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UTILITIES REGULATION AND COMPETITION AUTHORITY (AMENDMENT) ACT, 2015

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No. 47 of 2015

UTILITIES REGULATION AND COMPETITION AUTHORITY (AMENDMENT) ACT, 2015

**AN ACT TO AMEND THE UTILITIES REGULATION AND
COMPETITION AUTHORITY ACT TO ENABLE AND FACILITATE
URCA IN FULFILLING ITS FUNCTION AS INDEPENDENT
REGULATOR OF THE ELECTRICITY SECTOR AND FOR
CONNECTED MATTERS**

[Date of Assent - 30th December, 2015]

Enacted by the Parliament of The Bahamas

1. Short title.

- (1) This Act, which amends the Utilities Regulation and Competition Authority Act¹, may be cited as the Utilities Regulation and Competition Authority (Amendment) Act, 2015.
- (2) This Act shall come into force on a day to be appointed by the Minister by Notice published in the Gazette.

2. Amendment of section 2 of the principal Act.

The principal Act is amended in section 2 by —

- (a) the deletion of the phrase “director of policy and regulation”, together with the accompanying definition, and the substitution of the following —

“**director of electronic communications**” means the executive member responsible for developing and implementing policy and regulation of the electronics communication sector, appointed in accordance with section 23;

¹*Vol. VI, (Ch. 306)*

“director of utilities and energy” means the executive member responsible for developing and implementing policy and regulation of the regulated sectors, other than electronic communications, appointed in accordance with section 23;”;
and

- (b) the insertion in the appropriate alphabetical order of the following words and their definitions —

“financial interest” means any equity interest (including stocks, stock options, bonds) or other ownership interest;

“undertaking” means a body corporate, partnership, unincorporated association, or any person, carrying on a trade or business with or without a view to profit;”.

3. Amendment of section 4 of the principal Act.

The principal Act is amended in section 4 by —

- (a) in paragraph (k) of subsection (2) —
- “(i) the deletion of the word “operators” and the substitution of the words “licensees and undertakings, or any other person;”;
 - (ii) the insertion immediately after the word “under” of the words “this Act or;”;
- (b) in paragraph (d) of subsection (3), the deletion of the words “director of policy and regulation” and the substitution of the words “director of electronic communications or the director of utilities and energy;”.

4. Amendment of section 5 of the principal Act.

The principal Act is amended in section 5 by the deletion of subsection (2) and the substitution of the following —

- “(2) In conducting an investigation under subsection (1), URCA may —
- (a) request in writing that a licensee or undertaking, or any other person, that is the subject of the investigation provide the information and documents set out in the request within the time specified in the request; and
 - (b) enter premises and inspect, copy and retain documents to the extent permitted under a warrant obtained under section 6.”.

5. Insertion of new sections 5A, 5B, 5C, 5D and 5E into the principal Act.

The principal Act is amended by the insertion, immediately after section 5, of the following new sections —

5A. Destroying or falsifying documents.

- (1) A licensee or undertaking, or any other person, required to produce a document under section 5 shall not —
 - (a) intentionally or recklessly destroy or otherwise dispose of, falsify or conceal such document; or
 - (b) cause or permit such document to be destroyed, disposed of, falsified or concealed.
- (2) A licensee or undertaking, or any other person, who contravenes or fails to comply with a provision of this section commits an offence.

5B. False or misleading information.

- (1) No person shall provide information to URCA or an authorised representative of URCA, in connection with a function or duty of URCA under this Act or a regulated sector law, which is false or misleading in a material particular.
- (2) A person who contravenes subsection (1) commits an offence.

5C. Falsely pretending to be employee of URCA.

- (1) No person shall attempt fraudulently to obtain under section 5 entry to the premises of, or information from, a licensee or undertaking or any other person.
- (2) A person who obtains, or attempts to obtain, entry to premises or information by falsely presenting himself to be an officer, employee or agent of URCA commits an offence.

5D. Obstruction of URCA in the performance of its duties.

- (1) No person shall at any time molest or, without cause, hinder or obstruct an officer, employee or agent of URCA in the performance of his duties or anything which such officer, employee or agent is authorised, empowered or required to do under this Act or any regulated sector law.
- (2) A person who contravenes subsection (1) commits an offence.

5E. Making of false statements.

- (1) No person shall, in giving information or making an application to URCA or to any other person under or for the purposes of this Act or any regulated sector law, make any statement which is false in a material particular.

- (2) A person commits an offence who, pursuant to subsection (1), knowingly or recklessly makes a statement which is false in a material particular.
- (3) No person shall —
 - (a) procure or attempt to procure for himself or for any other person a licence under this Act or any regulated sector law by making or producing, or causing to be made or produced, a false or fraudulent representation or declaration, either verbally or in writing; or
 - (b) knowingly aid or assist in a procurement or attempt to procure under paragraph (a).
- (4) A person commits an offence who wilfully or fraudulently contravenes a provision of subsection (3).”.

6. Amendment to section 13 of the principal Act.

Section 13 of the principal Act is amended by —

- (a) in subsection (1) —
 - (i) in the chapeau, the deletion of the word “five” and the substitution of the word “seven”;
 - (ii) in paragraph (a), the deletion of the word “two” and the substitution of the word “three”; and
 - (iii) in paragraph (b), the deletion of the words “the director of policy and regulation” and the substitution of the words “the director of electronic communication and the director of utilities and energy, respectively”; and
- (b) the deletion of subsection (5) and the substitution of the following —
 - “(5) The secretary to the board —
 - (a) shall be appointed by the board to carry out such functions as the board may determine from time to time; and
 - (b) may attend meetings of the board but is not entitled to vote thereat unless otherwise authorised by this Act.”.

7. Amendment of section 14 of the principal Act.

Section 14 of the principal Act is amended in subsection (4) by the insertion, immediately after the word “expertise”, of the words “in accordance with section 18(2)(b)(ii) and is of”.

8. Amendment of section 18 the principal Act.

Section 18 of the principal Act is amended by —

- (a) in paragraph (c) of subsection (2), the deletion of the words “section 20” and the substitution of the words “this section”; and
- (b) by the deletion of subsections (4) and (5) respectively and the substitution of the following new subsections —
 - “(4) Subject to section 44 and without prejudice to section 19(1), a non-executive member shall be appointed for an initial term of three years.
 - (5) Except where a non-executive member advises the Governor-General in writing that he does not wish to be reappointed, a non-executive member may, upon expiry of the initial term, be reappointed for one or more further terms.
 - (6) Each term of appointment of a non-executive member shall be for a period of three years.”.

9. Amendment of section 20 of the principal Act.

The principal Act is amended by the deletion of section 20.

10. Amendment of section 23 of the principal Act.

Section 23 of the principal Act is amended by —

- (a) in subsection (1), the deletion of the words “director of policy and regulation” and the substitution of the words “the director of electronic communications and the director of utilities and energy”;
- (b) the deletion of subsection (3) and the substitution of the following subsections —
 - “(3) Upon the expiry of the initial term, the board may reappoint an executive member for one or more further terms, each such term not to exceed five years.
 - (4) Notwithstanding any provision of this Act, where there is a vacancy in the office of or a prolonged absence by an executive member, the board may delegate the power to perform the duties of the vacant office or absent member, until the vacancy is filled or for the period of absence —
 - (a) to a remaining member ; or
 - (b) to any other person with appropriate expertise in the relevant regulated sector.”.

11. Amendment of section 32 of the principal Act.

Section 32 of the principal Act is amended in subsection (4) by —

- (a) the deletion of paragraph (b) and the substitution of the following new paragraphs (b) and (c) —
 - “(b) the director of electronic communications;
 - (c) the director of utilities and energy; and”;
- (b) the re-naming of the existing paragraph (c) as paragraph (d).

12. Amendment of section 46 of the principal Act.

The principal Act is amended by the deletion of subsection (1) and the substitution of the following —

- “(1) A member of the Board or member of staff of URCA shall not be personally liable for any act done or default occasioned *bona fide* in execution or intended execution of any of the functions of URCA under this Act or any regulated sector law.”.