



REPUBLIC OF VANUATU

ELECTRICITY SUPPLY (AMENDMENT) ACT NO. 13 OF 2010

Arrangement of Sections

1	Amendment.....	2
2	Commencement	2

REPUBLIC OF VANUATU

Assent: 30/12/2010

Commencement: 28/03/2011

ELECTRICITY SUPPLY (AMENDMENT) ACT NO. 13 OF 2010

An Act to amend the Electricity Supply Act [CAP 65].

Be it enacted by the President and Parliament as follows-

1 Amendment

The Electricity Supply Act [CAP 65] is amended as set out in the Schedule.

2 Commencement

This Act commences on the day on which it is published in the Gazette.

SCHEDULE
AMENDMENTS OF ELECTRICITY SUPPLY
ACT [CAP 65]

1 Section 1 (Definition of concessionaire), paragraph (a))

- (1) After "sole concession", insert "from time to time"
- (2) Delete "those", substitute "each respective"

2 Section 1 (Definition of concession area, paragraph (a))

After "Luganville" (second occurring), insert "as at the date the relevant concession agreement commences"

3 Section 1

Insert in its correct alphabetical position

" "Utilities Regulatory Authority" means the Utilities Regulatory Authority established under section 4 of the Utilities Regulatory Authority Act No. 11 of 2007, and includes any individual performing any function or exercising any power of the Authority."

4 Subsection 1A(1)

Delete "manufacture and"

5 Section 1B

Repeal the section, substitute

"1B Other suppliers

- (1) A person who is not a concessionaire may generate electricity.
- (2) A person who is not a concessionaire may supply electricity:
 - (a) outside a concession area; or
 - (b) to a concessionaire.
- (3) A person who is directly or indirectly financially related to a concessionaire may supply electricity to a concessionaire if he or she:

- (a) informs the Utilities Regulatory Authority, in writing no later than 30 days before supplying electricity, about the precise nature and scope of his or her relationship to the concessionaire; and
 - (b) provides any document and information that the Utilities Regulatory Authority may require from time to time for the purposes of ascertaining either:
 - (i) the scope of the relationship; or
 - (ii) the cost and price of the electricity supplied to the concessionaire.
- (4) A person who contravenes subsection (3) or supplies a false or misleading document or information, commits an offence punishable on conviction to a fine not exceeding VT 1,000,000.”

6 Section 2

Repeal the section, substitute

“2. Act subject to contract of concession

- (1) The provisions of this Act are subject to the terms of the following respective contracts of concession entered into between the concessionaire and the government, as amended from time to time:
 - (a) the contract of concession for Port Vila dated 15 August 1986;
 - (b) the contract of concession for Luganville dated 23 January 1990;
 - (c) the contract of concession for Tanna dated 14 July 2000;
 - (d) the contract of concession for Malekula dated 14 July 2000.
- (2) An existing concession agreement is subject to the terms of this Act except to the extent of any conflict.
- (3) Subject to subsection (4), a concession agreement that is entered into after the commencement of this Act, is subject to the terms of this Act.

- (4) If there is any conflict or discrepancy between the provision of an agreement referred to in subsection (3) and a provision of the Act, the Act prevails, unless the Minister or the Utilities Regulatory Authority declares otherwise in writing.”

7 Section 4

Repeal the section, substitute

“4. Penalty for other persons generating, electricity etc...

- (1) Subject to section 1B, a person who supplies electricity in an area of a concession, other than the concessionaire supplying electricity in the area of a concession, commits an offence punishable on conviction to a fine not exceeding VT 1,000,000.
- (2) This section does not prohibit any person from generating electricity for his or her own use in any dwelling house, store, workshops, or any other premises owned or occupied by that person.”

8 At the end of section 5

Add

- “(4) The powers in this section may be exercised by a concessionaire:
- (a) within the concession area of that concessionaire; or
- (b) in any other area not being a concession area of another concessionaire.”

9 Section 6

Repeal the section, substitute

“6. Applications for compensation

- (1) A person who:
- (a) sustains any damage or loss of a certain and material nature as a result of the exercise by a concessionaire of its powers under section 5; and

- (b) is unable to obtain satisfactory compensation from the concessionaire,

may make an application in writing to the Utilities Regulatory Authority for compensation.

- (2) An application made under subsection (1) must be made at any time before the expiration of 1 year after the act, matter or thing that allegedly caused such damage or loss.
- (3) If a person fails to make an application under subsection (1) within the 1 year period provided under subsection (2), his or her claim for compensation will be barred.
- (4) In relation to an application made under this section, the Utilities Regulatory Authority must ensure that it:
- (a) hears the application within 30 days of receiving the application and makes a determination within the period set out in section 6A; and
- (b) determines the amount of compensation, if any, within a reasonable time; and
- (c) pays compensation, if any, to the applicant as soon as practicable.
- (5) The amount of compensation payable in respect of an application under subsection (1), is to be in such amount as the Utilities Regulatory Authority considers fair and reasonable in all the circumstances.
- (6) The Utilities Regulatory Authority is to determine its own procedures in respect of applications made under subsection (1) and is not bound by formality or rules of evidence.

6A. Period for determining an application

- (1) The period the Utilities Regulatory Authority takes to determine an application under section 6 is:

- (a) 60 business days, commencing on the date on which the application is received; or
 - (b) a longer period, if before the end of the 60 day period set out in paragraph (a), the Utilities Regulatory Authority and the applicant agree for a longer period.
- (2) Despite subsection (1), if, during the period provided in paragraphs (1)(a) or (b), the Utilities Regulatory Authority , requests further information from the applicant, the period between the request and the giving of the information must not be considered when calculating the period applicable under subsection (1).
- (3) The Utilities Regulatory Authority must notify the applicant of any decision it makes at the end of the period set out in subsection (1)."

10 Sections 8, 9, 10 and 11

Repeal the sections, substitute

"8. Offences relating to interruption and theft of electricity

- (1) A person who, without lawful excuse or justification:
 - (a) cuts or impedes the supply of electricity by a concessionaire under authority of its concession to a consumer; or
 - (b) damages any line, meter, apparatus or work installed, constructed or operated by a concessionaire under authority of its concession; or
 - (c) steals electricity from a concessionaire; or
 - (d) diverts electricity being supplied to a consumer; or
 - (e) interferes with an electrical meter installed or operated by a concessionaire, whether or not the index of that meter has been altered,
- commits an offence.

- (2) This section does not apply to an officer, servant or agent of a concessionaire acting within the course of their work.

9. Penalties relating to interruption and theft of electricity

- (1) A person who commits an offence against section 8 is liable on conviction to:

- (a) a fine not exceeding:
 - (i) three times the repair value of any physical damage caused;
 - (ii) three times the retail value of any electricity stolen or diverted; or
 - (iii) VT100,000; or
- (b) imprisonment for a term not exceeding 3 months; or
- (c) both such fine and imprisonment.

- (2) It is lawful for a concessionaire to demand a bond not exceeding VT100,000 as a precondition to the future supply of electricity to any person found guilty of an offence under paragraphs 8(1)(b) to (e).

10. Facilitation of proof

- (1) For the purposes of subparagraphs 9(1)(a)(i) and (ii) the Court is, where precise calculation is not reasonably practicable, entitled to draw inferences as to the relevant value according to such evidence (including prior meter readings) as may be available.
- (2) A person is deemed to have stolen electricity from a concessionaire if the person makes a connection to any line, meter, apparatus or work installed, constructed or operated by a concessionaire, without the prior approval of that concessionaire.
- (3) A person is deemed to have diverted electricity supplied to a consumer if, he or she makes any connection to the lines through which any consumer is supplied electricity, without the prior approval of that consumer.

(4) The existence of any of the following is *prima facie* evidence that the person whose electricity is supplied through a meter has interfered with that meter:

- (a) where any seal has been broken;
- (b) where any apparatus or objects are, or have been, attached or inserted; or
- (c) where the meter has been damaged or modified.

11. Fines and other rights of concessionaire

- (1) Upon conviction of an offence under this Act, a Court may direct that no more than half the amount of any fine imposed may be paid directly to a concessionaire.
- (2) A payment made in respect of an order under subsection (1) does not extinguish a concessionaire's rights nor the balance of their entitlements otherwise."

11 Section 13

Delete "50,000", substitute "500,000"

12 Section 14

Delete "10,000", substitute "100,000"