic as they may have been amended by the House of Representatives and shall enter into force from the date specified in the Regulations or, where no such date is specified, the date of their publication in the Official Gazette of the Republic.

Powers to issue orders by the Minister and CERA

98. (1) Any Order of the Minister or of CERA issued pursuant to this Law shall be published in the Official Gazette of the Republic and shall come into effect from the date set out in the Order or the date of the publication of the Order in the Official Gazette of the Republic.

(a) The Minister may, after consultations with CERA and after notifying the House of Representatives, by Order define and, where necessary, establish the necessary thresholds for the opening of the electricity market of the Republic.

99. (1) CERA, the Office of CERA, the Distribution System Owner and the Transmission System Operator or any other person performing any function under this Law or Regulations that may be issued, is not allowed to disclose or provide in any manner to third parties any confidential data or information that he may have become aware of or which have been notified to him in the performance of the said function and shall have the duty to protect any intellectual property rights related to the aforementioned data or information.

Provided that the obligation of confidentiality shall not apply:

- (a) Where the person towards whom the obligation of confidentiality is owed, has provided his written consent;
- (b) Vis-à-vis a Court of the Republic;
- (c) Vis-à-vis a Commission of Inquiry that has been appointed by virtue of the Commissions of Inquiry Law;
- (d) Vis-à-vis a criminal investigator carrying out an interrogation on the basis of section 4 of the Criminal Procedure Law;
- (e) Vis-à-vis the Unit for Fighting Offences related to Disguise, by virtue of the Disguise, Search and Confiscation of the Proceeds from certain Criminal Acts Laws of 1996 to 2000.

Cap. 44
36 of 1982
84 of 1983

Cap. 155
92 of 1972
2 of 1975
12 of 1975
41 of 1978
162 of 1989
142 of 1991
9 of 1992
10(I) of 1996
89(I) of 1997
54(I) of 1998
96(I) of 1998
14(I) of 2001

61(I) of 1996
25(I) of 1997
41(I) of 1998
120(I) of 1999
152(I) of 2000

Designation of the universal electricity service provider

100. The Electricity Authority is designated as the universal electricity service provider with respect to the generation, supply and distribution of electricity for the whole of the territory of the Republic.

Funding of the universal service for the provision of electricity

101. The provider shall recover the costs for the provision of the universal service for the provision of electricity in the same manner as the costs for the provision of the Public Service Obligations are recovered.

Unbundling of
accounts of
electricity
undertakings

102. (1) Electricity undertakings, whatever their system of ownership or legal form, shall draw up, submit to audit and publish their annual accounts in accordance with the requirements of the Companies Law..

Cap. 113
9 of 1968
76 of 1977
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105 of 1985
198 of 1986
19 of 1990
46(I) of 1992
96(I) of 1992
41(I) of 1994
15(I) of 1995
21(I) of 1997
82(I) of 1999
149(I) of 1999
2(I) of 2000
135(I) of 2000
151(I) of 2000
76(I) of 2001

(2) Electricity undertakings which are not legally obliged to publish their annual accounts shall keep a copy of them available for inspection by the public at their head office in the Republic.

(3) Integrated electricity undertakings shall, in their internal accounting, keep separate accounts for their generation, transmission, distribution and supply activities, and where appropriate, consolidated accounts for other, non-electricity activities, as they would be required to do if the activities in question were carried out by separate companies, and with a view to avoiding discrimination, cross-subsidisation and distortion of competition.

(4) The Authority shall –

- (a) In its internal accounting keep separate accounts for each business, licensed under section 34; and
- (b) keep a copy of the aforementioned accounts available for inspection by the public at its registered office in the Republic.

(5) In preparing the accounts referred to in subsection (3), integrated electricity undertakings shall include a balance sheet and a profit and loss account for each activity referred to in subsection (3), in notes to their accounts.

(6) Integrated electricity undertakings shall specify in notes to the annual accounts the rules for the allocation of assets and liabilities and expenditure and income which they follow in drawing up the separate accounts referred to in subsections (2), (3) and (4).

(7) The rules referred to in subsection (6) may be amended only with the approval of CERA and such amendments shall be mentioned in the notes and shall be duly substantiated.

(8) The annual accounts of electricity undertakings shall indicate in notes to their annual accounts any transaction and the size thereof, which, in the opinion of CERA, would have a commercial impact with-

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76 of 1977
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19 of 1990
46(I) of 1992
96(I) of 1992
41(I) of 1994
15(I) of 1995
21(I) of 1997
82(I) of 1999
149(I) of 1999
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(a) Affiliated undertakings, within the meaning of the Companies Law, , or

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46(I) of 1992
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15(I) of 1995
21(I) of 1997
82(I) of 1999
149(I) of 1999
2(I) of 2000
135(I) of 2000
151(I) of 2000
76(I) of 2001

(b) associated undertakings within the meaning assigned by the Companies Law, or

(c) undertakings which belong to the same shareholders, or are controlled by the same entity.

(9) For the purpose of this law, CERA, when exercising its duties and functions, may require the preparation of and to have access to the accounts of any authorisation holder in whatever form.

Offences for
violating section
34

103. A person who, in contravention of section 34:

- (a) constructs a generating plant or generates electricity;
- (b) supplies electricity to eligible consumers;
- (c) supplies electricity to non-eligible consumers;
- (d) discharges the functions of the Transmission System Operator;
- (e) discharges the functions of the Transmission System Owner; or
- (f) discharges the functions of the Distribution System Owner;

shall be guilty of an offence and shall be liable on conviction to imprisonment not exceeding three years or to a fine not exceeding fifty thousand pounds or to both such penalties.

Offences

104. A person who, either in person or vis an employee or other representative:

- (a) violates or fails to comply with the term of an authorisation, exemption, Order or prior permit;
- (b) discloses commercially sensitive information received in the performance of his functions, except where the disclosure of the said information is required under this Law;
- (c) violates or fails to comply with Regulatory Decision or Decision of CERA taken under this Law;
- (d) unfairly discriminates between persons or classes of persons or between users of the distribution or transmission system;
- (e) without reasonable cause, fails to provide CERA any information, document or other material required by CERA for the purpose of CERA exercising its powers under this Law;
- (f) obstructs or interrupts an authorised officer acting pursuant to the provisions of section 93, from performing his duties;
- (g) intentionally or negligently makes an untrue or deceiving statement to an authorised officer;
- (h) fails to comply or violates the provisions of section 102 concerning the keeping of accounts;
- (i) without reasonable cause fails to appear before CERA or to provide or present any document in violation of the provisions of section 96;
- (j) refuses without reasonable cause, to answer to any reasonable question made by CERA, pursuant to the provisions of section 96;

Provided that, concerning the provisions of paragraph (j), in no circumstances is anyone obligated to answer questions if the answers may incriminate him in relation to a criminal offence; or

- (k) intentionally obstructs or interrupts any investigation being carried out by CERA pursuant to the provisions of section 96.
- (l) Violates or fails to comply with the prohibitive or obligatory provisions of any regulations or Orders that may be issued under this Law;

Notices

105. (1) Where a notice is required to be served under this Law to any person, it shall be in accordance with the Civil Procedure Rules.

(2) A company registered under the Companies Law shall be deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body shall be deemed to be ordinarily resident at its principal office or place of business.

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 9 of 1968
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 19 of 1990
 46(I) of 1992
 96(I) of 1992
 41(I) of 1994
 15(I) of 1995
 21(I) of 1997
 82(I) of 1999
 149(I) of 1999
 2(I) of 2000
 135(I) of 2000
 151(I) of 2000
 76(I) of 2001

Criminal liability
of bodies
corporate and of
directors thereof

106. (1) Where a criminal offence under this Law has been committed by a body corporate and is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of a person being a director, manager, secretary or other officer of the body corporate, or a person who was purporting to act in any such capacity, that person, as well as the body corporate, shall be guilty of an offence and be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director or manager of the body corporate.

Entry into force

107. (1) Subject to subsection (2), this Law shall come into force by a decision of the Council of Ministers, which shall be published in the Official Gazette of the Republic:

Provided that the Council of Ministers may prescribe other dates for the coming into force of various provisions of the Law.

(2) The provisions of sections 1 to 14, 17 to 19, 21 to 23, section 25 (1) (b), (j) and (k) and subsections (3) and (4) and the provisions of subsections (1) and (3) and (2) (a) of section 97 shall come into force on the date of publication of this Law in the Official Gazette of the Republic.