

CHAPTER 195

OUT ISLANDS ELECTRICITY

LICENSED UNDERTAKERS' POWERS AND RESPONSIBILITIES ORDER

S.I. 45/1970
S.I. 139/1972

(SECTION 9)

[Commencement 1st October, 1970]

1. This Order may be cited as the Licensed Undertaker's Powers and Responsibilities Order. Title.
2. This Order shall apply to all Licensed Undertakers authorised by an agreement made pursuant to section 4 of the Out Islands Electricity Act to supply electrical energy to the public in any part of the Out Islands, and shall apply in relation to each such Licensed Undertaker throughout the area of supply specified in his agreement. Application.
Ch. 195.
3. The powers, duties and responsibilities which appertain to the Bahamas Electricity Corporation within the Island of New Providence by virtue of any of the provisions of the Electricity Act which are specified in the Schedule to this Order shall appertain to Licensed Undertakers in the Out Islands and the provisions of the Electricity Act so specified shall apply *mutatis mutandis* to each Licensed Undertaker, his electrical system and the consumers within his area of supply, subject to the modifications set out in paragraph 4 of this Order. Powers, duties and responsibilities conferred.
Schedule.
Ch. 194.
4. (1) References to "the Corporation" shall be read and construed as references to "the Licensed Undertaker". Modifications
 (2) References to "the Executive Chairman" shall be read and construed, in relation to each Licensed Undertaker, as references to "the Manager" howsoever designated. S.I. 139/1972,
para. 2.
 (3) References in section 40 of the Act to "a stipendiary and circuit magistrate" shall be read and construed as references to "a magistrate having jurisdiction in the district in which the land is situate". S.I. 139/1972,
para. 3.

*S.I. 139/1972,
para. 4.*

(4) The powers, duties and responsibilities which appertain to the Executive Chairman by virtue of section 39 of the Act shall only be exercised by the Manager of the Licensed Undertaker after complying with the provisions of the said section 39 and after obtaining the approval in writing of the Minister:

Provided that the Minister shall not be liable for any injury caused by the Licensed Undertaker by any entry on any land or for any acts or things done by the Licensed Undertaker in pursuance of the powers conferred on him by the said section 39.

SCHEDULE (Paragraph 3)

LIST OF CLAUSES IN THE ELECTRICITY ACT TO BE INCLUDED IN THE LICENSED UNDERTAKERS' POWERS AND RESPONSIBILITIES ORDER

Sections 39, 40, 41, 42, 43, 44, 45, 46, 47, 48(1), 49(1), 50 and 54 of the Electricity Act (Ch. 194)

*S.I. 139/1972,
para. 4.*

Whenever it appears to the Executive Chairman that it will or probably will be necessary to exercise the powers conferred by this Act upon the Corporation in respect of any land for the purposes of constructing an installation or part of an installation, the Executive Chairman or any person authorised by the Executive Chairman in that behalf may, after not less than seven days previous notice to the occupier thereof, if any, enter upon such land and may survey and take levels and do all other acts necessary to ascertain the suitability of the land, so far as the same may be possible without causing damage or disturbance:

Provided that the Corporation shall pay compensation for any injury caused by such entry or by doing the aforesaid acts or things in accordance with the provisions of section 41 of this Act.

*S.I. 139/1972,
para. 4.*

(1) Subject as hereinafter provided, whenever it is necessary so to do for the purposes of constructing a supply line or of installing any system of distribution of energy under this Act, the Corporation may lay, place or carry on, under or over any land, other than Crown land, such posts and other apparatus as may be necessary or proper for the purposes of the Corporation installation and may take such other action as may be necessary to render such installation safe and efficient, paying full compensation in

accordance with the provisions of section 41 of this Act to all persons interested for any disturbance, damage or injury that may be caused thereby; such compensation may include an annual payment for land used for the purpose of the post or other apparatus.

(2) Before entering on any land for the purpose specified in subsection (1) of this section the Corporation shall cause to be lodged with a stipendiary and circuit magistrate a notice substantially in the form specified in the Third Schedule to this Act stating as fully and accurately as possible the nature and extent of the act intended to be done by the Corporation upon the land.

Third Schedule.

(3) Upon receipt of the notice provided by subsection (2) of this section, the said magistrate shall fix a date for the hearing by him of the objections by the owner and by the occupier of the land having due regard to the then believed whereabouts within or without The Bahamas of the said owner or the said occupier, and shall cause notices of such hearing accompanied by copies of the notice provided by subsection (2) of this section to be served upon such owner and such occupier or their authorised agents personally by registered post or by substituted service as the said magistrate may deem fit.

(4) The owner or the occupier or both the owner and the occupier may personally or by an authorised agent, at any time prior to the date fixed by the said magistrate for the hearing of objections, as provided by subsection (3) of this section, lodge with the said magistrate and with the Corporation verbal or written objections to the intended act of the Corporation.

(5) If no objection is lodged within the time limited for that purpose by subsection (4) of this section, the Corporation may forthwith enter on the land and do all or any of the acts specified in the notice given by it under the provisions of subsection (2) of this section.

(6) If any objection is lodged and is not withdrawn before the date fixed for the hearing thereof the said magistrate shall hold an inquiry regarding such objection, giving all parties an opportunity to be heard and the said magistrate may adjourn such inquiry from time to time as he may deem fit.

(7) Upon the conclusion of the said inquiry the said magistrate may either unconditionally or subject to such terms, conditions or stipulations as he thinks fit, authorise or prohibit, in whole or in part, any of the acts mentioned in the notice given under subsection (2) of this section.

(8) The decision of the said magistrate under subsection (7) of this section shall be final as to any question of fact arising in such proceedings, but any person aggrieved by the decision of the said magistrate may appeal to the Supreme Court on any ground involving a point of law and the provisions of Part IV of the Magistrates Act shall apply to such appeal.

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S.I. 139/1972,
para. 4.

Section 41. Power to enter on Crown Land for purposes of Corporation installation.
For the purpose of constructing a supply line or of installing any system of distribution for any Corporation installation, the Executive Chairman or any person authorised by him in that behalf may, at all reasonable times, subject to the approval of the Minister, enter upon any Crown Land and erect in or upon such Crown land such posts and other apparatus as may be necessary or proper for the purpose of such installation, and may carry out all necessary works in connection therewith, and may, in the course thereof, fell or lop trees, remove vegetation and do all things necessary to such purposes:

Provided that —

- (a) when any such work interferes with improvements, buildings, growing trees or crops, the Corporation shall pay compensation in accordance with the provisions of section 43 of this Act for disturbance or damage and
- (b) where the land is occupied under the lease or licence for temporary occupation, such compensation shall be paid to the lessee or licensee under such lease or licence.

Section 42. Maintenance and repair of installation.

Whenever it is necessary so to do for the purpose of maintaining or repairing a Corporation installation or any part thereof, the Executive Chairman, or any person authorised by him in that behalf, may at all reasonable times enter upon any lands on, under or over which supply lines have been laid, placed or carried, or upon which posts or other apparatus have been erected, and may carry out all necessary repairs, and may, in the course thereof, fell or lop trees, remove vegetation and do all other things necessary to the said purpose, causing as little damage as possible and paying full compensation in accordance with the provisions of section 43 of this Act to all persons interested for any damage that may be caused thereby for which compensation has not already been assessed under section 40 and section 41 of this Act.

Section 43. Compensation payable under sections 39, 40, 41 and 42.

In the absence of agreement between the parties the amount of compensation, if any, payable under the provisions of section 39, section 40, section 41 or section 42 of the Act shall be determined by arbitration under the provisions of section 46 of this Act:

Provided that no further compensation shall be allowed for the felling and lopping of trees or removal of vegetation where such action is necessary for the maintenance of the installation and such trees or vegetation have grown or been allowed to grow since the payment of compensation under section 39, section 40, section 41 or section 42 of this Act in such manner as to obstruct or interfere with the electric supply line or posts or apparatus.

Section 44. Payment of compensation etc. by Corporation

Compensation or other moneys payable under the provisions of this Part of this Act in respect of any undertaking or installation acquired by the Corporation under the provisions of this Part of this Act shall be discharged by the Corporation as soon as the amount has been agreed or otherwise finally determined under the provisions of this Act.

Section 45. Determination of compensation by court.

Except as otherwise provided in this Act, in all cases where compensation is directed to be paid by this Act the amount of such compensation may, in default of agreement, be claimed and determined by action or suit in the appropriate court.

Section 46. Method of arbitration.

(1) Where any matter is required to be determined by arbitration under this Act, the same shall be determined by an arbitrator or arbitrators not exceeding three chosen by the parties, or, if they are unable to agree, by the Supreme Court.

(2) Each party shall have power to appoint an assessor to sit with the arbitrator, but the arbitrator alone shall have the power to decide and the award shall be his alone. Where more than one arbitrator is appointed, a majority of them may decide and make an award.

(3) The arbitration shall take place at such place within The Bahamas as the arbitrator shall decide, or at such place outside The Bahamas as may be agreed by both parties, and shall, subject to the provisions of this section, be governed by the Arbitration Act.

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(4) The remuneration of an arbitrator appointed by the Supreme Court in accordance with this section shall be fixed by the Supreme Court, and the remuneration of an arbitrator chosen by the parties shall be fixed by them. The costs of the reference and the award, including the remuneration of the arbitrator, shall be paid by the parties in such proportion as the arbitrator may decide:

Provided that the remuneration and the allowance of an assessor shall be paid by the party appointing him.

Section 47. Power to inspect.

For the purpose of inspecting any part of an installation or fitting, removing meters or other instruments for measuring the quantity of energy supplied, making or removing connections between mains and private fittings, repairing damage, or for other proper cause, the Executive Chairman or any person authorised by the Executive Chairman in that behalf, may at all reasonable times enter upon any lands, houses or buildings to which energy has been, is, or will be supplied.

Section 48(1). Reduction or cessation of supply: liability

The Corporation may reduce, as it may think fit, the quantity of energy supplied to any consumer if, by reason of any unforeseen circumstances beyond its control, it may appear that the supply of energy generated is insufficient to enable the full quantity to be conveniently supplied.

Section 49(1). Precautions in execution of work.

The execution of all work in connection with the generation or supply of energy which may affect any street, railway, canal or other waterway or any system of irrigation, drainage, or water supply or any telegraphs, telephones, radio-communications, harbour works or other public or private works, and the erection of any supply line crossing, whether overhead or underground, any such way or work as aforesaid, shall be carried out in the prescribed manner and without prejudice to public safety or private safety.

Section 50. Electrical interference with Government signalling lines.

If the Executive Chairman is satisfied that the working or operation of any installation causes electrical interference with any radio-communication, telecommunication, telegraph, telephone or other electrical signalling process or circuit owned or operated by or on behalf of the Government or the Corporation, the Executive Chairman shall call upon the owner to abate the interference, and if, within a period as the Executive Chairman considers reasonable in any particular circumstances, such interference is not abated, the Executive Chairman shall report the matter to the Minister who may in the case of any installation, by order, prohibit the working or operation of such part thereof as causes the electrical interference, until arrangements have been made to the satisfaction of the Executive Chairman for preventing the recurrence of such electrical interference as aforesaid.

Section 54. Disconnection of supply of energy.

(1) Where any person employed by the Corporation finds upon any premises evidence which in his opinion proves that an offence has been committed under subsection (3) of section 55 of this Act, the Corporation or any person duly authorised by the Corporation may, upon giving not less than twenty-four hours' notice thereof, in such form as may be prescribed cause the supply of energy to be disconnected from such premises.

(2) Notwithstanding the provisions of subsection (1) of this section, where the energy is used by the consumer for business, professional or industrial purposes and the disconnection of the supply of energy would prevent the consumer from carrying on his business, profession or industry, the supply of energy shall not be disconnected without the approval of the Corporation endorsed upon such written notice.

(3) If the supply of energy has been disconnected under subsection (1) of this section, it shall not be reconnected until the Executive Chairman at his discretion gives permission for reconnection:

Provided that the period of disconnection shall not exceed one month.

(4) If the supply of energy has been disconnected under subsection (2) of this section, the Corporation may at its discretion determine the period for which such disconnection shall be enforced:

Provided that the period of disconnection shall not exceed one month.

(5) No notice given under subsection (1) of this section and no approval of such notice given by the Corporation under subsection (2) of this section shall be called into question in any court, and no action or suit shall be instituted in any court, against the Corporation or any officer or servant of the Corporation in respect of any matter or thing arising or resulting from the operation of this section.