

Commencement: 24 March 1972



CHAPTER 65

ELECTRICITY SUPPLY

JR 17 of 1971
Act 21 of 2000

ARRANGEMENT OF SECTIONS

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ELECTRICITY SUPPLY

To provide for matters connected with the generation and supply of electricity at Port Vila and Luganville, and to other areas.

1. Interpretation

In this Act, unless the contrary intention appears –

“concessionaire” means:

- (a) in relation to Port Vila and Luganville – the body holding the sole concession for the manufacture and supply of electricity within those areas; and
- (b) in relation to any other area – the person granted the sole concession under a concession agreement for the manufacture and supply of electricity within that area;

“concession agreement” means an agreement entered into under section 1A;

“concession area” means –

- (a) in relation to Port Vila and Luganville – the areas of Port Vila and Luganville; and
- (b) in relation to any other area – the area specified in the concession agreement;

“Minister” means the Minister responsible for power.

1A. Agreement granting sole concession for electricity outside Port Vila and Luganville

- (1) The Minister may, on behalf of the Government, enter into an agreement granting a person the sole concession for the manufacture and supply of electricity within such areas outside of Port Vila and Luganville as are specified in the agreement for a specified period.
- (2) Nothing in the agreement is to be taken to affect the supply of electricity by the Government under the Supply of Electricity (Districts) Act [Cap. 96] outside of the concession area while the agreement remains in force.

1B. Other manufacturers and suppliers

- (1) A person who is not the concessionaire can manufacture and supply electricity outside a concession area.
- (2) A person who manufactures electricity outside of a concession area can sell the electricity to a concessionaire.

2. Act subject to contract of concession

- (1) The provisions of this Act shall be subject to the terms of the contract with the Minister under which the concession for Port Vila and Luganville was granted.
- (2) A concession agreement is subject to the terms of this Act. If there is any conflict between a provision of the agreement and a provision of the Act, the provision of the Act prevails.

3. Powers of the concessionaire

It shall be lawful for the concessionaire within the concession area granted to it –

- (a) to acquire, construct, operate and control electric lines and works and to generate, supply and sell electricity and to maintain, alter, extend or renew the said lines and works;

- (b) to undertake electrical wiring and the installation and servicing of equipment in industrial, commercial and residential premises.

4. Penalty for other persons generating etc., electricity

Any person other than the concessionaire generating, distributing and supplying electricity in the area of a concession shall commit an offence punishable upon conviction by a fine not exceeding VT 250,000:

Provided that nothing in this section shall prohibit any person from generating electricity for his own use in any dwelling house, store, workshops, or other premises owned or occupied by him.

5. Further powers of concessionaire

- (1) In the exercise of the powers conferred by this Act, whether in the course of its normal commercial operations or pursuant to any special arrangement with the Minister, it shall be lawful for the concessionaire when so authorised for the purpose by the Minister, by itself, its agents, workmen and labourers, to do all or any of the following –

- (a) enter, survey, and take levels of any private or other land or any part thereof and also dig out and remove any earth, stone, soil, sand and gravel whatsoever for the construction, maintenance or alteration of any line or any part thereof or for any other purpose in connection with the works authorised by this Act;
- (b) cut and remove from any private or other land any tree or any branch, bough or other part of a tree growing on such lands within 100 feet of any main or sub-main used for conducting electricity and which may in any way affect or interfere with the works;
- (c) open or break up any road;
- (d) erect and maintain posts, staywires, poles or pillars in or upon any private or other land and attach, place and maintain wires, lines, conduits or other appliances and things necessary for the works in, under, through or over, across or upon any street, road, land, buildings, houses or premises:

Provided that before the exercise of any of the powers herein conferred notice of the concessionaire's intention shall be served on the owner or owners, or other interested party, if any, at least 7 clear days before the exercise of such power.

- (2) In the exercise of the powers given by this section, the concessionaire shall not be deemed to acquire any right other than that of user only in or over the soil of any land through, over or under which it causes to be placed any of the works and should any of the works so carried through, over or under any such land cause any loss or damage of a certain and material nature to the owner of such land the concessionaire shall remove or alter such work or the owner shall be entitled to reasonable compensation as provided in section 6.
- (3) Every authority given under subsection (1) shall specify whether such power is to be exercised by the concessionaire in its own right or on behalf of the Government and the cost of removal or alteration of such work or the payment of compensation, as the case may be, shall be borne by the concessionaire or the Government.

6. Applications for compensation

- (1) Every person who sustains any damage or loss of a certain and material nature by reason of the exercise of any of the powers conferred by section 5 upon the concessionaire may make application for compensation in writing in that behalf to the concessionaire or the Minister as the case may be at any time before the expiration

of 1 year after the act, matter or thing in respect of which such damage or loss is alleged to have been sustained, and if he fails to make application within such period his claim to compensation shall be barred.

- (2) The amount of compensation, if any, payable under the provisions of this Act shall, in default of agreement, be determined by a Compensation Commission, which shall comprise –

Chairman: the Director of Lands;
Members: the Director of Finance;
the Director of Public Works;
two persons resident in the area affected appointed by the Minister.

- (3) The Compensation Commission shall hear the claimant and the concessionaire or the Minister, as the case may be, either in person or by an agent, or if either shall so desire, consider written submissions in lieu thereof, and shall give its decision and the reasons therefor in writing. Such decision shall be final.
- (4) Any sum agreed or determined by the Compensation Commission to be payable as compensation to any person under the provisions of this section, shall forthwith be paid to such person.

7. Compensation in respect of failure of supply

The concessionaire shall not be liable in damages to any person by reason of any partial or total failure of the supply of electricity which may be due to unavoidable accident, fair wear and tear, circumstances beyond the control of the concessionaire, or the reasonable requirements of the system, and the concessionaire may at any time temporarily discontinue the supply of electricity whenever in its opinion such action is desirable for the purpose of ensuring the efficient operation of the works provided that reasonable notice of discontinuance shall be given where practicable.

8. Injurious acts with intent to cut off supply, etc.

Any person who maliciously cuts or injures any electric line or work installed or constructed by the concessionaire under the authority of its concession or the provisions of this Act shall commit an offence punishable upon conviction by imprisonment for a term not exceeding 2 years; and any person who maliciously extinguishes any public lamp shall commit an offence punishable upon conviction by a fine not exceeding VT 10,000 or imprisonment for a term not exceeding 3 months or by both such fine and imprisonment.

9. Wasting or diverting electricity

Any person who causes to be wasted or diverted any electricity supplied by the concessionaire shall commit an offence punishable upon conviction by a fine not exceeding VT 50,000.

10. Damage to works

Any person who wilfully or negligently injures or damages or causes to be injured or damaged any works, apparatus, appliances, matters or things of whatever description required for the generation, transmission, transformation, distribution, supply or use of electrical energy, installed or constructed by the concessionaire under the authority of its concession or the provisions of this Act, shall commit an offence punishable upon conviction by a fine not exceeding VT 50,000 in addition to proceedings for the cost of repairing such injury or damage.

11. Other wrongful acts

Any person who wilfully, fraudulently or by culpable negligence injures or permits to be injured any works installed or constructed by the concessionaire under the authority of its concession or the provisions of this Act or alters the index of any meter or prevents any meter from duly registering the quantity of energy supplied or fraudulently abstracts

consumes or uses energy supplied by the concessionaire (without prejudice to any other right or remedy for the protection of the concessionaire or the punishment of the offender) for each day during which the same occurs or continues commit an offence punishable upon conviction by a fine not exceeding VT 5,000 and the concessionaire may in addition thereto recover from such person by proceedings in the appropriate court the amount of any damage by it sustained and may also discontinue the supply of electricity to the person so offending (notwithstanding any agreement or contract previously existing) and the existence of artificial means for causing such alteration or prevention or for fraudulently abstracting, consuming or using electricity supplied by the concessionaire when such meter is under the custody or control of such person shall be *prima facie* evidence that such alteration, prevention, abstraction, consumption or use, as the case may be, has been fraudulently, knowingly and wilfully caused by the consumer using such meter.

12. Power of entry to ascertain quantity of electricity consumed, etc.

Any officer, servant or agent authorised by the concessionaire may at all reasonable times enter any premises to which electricity is or has been supplied by the concessionaire in order to inspect the electric lines, meters, accumulators, fittings, works and apparatus for the supply of electricity belonging to the concessionaire and for the purpose of ascertaining the quantity of electricity consumed or supplied or, where a supply of electricity is no longer required, or where the concessionaire desires to take away and cut off the supply of electricity from any premises for the purpose of removing any electric lines, meters, accumulators, fittings, works or apparatus belonging to the concessionaire.

13. Assault, obstruction, etc., of authorised officer

Any person who shall assault, molest, hinder or obstruct any authorised officer, servant or agent in the exercise of any of the powers conferred by the preceding section or in the execution of any works authorised by this Act or any regulations made thereunder shall commit an offence punishable upon conviction by a fine not exceeding VT 50,000 or imprisonment for a term not exceeding 3 months, or by both such fine and imprisonment.

14. Regulations

The Minister may make regulations, not inconsistent with the provisions of this Act or the terms of any agreement granting a concession to the concessionaire, generally for giving effect to the provisions of this Act and such rules may impose penalties for the breach thereof not exceeding a fine of VT 10,000.

Table of Amendments (since the Revised Edition 1988)

Long Title	Amended by Act 21 of 2000
1	Substituted by Act 21 of 2000
1A, 1B	Inserted by Act 21 of 2000
2(1)	Amended by Act 21 of 2000
2(2)	Inserted by Act 21 of 2000
3	Amended by Act 21 of 2000
4	Amended by Act 21 of 2000
6(2)	Amended by Act 21 of 2000



REPUBLIC OF VANUATU

**ELECTRICITY SUPPLY (AMENDMENT) ACT
NO. 13 OF 2010**

Arrangement of Sections

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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"