

PROJET DE LOI

ENTITLED

The Electricity (Guernsey) Law, 2001

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The Electricity (Guernsey) Law, 2001

THE STATES, in pursuance of their Resolution of the 16th March, 2000^a, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Island of Guernsey.

PART I LICENSING

Prohibition of unlicensed supply etc..

1. (1) Subject to the provisions of subsections (2), a person shall not-
 - (a) generate electricity for the purpose of giving a supply to any premises or enabling a supply to be so given;
 - (b) convey electricity through an electricity network for that purpose; or
 - (c) supply electricity to any premises,

in the Island of Guernsey except under the authority of and in accordance with the conditions of a licence granted by the Director General under this Part of this Law; and a person who contravenes any provision of this subsection shall be guilty of an offence and liable -

^a Resolution 5 on Article III of Billet d'État No. VIII of 2000.

- (i) on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine not exceeding £2,500,000 or 10% of the defendant's turnover (whichever is greater), or to both; or
- (ii) on summary conviction, to imprisonment for a term not exceeding six months, or to a fine not exceeding level 5 on the uniform scale, or to both.

(2) The Director General may, having regard to the objectives set out in section 2 of the Regulation Law, and subject to the provisions of any States' Directions, by direction grant an exemption from subsection (1).

(3) An exemption under subsection (2) -

- (a) may be granted to a particular person or particular class of persons;
- (b) may be granted subject to such conditions as the Director General may think fit;
- (c) when granted to a particular class of persons, shall be published; and
- (d) unless previously revoked in accordance with any term contained in the exemption, shall continue in force for such period as may be specified in or determined by or under the exemption.

Licences for generation, conveyance and supply of electricity.

2. (1) Having regard to the objectives set out in section 2 of the Regulation Law, and subject to the provisions of any States' Directions, the Director General may -

- (a) grant a licence authorising any person -
 - (i) to generate electricity for the purpose of giving a supply to any premises or enabling a supply to be so given (a "**generation licence**");
 - (ii) to convey electricity for that purpose in that person's Authorised Area (a "**conveyance licence**");
 - (iii) to supply electricity in that person's Authorised Area (a "**public electricity supply licence**", the holder of a public electricity supply licence, being referred to as a "**public electricity supply licensee**"); or
 - (iv) to supply electricity to any premises specified or of a description specified in the licence (the holder of any such licence being referred to as a "**special supply licensee**"); or
- (b) refuse to grant any such licence.

(2) A licence -

- (a) shall be a class licence or an individual licence;
- (b) shall be in writing;
- (c) shall, unless previously revoked, suspended or surrendered, continue in force for any period specified in the licence; and
- (d) shall not be capable of being surrendered without the consent of the Director General.

(3) A licence granted under subsection (1)(a)(ii) or (iii), may be an exclusive licence.

(4) A licence granted under subsection (1)(a)(i), may provide that the code shall have effect in relation to the licensee, for the purposes of supplying any premises with heat produced in association with electricity and steam produced from, and air and heat heated by, such heat.

Applications for licences.

3. (1) The Director General shall publish -

- (a) details of the procedures to be followed and the criteria to be applied in relation to applications for, and the grant of, a licence (which procedures may, without limitation, include requirements as to the submission of information and documents with an application);
- (b) any changes made by him from time to time to such procedures, criteria and requirements.

(2) The Director General may, by notice in writing, require an applicant to provide such additional information and documents as he may reasonably require for the purpose of determining an application for a licence.

(3) An application for a licence -

(a) shall be accompanied by the appropriate fee or levy prescribed by the Director General under section 6;

(b) may be withdrawn by notice in writing to the Director General at any time before it is determined.

Grant or refusal of licences.

4. (1) The Director General may, where he considers it appropriate, publish notice of a proposed decision to grant a licence.

(2) Where the Director General proposes to refuse to grant an individual licence, he shall inform the applicant in writing of the reasons for the proposed refusal and specify a period within which representations may be made.

(3) Where the Director General refuses to grant an individual licence, he shall inform the applicant of his reasons for the refusal in writing.

(4) A person aggrieved by a refusal of the Director General to grant an individual licence may appeal against the refusal to the Utility Appeals Tribunal under and in accordance with the provisions of section 15 of the Regulation Law.

(5) The grant of a licence shall not relieve the licensee of any obligation to obtain any other licence, consent, permission or waiver required from persons other than the Director General for any other purpose.

Licence conditions and publication thereof.

5. (1) A licence may, subject to the provisions of any States' Directions, include such conditions as appear to the Director General to be appropriate, having regard to the nature of the application for the licence, the objectives set out in section 2 of the Regulation Law and the enforcement of the Regulation Law and this Law; and, without prejudice to the generality of the foregoing, the Director General may include in any licence -

- (a) a condition requiring the licensee to comply with any direction given by the Director General under any power contained in this Law or in any condition of the licence;
- (b) conditions requiring the licensee to enter into agreements with other persons for the use of any of its electric lines and electrical plant (wherever situated and whether or not used for the purpose of carrying on the activities authorised by the licence) for such purposes as may be specified in the conditions;
- (c) conditions requiring the licensee-
 - (i) to set out in writing and to publish, in such manner as the Director General may direct, the terms and conditions upon which it will enter into agreements under subsection (1)(b), and
 - (ii) to disclose to the Director General, details of the terms and conditions of

any agreements concluded under subsection (1)(b);

- (d) conditions intended to prevent and control anti-competitive behaviour;
- (e) conditions relating to the grant of access to public land;
- (f) conditions regulating the prices, premiums and discounts that may be charged or (as the case may be) allowed by a licensee which has a dominant position in a relevant market;
- (g) conditions relating to the permanence, availability and quality of electric lines and electrical plant;
- (h) conditions relating to national security and the investigation of crime;
- (i) conditions relating to the enforcement, revocation and suspension of the licence and to the imposition of financial penalties; and
- (j) conditions relating to the provision of documents, accounts and information.

(2) Without prejudice to the generality of subsection (1), a conveyance licence may-

- (a) require the licensee to engage in the economic purchase of electricity and other goods and services whilst taking

into account any reserve capacity obligations it has contracted for in order to maintain a strategic security of supply;

- (b) relate to the establishment of tariffs the licensee may charge consumers of electricity and tariffs for the use of the electricity network by generators and their calculation from time to time;
- (c) require the licensee to maintain separate accounts in respect of distinct parts of its business and prohibit cross subsidy between those parts;
- (d) require the licensee to implement and maintain an operational code in relation to the electricity network;
- (e) require the licensee to offer terms to persons requiring a connection to the electricity network;
- (f) require the licensee to develop and maintain an efficient, co-ordinated and economical system for electricity; and
- (g) require the licensee to develop and maintain electric lines or electrical plant or both.

(3) Without prejudice to the generality of subsection (1), a public electricity supply licence may include conditions requiring the licensee to publish codes of practice in relation to-

- (a) the payment of bills by consumers and the disconnection of consumers;
- (b) the provision of services to the elderly and disabled;
- (c) the efficient use of electricity by consumers; and
- (d) the handling of consumer complaints.

(4) The Director General shall publish notice -

- (a) of a proposed decision as to whether a person has a dominant position in a relevant market and of the conditions, if any, proposed to be included in the licence granted or to be granted to that person in relation to the control of that dominant position;
- (b) of a proposed decision to regulate the prices, premiums and discounts that may be charged or (as the case may be) allowed by a licensee which has a dominant position in a relevant market; and
- (c) of a proposed decision to include quality of service conditions in any licence.

(5) Notice under subsection (4) of a proposed decision shall specify the time (not being less than 7 days from the date of publication of the notice) within which written representations or objections in respect of the proposed decision may be made by interested parties; and the Director General shall -

- (a) before making the decision, consider any representations or objections received from any interested party; and
 - (b) having followed the procedure set out in subsection (4) and in this subsection, make his decision and publish notice thereof.
- (6) Any condition included in a licence may be time-limited.

Licence fees.

6. (1) The Director General shall, subject to the provisions of section 4(3) of the Regulation Law, determine, prescribe and publish the fees and levies payable on an application for, and on the grant and renewal of, and over the term of, a licence and the interest and penalties payable in the event of default in the due payment of fees or levies.

(2) The fees, levies, interest and penalties determined and prescribed by the Director General under subsection (1) shall, without prejudice to any other remedy in respect of any default in payment, be recoverable as a civil debt due to the Director General.

Licence register.

7. (1) The Director General shall maintain a public register of licences containing -

- (a) the names and addresses of all licensees to whom an individual licence has been granted; and
- (b) a copy of every licence granted by him.

(2) The public register referred to in subsection (1) shall be made available by the Director General for public inspection at his offices during normal office hours.

(3) The Director General may withhold any information from the public register referred to in subsection (1) if he considers it to be confidential.

Modification of licence conditions.

8. (1) Having regard to the objectives set out in section 2 of the Regulation Law, and subject to the provisions of any States' Directions and the following provisions of this section, the Director General may modify a licence by amending or revoking any condition included in it or by adding any condition to it (including, subject to the provisions of section 9, any condition as to the application in relation to the licensee of the code).

(2) Before making modifications under this section to a licence, the Director General shall publish, and (in the case of an individual licence) give to the holder of the licence, notice -

- (a) stating the modifications which he proposes to make;
- (b) stating the reasons why he proposes to make those modifications; and
- (c) specifying the time (not being less than 7 days from the date of publication of the notice) within which written representations or objections in respect of the proposed modifications may be made by interested parties;

and he shall -

- (i) before making the modification, consider any representations or objections received from any interested party; and
- (ii) having followed the procedure set out in this subsection, modify the licence (and publish notice of the modification) or decide not to modify the licence (and publish notice of that decision).

(3) A modification to a licence shall take effect from such time as the Director General directs, not being earlier than the expiry of the period specified by the Director General in accordance with subsection (2)(c).

Access to and use of land.

9. (1) Subject to the provisions of this section, the code of rights, powers, duties and obligations set out in Schedule 1 to this Law (referred to in this Law as “**the code**”) shall apply in relation to a licensee if and to the extent that its provisions are applied in relation to him by a condition in his licence.

(2) Subject to section 2(4), the code shall only be applied in relation to a licensee -

- (a) who has an individual licence; and
 - (b) where, in the opinion of the Director General, it is not technically or economically feasible for the electricity network of that licensee to be established, operated or maintained without the application of the code.
- (3) Where the code is applied in relation to a licensee, it shall have

effect in relation to him subject to such modifications and conditions as may be specified in the licence, including (without limitation) modifications and conditions -

- (a) for the protection of the environment;
- (b) to ensure that there is no greater damage to public highways or interference with traffic than is reasonably necessary; and
- (c) to ensure that the licensee has sufficient funds available to meet any liabilities which may arise from the exercise of any right or power afforded by, or from any duty or obligation imposed by, the code;

and any such modification or condition may also require a licensee in relation to whom the code is applied to comply with any directions given by the Director General in the manner specified in the modification or condition.

- (4) The Director General shall publish a notice -
 - (a) stating that he proposes to apply the code in relation to a particular person and setting out the modifications and conditions subject to which, under subsection (3), the code will have effect;
 - (b) specifying the time (not being less than 7 days from the date of publication of the notice) within which written representations or objections in respect of the application of the code or the proposed modifications and conditions may be made by interested parties;

and he shall -

- (i) before applying the code, consider any representations or objections received from any interested party; and
- (ii) having followed the procedure set out in this subsection, publish a notice stating that the code has or has not been applied in relation to a particular licensee and, where the code is applied, setting out the modifications and conditions subject to which the code will have effect.

(5) No right, power, duty or obligation conferred or imposed by or under the code shall be exercisable in relation to any property belonging to Her Majesty in right of the Crown except with the consent of Her Majesty's Receiver General.

(6) A consent given for the purposes of subsection (5) may be given subject to such financial and other conditions as Her Majesty's Receiver General may think fit.

(7) The provisions of subsections (5) and (6) are in addition to, and not in derogation from, the other provisions of this section.

(8) The provisions of this section are without prejudice to the provisions of the Public Thoroughfares (Guernsey) Law, 1958^b.

^b Ordres en Conseil Vol. XVII, p. 440; section 5 is amended by Ordres en Conseil Vol. XXIII, p. 395 and by paragraph 6 of Schedule 2 to this Law.

PART II

GENERATION, CONVEYANCE AND SUPPLY OF ELECTRICITY

Duty to supply on request

10. (1) Subject to the following provisions of this Part and any regulations made under those provisions, a public electricity supply licensee shall, upon being required to do so by the owner or occupier of any premises-

- (a) give a supply of electricity to those premises; and
- (b) so far as may be necessary for that purpose, provide electric lines or electrical plant or both.

(2) Where any person requires a supply of electricity in pursuance of subsection (1), he shall give to the relevant public electricity supply licensee a notice specifying-

- (a) the premises in respect of which the supply is required;
- (b) the day on which the supply is required to commence;
- (c) the maximum power which may be required at any time; and
- (d) the minimum period for which the supply is required to be given.

(3) Where a public electricity supply licensee receives from any person a notice under subsection (2) requiring it to give a supply of electricity to any premises and-

- (a) it has not previously given a supply of electricity to those premises; or
- (b) the giving of the supply requires the provision of electric lines or electrical plant or both; or
- (c) other circumstances exist which make it necessary or expedient for it to do so,

it shall, as soon as practicable after receiving that notice, give to that person a notice under subsection (4).

(4) A notice from a public electricity supply licensee under this subsection shall-

- (a) state the extent to which the proposals specified in the other person's notice under subsection (2) are acceptable to the public electricity supply licensee and specify any counter proposals made by the public electricity supply licensee;
- (b) state whether the prices to be charged by the public electricity supply licensee will be determined by a tariff under section 12, or a special agreement under section 16, and specify the tariff or the proposed terms of the agreement;
- (c) specify any payment which that person will be required to make under section 13(1), or under directions made under section 13(2);

- (d) specify any other terms which that person will be required to accept under section 10; and
 - (e) state the effect of section 17.
- (5) In this section and in sections 11 to 17-
- (a) any reference to giving a supply of electricity includes a reference to continuing to give such a supply;
 - (b) any reference to requiring a supply of electricity includes a reference to requiring such a supply to continue to be given; and
 - (c) any reference to the provision of an electric line or an item of electrical plant is a reference to the provision of such a line or item either by the installation of a new one or by the modification of an existing one.

Exceptions from duty to supply

11. (1) A public electricity supply licensee shall not be required to give a supply of electricity to any premises pursuant to section 10(1) if-

- (a) such a supply is being given to the premises by a special supply licensee; and
- (b) that supply is given (wholly or partly) through the electric lines and electrical plant of the holder of a conveyance licence.

(2) A public electricity supply licensee shall not be required to give a supply of electricity to any premises pursuant to section 10(1) if and to the extent that-

- (a) it is prevented from doing so by circumstances not within its control;
- (b) circumstances exist by reason of which it doing so would or might involve it being in breach of regulations under section 19, and it has taken all such steps as it was reasonable to take both to prevent the circumstances from occurring and to prevent them from having that effect; or
- (c) it is not reasonable in all the circumstances for it to be required to do so.

(3) Subsection (2)(c) shall not apply in relation to a supply of electricity which is being given to any premises unless the public electricity supply licensee gives to the occupier, or to the owner if the premises are not occupied, not less than seven working days notice of its intention to discontinue the supply in pursuance of that subsection.

Power to recover charges

12. (1) Subject to the following provisions of this section and section 23, the prices to be charged by a public electricity supply licensee for the supply of electricity by it pursuant to section 10(1) shall be in accordance with such tariffs (which, subject to any condition included in its licence, may relate to the supply of electricity in different areas, cases, premises and circumstances) as may be fixed by him from time to time and approved by the Director General before they are levied.

(2) A tariff fixed by a public electricity supply licensee under subsection (1) may include-

- (a) a standing charge in addition to the charge for the actual electricity supplied;
- (b) a charge in respect of the availability of a supply of electricity; and
- (c) a rent or other charge in respect of any electricity meter or electrical plant provided by the public electricity supply licensee;

and such a charge as is mentioned in paragraph (b) may vary according to the extent to which the supply is taken up.

(3) In fixing tariffs under subsection (1), a public electricity supply licensee shall not show undue preference to any person or class of persons, and shall not exercise any undue discrimination against any person or class of persons.

(4) Any question relating to whether any act done or course of conduct pursued by a public electricity supply licensee amounts to such undue preference or such undue discrimination shall be determined by the Director General but nothing done in any manner by a public electricity supply licensee shall be regarded as undue preference or undue discrimination if and to the extent that the public electricity supply licensee is required or permitted to do the thing in that manner by or under any provisions of its licence.

Power to recover expenditure

13. (1) Where any electric line or electrical plant is provided by a public electricity supply licensee pursuant to section 10, the public electricity supply

licensee may require any expenses reasonably incurred in providing the line or plant to be defrayed by the person requiring the supply of electricity to such extent as is reasonable in all the circumstances.

(2) The Director General may direct a person requiring a supply of electricity pursuant to section 10 from a public electricity supply licensee to pay to the public electricity supply licensee, in respect of any expenses reasonably incurred in providing any electric line or electrical plant used for the purpose of giving that supply, such amount as may be reasonable in all the circumstances if-

- (a) the supply is required within the prescribed period after the provision of the line or plant; and
- (b) a person for the purpose of supplying whom the line or plant was provided ("**the initial contributor**") has made a payment to the public electricity supply licensee in respect of those expenses.

(3) Directions under subsection (2) may require a public electricity supply licensee who, pursuant to this section or the directions, has recovered any amount in respect of expenses reasonably incurred in providing any electric line or electrical plant:-

- (a) to exercise its rights under the directions in respect of those expenses; and
- (b) to apply any payments received by it in the exercise of those rights in making such payments as may be appropriate towards reimbursing the initial contributor and any persons previously required to make payments under the directions.

(4) Any reference in this section to any expenses reasonably incurred in providing an electric line or electrical plant includes a reference to the capitalised value of any expenses likely to be so incurred in maintaining it, in so far as they will not be recoverable by the public electricity supply licensee as part of the charges made by it for the supply.

Power to require security

14. (1) Subject to the following provisions of this section, a public electricity supply licensee may require any person who requires a supply of electricity in pursuance of section 10(1) to give it reasonable security for the payment to it of all money which may become due to it-

- (a) in respect of the supply; or
- (b) where any electric line or electrical plant falls to be provided in pursuance of that subsection, in respect of the provision of the line or plant,

and if that person fails to give such security, the public electricity supply licensee may, if it thinks fit, refuse to give the supply, or refuse to provide the line or plant, for so long as the failure continues.

(2) Where any person has not given such security as is mentioned in subsection (1), or the security given by any person has become invalid or insufficient-

- (a) the public electricity supply licensee may by notice require that person, within seven days after the service of the notice, to give it reasonable security for the

payment of all money which may become due to it in respect of the supply; and

- (b) if that person fails to give such security, the public electricity supply licensee may, if it thinks fit, discontinue the supply for so long as the failure continues,

and any notice under subsection (2)(a) shall state the effect of section 17.

(3) Where any money is deposited with a public electricity supply licensee by way of security in pursuance of this section, the public electricity supply licensee shall pay interest, at such rate as may from time to time be fixed by the public electricity supply licensee with the approval of the Director General, on every sum of money so deposited, for every three months (or such lesser period as the public electricity supply licensee may determine) during which it remains in the hands of the public electricity supply licensee.

(4) Payments of money made to a public electricity supply licensee by a customer by way of standing order with that customer's bank, shall not constitute monies deposited by way of security for the purposes of this section.

Additional terms of supply

15. (1) A public electricity supply licensee may require any person who requires a supply of electricity in pursuance of section 10(1) to accept in respect of the supply-

- (a) any terms requiring that person to continue to receive and pay for the supply of electricity for a minimum period of time and subject to minimum consumption requirements;

- (b) any restrictions which must be imposed for the purpose of enabling the public electricity supply licensee to comply with regulations under section 19; and
 - (c) any terms restricting any liability of the public electricity supply licensee for economic, consequential or other indirect loss however arising which it is considered reasonable by the Director General in all the circumstances for that person to be required to accept.
- (2) A public electricity supply licensee shall –
- (a) publish the terms and conditions upon which it supplies electricity; and
 - (b) notify its customers of those terms and conditions,

in such manner as the Director General may direct.

Special agreements with respect to supply

16. (1) Notwithstanding anything in sections 10 to 15, a person who requires a supply of electricity in pursuance of section 10(1)-

- (a) may enter into a special agreement with a public electricity supply licensee for the supply on such terms as may be specified in the agreement; and
- (b) shall enter into such an agreement in any case where it is reasonable in all the circumstances for such an agreement to be entered into.

(2) The rights and liabilities of the parties to an agreement as provided for in subsection (1) shall be those arising under the agreement and not those provided for by sections 10 to 15; but nothing in this subsection shall prejudice the giving of a notice under section 10(2) specifying as the day on which the supply is required to commence the day on which such an agreement ceases to be effective.

(3) In this Part, "**tariff customer**" means a person who requires a supply of electricity in pursuance of section 10(1) and is supplied by a public electricity supply licensee otherwise than on the terms specified in such an agreement as is mentioned in subsection (1).

Determination of disputes

17. (1) Any dispute arising under sections 10 to 16 which cannot be resolved between the relevant public electricity supply licensee and a person requiring a supply of electricity may be referred by either party to the Director General for resolution.

- (2) On the reference of a dispute to him under subsection (1) -
- (a) the Director General shall investigate the dispute within a reasonable period of time, and in any event within a period of 6 months from the date of the reference;
 - (b) the Director General shall resolve the dispute by issuing a direction; and
 - (c) if the Director General issues a direction under paragraph (b) that a supply shall be provided, he may issue a further direction as to the terms, conditions and charges that shall apply, having regard to the provisions

of this Part.

(3) Where any dispute arising under sections 10 to 16 between a public electricity supply licensee and a person requiring a supply of electricity to continue to be given falls to be determined under this section, the Director General may give directions as to the circumstances in which, and the terms on which, the public electricity supply licensee is to continue to give the supply pending the determination of the dispute.

(4) Where any dispute arising under section 14(1) falls to be determined under this section, the Director General may give directions as to the security (if any) to be given pending the determination of the dispute.

(5) Directions under subsections (3) or (4) may apply either in cases of particular descriptions or in particular cases.

The Electricity Supply Code

18. The provisions of Schedule 2 to this Law (which relate to the supply of electricity by a public electricity supply licensee) shall have effect.

PART III
TECHNICAL MATTERS, SAFETY AND ENVIRONMENTAL

Regulations relating to supply and safety

19. (1) The Director General may make such regulations as he thinks fit for the purpose of-

- (a) securing that supplies of electricity are regular and efficient;
- (b) protecting the public from dangers arising from the generation, conveyance or supply of electricity, from the use of electricity supplied or from the installation, maintenance or use of any electric line or electrical plant; and
- (c) without prejudice to the generality of subsection (1)(b), eliminating or reducing the risks of personal injury, or damage to property or interference with its use, arising as mentioned in that paragraph.

(2) Without prejudice to the generality of subsection (1), regulations made by the Director General under this section may-

- (a) prohibit the conveyance of electricity except by means of a system approved by the Director General;
- (b) make provision requiring notice in the prescribed form to be given to the Director General, in such cases as may be specified in the regulations, of accidents and failures of supplies or conveyance of electricity;

- (c) make provision as to the keeping, by persons authorised by a licence or exemption to supply or convey electricity, of maps, plans and sections and as to their production (on payment, if so required, of a reasonable fee) for inspection or copying;
- (d) make provision for relieving persons authorised by a licence to supply electricity from any obligation to supply in such cases as may be prescribed;
- (e) make provision requiring compliance with notices given by the Director General specifying action to be taken in relation to any electric line or electrical plant, or any electrical appliance under the control of a consumer, for the purpose of-
 - (i) preventing or ending a breach of regulations under this section;
 - (ii) eliminating or reducing a risk of personal injury or damage to property or interference with its use;
- (f) provide for particular requirements of the regulations to be deemed to be complied with in the case of any electric line or electrical plant complying with specified standards or requirements; or

- (g) provide for the granting of exemptions from any requirement of the regulations for such periods as may be determined by or under the regulations.
- (3) Regulations under this section may provide that any person-
- (a) who contravenes any specified provision of the regulations; or
 - (b) who does so in specified circumstances,

shall be liable on summary conviction to imprisonment for a term not exceeding six months, or to a fine not exceeding level 5 on the uniform scale, or to both; but nothing in this subsection shall affect any liability of any such person to pay compensation in respect of any damage or injury which may have been caused by the contravention.

(4) In accordance with his statutory duties and powers the Director General may consult with, or refer to, any other party, including the holder of a licence, for the purpose of assisting him in preparing any regulations under this section.

Electrical inspectors

20. (1) The Director General may by regulations make provision requiring any licensee to appoint competent and impartial persons to act as electrical inspectors, at the licensee's expense, under this Part for the purpose of-

- (a) the inspection and testing of electric lines and electrical plant belonging to persons authorised by a licence or exemption to generate, convey or supply electricity;

- (b) the inspection and testing of electric lines and electrical plant on a consumer's premises for the purpose of determining whether any requirement imposed by or under this Law in respect of such lines or equipment or the supply of electricity through or by such equipment has been complied with;
- (c) the inspection and testing of electrical installations of such type and installed during such periods of time as may be prescribed, on a consumer's premises to ensure compliance with proper standards of installation practice as determined or approved by the Director General; and
- (d) undertaking such other duties as may be prescribed by regulations under this section or as the Director General may determine.

(2) Regulations made by the Director General under this section may make provision for such matters as the Director General sees fit so as to carry out his functions under this Law and the Regulation Law and may include, without limiting the generality of the powers of the Director General under this section, regulations-

- (a) prescribing the manner in which and the times at which any duties are to be performed by electrical inspectors;
- (b) requiring persons authorised by a licence or exemption to generate, convey or supply electricity-

- (i) to furnish electrical inspectors with records or other information; and
- (ii) to allow such inspectors access to premises and the use of electrical plant and other facilities;
- (c) making provision for relieving persons authorised by a licence to supply electricity from any obligations to supply in such cases as may be prescribed; and
- (d) prescribing the amount of the fees which are to be payable to such inspectors.

Use etc. of meters

21. The provisions of Schedule 3 to this Law (which relate to the use, certification, testing and maintenance of electricity meters) shall have effect.

Preservation of amenity and fisheries

22. The provisions of Schedule 4 to this Law (which relate to the preservation of amenities and fisheries) shall have effect.

PART IV
FIXING OF MAXIMUM CHARGES

Fixing of maximum charges for reselling of electricity

23. (1) This section applies to electricity supplied to a consumer's premises by an authorised electricity supplier, that is to say, a person who is authorised by a licence or exemption to supply electricity.

(2) The Director General shall fix maximum prices at which electricity to which this section applies may be resold and-

- (a) may publish any prices so fixed; and
- (b) may direct a licensee to publish such prices, in such manner as in the opinion of the Director General will secure adequate publicity for them.

(3) Different prices may be fixed under this section in different classes or cases, which may be defined by reference to areas, tariffs applicable to electricity supplied by an authorised electricity supplier or any other relevant circumstances.

(4) If any person resells electricity, to which this section applies, at a price exceeding a maximum price fixed under this section and applicable thereto, the excess shall be recoverable by the person to whom the electricity was resold as a civil debt.

PART V
GENERAL OFFENCES

Offences in relation to unlicensed generation, etc of electricity.

24. (1) A person who, knowing or having reason to believe that any electricity is generated, conveyed or supplied in contravention of this Law, -

- (a) uses that electricity;
- (b) conveys or supplies that electricity for use by another;
or
- (c) performs any service incidental to the generation, conveyance or supply of that electricity;

shall, without prejudice to any other provision of this Law, be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding six months, or to a fine not exceeding level 5 on the uniform scale, or to both.

(2) A person who does any of the following acts -

- (a) supplying, installing, repairing or maintaining any electric line, electrical plant, electricity network or any other item knowing or having reason to believe that the line, plant, network or item is or is to be used in connection with, or for the purpose of facilitating, the generation, conveyance or supply of electricity, in contravention of this Law; or
- (b) rendering any other service to any person knowing or

having reason to believe that the rendering of that service to that person will facilitate the generation, conveyance or supply of electricity, in contravention of this Law;

shall, without prejudice to any other provision of this Law, be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding six months, or to a fine not exceeding level 5 on the uniform scale, or to both.

Contraventions of directions under section 29.

25. A licensee who contravenes any provision of a direction under section 29 shall, without prejudice to any remedy, penalty, right or action referred to in that section, be guilty of an offence and liable -

- (a) on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine, or to both; or
- (b) on summary conviction, to imprisonment for a term not exceeding six months, or to a fine not exceeding level 5 on the uniform scale, or to both.

Offences by bodies corporate.

26. (1) Where an offence under this Law committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person purporting to act in any such capacity, he as well as the body corporate shall be guilty of the offence and may be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies to a member in connection with his functions of

management as if he were a director.

Aiding and abetting, etc.

27. A person who aids, abets, counsels or procures the commission by another person of an offence under this Law shall be guilty of the like offence and may be proceeded against and punished accordingly.

Defence of due diligence.

28. In any proceeding for an offence under this Law, it shall be a defence for the accused to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence by himself and by any person under his control.

PART VI
ENFORCEMENT

Enforcement of licence conditions, directions, etc.

29. (1) Where the Director General is satisfied that a licensee is or has been in contravention of -

- (a) any condition of a licence; or
- (b) any provision of, or any provision of a direction or regulation under, this Law or the Regulation Law;

he may give, and may publish, a direction under this section.

(2) A direction under this section -

- (a) shall require the licensee to whom it is given to do, or not to do, any thing specified in the direction; and

(b) shall take effect -

(i) at such time (which may be immediately) as may be specified in the direction; or

(ii) if no time is so specified, at the earliest practicable time.

(3) Before giving a direction under this section to a licensee, the Director General shall give to the licensee, and may publish, notice -

(a) stating that he proposes to give a direction under this section to the licensee;

(b) detailing the requirements of the proposed direction;

(c) identifying -

(i) the condition of the licence; or

(ii) the provision of the direction, of this Law or of the Regulation Law;

in respect of which, in the opinion of the Director General, the licensee is in contravention.

(4) Notice under subsection (3) stating that the Director General proposes to give a direction under this section to a licensee shall specify the time (not being less than 7 days from the date of the giving of the notice, except in cases of exceptional urgency, in which case as much notice as is reasonably practicable shall

be given) within which written representations or objections in respect of the proposed direction may be made by the licensee or (where the notice is published) by any interested party; and the Director General shall -

- (a) before giving the direction, consider any representations or objections received within the relevant period from the licensee or (where the notice was published) from any interested party;
- (b) having followed the procedure set out in subsection (3) and in this subsection, give the direction, or not give the direction, and publish notice of the fact.

(5) Where a licensee contravenes any provision of a direction under this section, the Director General may, without prejudice to any criminal proceedings which may be instituted under section 25 in respect of the contravention -

- (a) enforce any remedy available to him under the licence held by or applicable to the licensee, including (subject to the provisions of section 30) any remedy of suspension or revocation of the licence or imposition of a financial penalty;
- (b) apply to the Court for an injunction in accordance with the provisions of section 6 of the Regulation Law.

Provisions as to revocation and suspension of licences and imposition of financial penalties.

30. (1) Before suspending or revoking a licence or imposing a financial penalty pursuant to section 29(5)(a), the Director General shall serve on the

licensee, and may publish, notice stating -

- (a) that he proposes to -
 - (i) suspend or revoke the licence; or
 - (ii) impose a financial penalty of the amount stated in the notice; and
- (b) the reasons for the proposed suspension, revocation or imposition.

(2) Notice under subsection (1) stating that the Director General proposes to suspend or revoke a licence or impose a financial penalty shall specify the time (not being less than 7 days from the date of the giving of the notice, except in cases of exceptional urgency, in which case as much notice as is reasonably practicable shall be given) within which written representations or objections in respect of the proposed decision may be made by the licensee or (where the notice is published) by any interested party.

(3) Before making a decision as to whether or not to suspend or revoke a licence or impose a financial penalty, the Director General shall consider any representations or objections received within the relevant period under subsection (2) from the licensee or (where the notice under subsection (1) was published) from any interested party; and, having complied with this subsection, the Director General shall make his said decision and shall serve on the licensee, and may publish, notice thereof.

(4) The Director General shall not suspend or revoke a licence or impose a financial penalty if satisfied that -

- (a) the licensee is taking or has taken all such steps as may be reasonably necessary to secure compliance with the direction under section 29;
- (b) the suspension or revocation of the licence or the imposition of the financial penalty would be inconsistent with the objectives set out in section 2 of the Regulation Law or the provisions of any States' Directions; or
- (c) the contravention of the direction under section 29 is not, in his opinion, material.

(5) Where the Director General decides to suspend or revoke a licence or impose a financial penalty, an appeal against the decision shall lie to the Utility Appeals Tribunal under and in accordance with the provisions of section 15 of the Regulation Law.

(6) In this Law the expression "**financial penalty**" means a penalty of such amount, not exceeding 10% of the turnover of the licensee upon whom the penalty is imposed, as the Director General may determine, having regard to -

- (a) the seriousness of the contravention in respect of which the penalty is imposed;
- (b) the extent to which the contravention was deliberate or reckless;
- (c) the objectives set out in section 2 of the Regulation Law; and

(d) the enforcement of the Regulation Law and this Law.

(7) A financial penalty shall, without prejudice to any other remedy in respect of any default in payment, be recoverable as a civil debt due to the Director General.

(8) A financial penalty shall be paid into the Public Utilities Regulation Fund established under section 9(1) of the Regulation Law.

(9) Notice under subsection (3) stating that the Director General has decided to impose a financial penalty upon a licensee may provide for the penalty to be paid by instalments of such number and amounts and at such times as may be specified in the notice.

Variation of financial penalties.

31. (1) The Director General may, of his own motion or on the application of the licensee concerned, vary -

- (a) the amount of a financial penalty imposed upon a licensee; or
- (b) the number, amounts and times of the instalments by which the financial penalty is to be paid.

(2) The Director General shall, before -

- (a) making, of his own motion, a variation under subsection (1); or
- (b) determining an application from a licensee for such a variation;

serve on the licensee, and may publish, notice stating the terms of the proposed variation or determination and the reasons therefor; and such a notice shall specify the time (not being less than 7 days from the date of the giving of the notice, except in cases of exceptional urgency, in which case as much notice as is reasonably practicable shall be given) within which written representations or objections in respect of the proposed variation or determination may be made by the licensee or (where the notice is published) by any interested party.

(3) Having served notice under subsection (2), the Director General shall consider any representations or objections received within the relevant period from the licensee or (where the notice was published) from any interested party; and, having complied with this subsection, the Director General shall -

- (a) decide whether or not to make, of his own motion, the proposed variation under subsection (1); or, as the case may be,
- (b) determine the application from the licensee for such a variation;

and the Director General shall serve on the licensee, and may publish, notice of his decision or determination.

(4) An appeal shall lie to the Utility Appeals Tribunal under and in accordance with the provisions of section 15 of the Regulation Law against a decision or determination of the Director General described in subsection (3).

Search warrants.

32. (1) If, the Bailiff is satisfied by information on oath -

- (a) that there are reasonable grounds for suspecting that an offence under this Law or the Regulation Law has been or is being committed; and
- (b) that evidence of the commission of the offence is to be found on any premises specified in the information;

he may grant a warrant authorising any person named in the warrant, with or without an officer of police, to enter, at any time within one month from the date of the warrant, the premises specified in the information and to search the premises and examine and take copies of any documents or information, and examine and test any equipment or apparatus, found therein.

(2) Where under this section a person has a right to examine any document, information, equipment or apparatus on any premises, it shall be the duty of any persons on the premises to give him such assistance as he may reasonably require in the examination and copying of the document or information or, as the case may be, in the examination and testing of the equipment or apparatus.

(3) A person who without reasonable excuse -

- (a) obstructs a person in the exercise of any power conferred on him under this section; or
- (b) fails or refuses to give to a person any assistance which he is, under this section, under a duty to give him;

shall be guilty of an offence and liable -

- (i) on conviction on indictment, to imprisonment for a term not exceeding 2 years, or to a fine, or

to both; or

- (ii) on summary conviction, to imprisonment for a term not exceeding six months, or to a fine not exceeding level 5 on the uniform scale, or to both.

(4) Subject to the provisions of subsection (5), a person who discloses any document or information obtained by means of an exercise of powers conferred by this section shall be guilty of an offence and liable -

- (a) on conviction on indictment, to imprisonment for a term not exceeding 2 years, or to a fine, or to both; or
- (b) on summary conviction, to imprisonment for a term not exceeding six months, or to a fine not exceeding level 5 on the uniform scale, or to both.

(5) Subsection (4) does not prohibit the disclosure of any information or document –

- (a) for the purposes of facilitating the performance by the Director General of his functions under this Law or the Regulation Law;
- (b) with the consent of the person to whom the information or document relates and (if different) the person from whom it was obtained;
- (c) for the purposes of-

- (i) the investigation, prevention or detection of crime; or
- (ii) any criminal proceedings or a report of such proceedings;
- (d) for the purposes of any civil proceedings brought under or arising out of this Law or the Regulation Law or a report of such proceedings;
- (e) in pursuance of any international obligation to which the Bailiwick may from time to time be subject; or
- (f) in pursuance of an order of a court.

PART VII
MISCELLANEOUS

Interpretation.

33. (1) In this Law, unless the context otherwise requires -

“**Authorised Area**” means Guernsey or such other area as may be designated by the Director General;

“**Bailiwick**” means the Bailiwick of Guernsey;

“**Board of Industry**” means the States Board of Industry;

“**body corporate**” means a body of persons incorporated with or

without limited liability in any part of the world;

“**class licence**” means a licence granted by the Director General under Part I of this Law authorising -

- (a) all persons; or
- (b) all persons who are of a particular class defined by the Director General for the purposes of the licence;

to generate, convey or supply electricity in such manner or of such description specified in the licence; and for the purposes of such a licence the definition of a class of persons may be framed by reference to any circumstances or criteria whatsoever;

“**code**” means the code of rights, powers, duties and obligations set out in Schedule 1 to this Law;

“**contravention**” includes failure to comply, and cognate expressions shall be construed accordingly;

“**convey**”, in relation to electricity, means the transportation of electricity by means of an electricity network;

“**conveyance licence**” means a licence granted pursuant to section 2(1)(a)(ii);

“**Court**” means the Royal Court sitting as an Ordinary Court;

“**Director General**” means the holder of the Office of the Director

General of Utility Regulation established by section 1 of the Regulation Law;

"document" includes information recorded in any form (including, without limitation, in an electronic communication) and, in relation to information recorded otherwise in legible form, references to its production, howsoever expressed, include references to the production of a copy of the information in legible form;

"dominant position" has the meaning given by section 22(1) of the Regulation Law;

"economic purchase" means the purchase on the best terms reasonably obtainable, having regard to the sources available;

"electric line" means any line which is used for carrying electricity for any purpose and includes, unless the context otherwise requires:-

- (a) any support for any such line, that is to say, any structure, pole or other thing in, on, by or from which any such line is or may be supported, carried or suspended;
- (b) any apparatus connected to any such line for the purpose of carrying electricity; and
- (c) any wire, cable, tube, pipe or other similar assembly (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;

"electrical plant" means any plant, equipment, apparatus or appliance used for, or for purposes connected with, the generation, conveyance or supply of electricity, other than:-

- (a) an electric line;
- (b) a meter used for ascertaining the quantity of electricity supplied to any premises; or
- (c) an electrical appliance under the control of a consumer;

“Electricity Board” means the States Electricity Board;

“electricity conveyance licensee” means the holder of a conveyance licence;

“electricity network” means a system which consists of electric lines and electrical plant and is used for conveying electricity from a generating station to a substation, from one generating station to another or from one substation to another;

“electricity undertaking” means any person engaged in generation, conveyance or supply of electricity, including any holder of a licence under this Law;

“financial penalty” has the meaning given by section 30(6);

“generation licence” means a licence granted pursuant to section 2(1)(a)(i);

“individual licence” means a licence granted by the Director General under Part I of this Law authorising the person to whom the licence was granted to generate, convey or supply electricity in a manner or of a description specified in the licence;

“licence” means an individual licence or a class licence;

“licensee” means a person -

- (a) to whom an individual licence has been granted; or
- (b) who is authorised by a class licence to generate, convey or supply electricity in a manner or of a description specified in the licence;

and cognate expressions shall be construed accordingly;

“line” means any wire, cable, pipe or other similar thing (including its casing or coating) which is designed or adapted for use in carrying electricity;

“officer of police” means a member of the salaried police force of the Island of Guernsey and, within the limits of his jurisdiction, a member of the special constabulary of the Island of Guernsey;

“prescribed” means prescribed by regulations made or directions given by the Director General;

“public electricity supply licence” means a licence granted pursuant to section 2(1)(a)(iii);

“public electricity supply licensee” means the holder of a public electricity supply licence;

“public land” means any public highway or other place to which the public have access, whether on payment or otherwise;

“publish”, in relation to a document, means -

- (a) publication in La Gazette Officielle; or
- (b) where the Director General thinks fit, publication of a notice in La Gazette Officielle of the availability of the document -
 - (i) on the official website of the Director General;
 - (ii) otherwise from the offices of the Director General;

and cognate expressions shall be construed accordingly;

“Regulation Law” means the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001;

“relevant market” means any discrete market for the generation, conveyance or supply of electricity which is defined by the Director General from time to time by reference to factors that may include products, services, territorial extent, universal service or such other economic factors as may appear to the Director General to be appropriate;

“Royal Court” means the Royal Court of Guernsey;

“special supply licensee” means a person granted a licence under section 2(1)(a)(iv);

“States” means the States of Guernsey;

“States’ Directions” means directions given to the Director General by Resolution of the States under section 3(1) of the Regulation Law;

“supply”, in relation to electricity, means supply through electric lines otherwise than to premises occupied by a licensee for the purpose of carrying on the activities which it is authorised by its licence to carry on, but shall not include the supply of electricity from a portable battery; and

“tariff customer” has the meaning given by section 16(3); and

“turnover”, in relation to a licensee or other person, has the meaning for the time being given by regulations of the States Advisory and Finance Committee; and for the purposes hereof the provisions of section 23 of the Regulation Law shall apply to such regulations as those provisions apply to rules under that Law;

“Utility Appeals Panel” means the panel drawn up and maintained by the States under section 14(1) of the Regulation Law;

“Utility Appeals Tribunal” means the tribunal appointed from the membership of the Utility Appeals Panel under section 14(5) of the Regulation Law.

(2) Any reference in this Law to an enactment (including an Act of Parliament) or statutory instrument is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

(3) In this Law any words importing the neuter gender shall include the masculine and the feminine, and any words importing the masculine gender shall include the feminine and the neuter.

(4) Unless the context otherwise requires-

- (a) a reference in this Law to a numbered or lettered Part, section, subsection, paragraph or Schedule is a reference to the Part, section, subsection or paragraph of, or Schedule to, this Law which is so numbered or lettered; and
- (b) a reference in a provision of this Law to a numbered or lettered subsection or paragraph is a reference to the subsection or paragraph of that provision which is so numbered or lettered.

(5) Any power conferred by this Law to make an Ordinance or regulation may be exercised-

- (a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of cases;
- (b) so as to make as respects the cases in relation to which it is exercised-
 - (i) the full provision to which the power extends, or any lesser provision (whether by way of exception or otherwise);
 - (ii) the same provision for all cases, or different provision for different cases or classes of cases,

or different provision for the same case or class of case for different purposes;

- (iii) any such provision either unconditionally or subject to any prescribed conditions; or
- (c) so as to prohibit the doing of anything in relation to which provision may be made by Ordinance or regulation, except under the authority of and in accordance with the conditions of a licence granted, subject to the satisfaction of such criteria and the payment of such fee as may be specified in the Ordinance or regulation, by such persons or body as may be so specified.

Transitional provisions as to licences.

34. (1) Subject to the following provisions of this section, a licence -
- (a) granted by the States Electricity Board under section 2 of the Loi relative à la Fourniture de L'Électricité par les États, 1933^c; and
 - (b) in force on the date of the commencement of this Law;

shall be deemed, for the period specified in subsection (2), to be -

^c Ordres en Conseil Vol. IX, p. 346; Vol. XVI, p. 184; Vol. XVII, p. 308; Vol. XIX, p. 213; Vol. XX, p. 331; Vol. XXIV, p. 247; Vol. XXVII, p. 305; Vol. XXVIII, p. 5; Vol. XXIX, p. 140; Vol. XXIX, p. 324 and Vol. XXII, p. 102.

- (i) an individual licence granted by the Director General under Part I (in cases where the licence under the said section 2 was granted to a particular person); or
- (ii) a class licence so granted (in any other case);

and the provisions of this Law shall apply in respect of any such licence accordingly.

(2) Subject to the provisions of subsection (3), the period referred to in subsection (1) shall be -

- (a) subject to the provisions of paragraph (b), a period of six months from the date of the commencement of this Law;
- (b) in cases where the licence under the said section 2 provides that it will expire at a time which falls before the end of that six month period, the period ending at that time.

(3) Within a period of two months from the date of the commencement of this Law, any person claiming to be the holder of a licence granted under section 2 of the Loi relative à la Fourniture de L'Électricité par les États, 1933, being a licence granted to a particular person, shall -

- (a) give the Director General notice that he holds such a licence; and
- (b) make an application to the Director General for an individual licence in accordance with the provisions of

this Law;

in default of which his licence shall expire at the end of the said period of two months.

Repeals, amendments and savings.

35. (1) The enactments set out in Schedule 5 to this Law are repealed or amended as set out in that Schedule.

(2) Any Ordinance or statutory instrument made under an enactment repealed by this Law shall, notwithstanding the repeal, continue in force and may be amended or revoked as if the repealed enactment were still in force, save that any power conferred on the Electricity Board by the repealed enactment to amend or revoke a statutory instrument may be exercised after the date of the repeal by the Board of Industry.

Power to amend by Ordinance.

36. (1) The States may by Ordinance amend any of the provisions of this Law.

(2) The provisions of section 23 of the Regulation Law shall apply to an Ordinance under subsection (1) as they apply to an Ordinance under that Law.

Citation and commencement.

37. (1) This Law may be cited as the Electricity (Guernsey) Law, 2001.

(2) This Law shall come into force on the day appointed by Ordinance of the States; and different days may be appointed for different provisions or different purposes.

SCHEDULE 1
THE CODE

Section 9

Power to undertake works.

1. (1) Subject to the succeeding provisions of this code, and subject also to the provisions of sections 2(4) and 9(5) of this Law^d, a licensee may exercise any of the powers referred to in subparagraph (2) upon or in relation to any land where it decides that it is necessary or expedient to do so for the purposes of -

- (a) generating, conveying or supplying electricity;
- (b) providing electricity supply services to the inhabitants of Guernsey or any of them; or
- (c) supplying to any premises, heat produced in association with electricity and steam produced from, and air and water heated by, such heat.

(2) The powers which a licensee may exercise upon or in relation to land are the following -

- (a) the licensee may install, place and subsequently use, establish, operate, maintain, repair, modify, replace, remove, extend or improve any electric line or electrical plant whatsoever;

^d Section 2(4) enables the holder of a generation licence to use powers under the code, where the licence so provides, for the purpose of supplying heat to any premises and Section 9(5) provides that no right, power, duty or obligation conferred or imposed by or under the code shall be exercisable in relation to any property belonging to Her Majesty in right of the Crown except with the consent of Her Majesty's Receiver General.

- (b) for the purposes of exercising the powers mentioned in item (a) of this subparagraph or for any purpose ancillary or incidental thereto, the licensee may carry out and subsequently maintain, repair, modify, replace, extend or improve such works (whether of excavation, construction or otherwise) as the licensee may think fit; and
- (c) for the purposes of exercising the powers referred to in items (a) and (b) of this subparagraph, the licensee may, with its officers, servants, agents, workmen and contractors and all necessary equipment and materials, at all reasonable times enter and remain upon the land.

(3) The powers referred to in subparagraph (2) are in addition to and not in derogation from the powers conferred upon the licensee by any other enactment.

(4) Where a generation licence provides that the code shall have effect for the purposes set out in section 2(4), any reference in this code to electric lines or electrical plant includes a reference to pipes and associated works used or intended to be used for conveying heat produced in association with electricity and steam produced from and air and water heated by such heat and, in this section, “**associated works**”, in relation to pipes, means any of the following connected with the pipes, namely any valve, filter, stopcock, pump, meter, inspection chamber and manhole and such other works as may be prescribed.

Works to be carried out quickly, etc.

2. A licensee shall, when exercising any power referred to in paragraph

1(2), take all reasonable steps to ensure that -

- (a) it causes the least possible inconvenience to the owner or occupier of the land in question;
- (b) it makes good any damage caused to the land; and
- (c) it carries out any works as quickly and efficiently as possible and in a good and workmanlike manner.

Restrictions on works.

3. (1) Before exercising any power referred to in paragraph 1(2) upon or in relation to any land, a licensee shall, except in cases of emergency, endeavour to enter into an arrangement with the owner or occupier of the land as to the terms of entry.

(2) A licensee shall not install any electric line or electrical plant by the side of any land so as to stop, hinder or interfere with entry or exit for any purpose to or from the land without the previous consent of the owner and occupier of the land.

(3) A licensee shall not place any electric line or electrical plant directly over any residential dwelling at a height of less than 6 feet above the roof if the owner or occupier thereof objects to the licensee placing it at a lesser height.

(4) Where an owner or occupier of land, upon which an electric line or electrical plant is installed or placed by a licensee in exercise of any power referred to in paragraph 1(2)(a)-

- (a) proposes to construct, alter or extend any building on that land, and

- (b) the proposed works of construction, alteration or extension (“**the proposed works**”) cannot reasonably be carried out due to the installation or placing of the electric line or electrical plant,

he may, by way of a written notice containing the details set out in and served upon the licensee in accordance with subparagraph (5), require the licensee to alter (either temporarily or permanently, whichever is more reasonable in the circumstances) the installation or placing of the electric line or electrical plant, within a period of not less than 28 days from the date of service of such notice, so that the proposed works may be carried out.

(5) A notice under sub paragraph (4)-

(a) shall contain the following details-

- (i) the full name and address of the owner or occupier of the land concerned,
- (ii) a description of the location of the electric line or electrical plant concerned,
- (iii) a description of the proposed works and the means by which it is intended that they are to be carried out,
- (iv) a statement of the date when it is intended to commence the proposed works (being a date at least 28 days after the date upon which the notice is served upon the licensee),

(v) a statement of the intended duration of the proposed works,

(vi) a statement setting out the grounds upon which the owner or occupier of the land concerned claims that the proposed works cannot reasonably be carried out due to the installation or placing of the electric line or electrical plant concerned,

(vii) a statement describing the alteration which the owner or occupier concerned requires the licensee to make to the installation or placing of the electric line or electrical plant concerned (**“the required alteration”**), and

(vii) a statement of the dates (being dates at least 28 days after the date upon which the notice is served upon the licensee) when the owner or occupier concerned requires the required alteration to be commenced and completed (**“the specified period”**); and

(b) shall be served upon the licensee-

(i) on the day upon which a copy of the notice is delivered to, or

- (ii) on the business day following the day upon which a copy of the notice is sent by recorded delivery post to

the licensee at the address recorded in the register maintained by the Director General under section 7.

(6) If, within 14 days of the date of service upon it of a notice complying with subparagraphs (4) and (5) (“**a valid notice**”), the licensee does not object, upon either or both of the grounds and in accordance with the procedure set out in subparagraph (7), to the contents of a valid notice, it shall, within the specified period undertake the required alteration.

(7) A licensee, upon which is served a valid notice, within 14 days of the date of service-

- (a) may object to the terms of the notice on either or both of the following grounds-

- (i) that the required alteration is unnecessary or unreasonable,

- (ii) that the required alteration cannot reasonably be commenced or completed within the specified period; and

- (b) shall serve (using a method of service set out in paragraph 5(b)) written notice (“**a counter notice**”) of any objection upon the owner or occupier of the land concerned at the address indicated in the valid notice, setting out or specifying in the counter notice-

- (i) the grounds of any objection,
- (ii) any alternative proposals so as to enable the proposed works to be carried out (“**alternative proposals**”),
- (iii) the period (being not less than 14 days from the date of service of the counter notice) within and the method by which the owner or occupier may accept or reject any alternative proposals, and
- (iv) the right of the owner or occupier to refer any issue arising from a valid notice or counter notice for arbitration under subparagraph (9).

(8) Where a licensee serves a counter notice upon an owner or occupier in accordance with subparagraph (7), the owner or occupier-

- (a) may within the period specified in the counter notice accept the alternative proposals, in which case the licensee shall carry out the alternative proposals within the timescale indicated in the proposals;
- (b) may within the period specified in the counter notice reject the alternative proposals; or
- (c) where he fails to accept or reject the alternative proposals within the period specified in the counter notice, shall be deemed to have rejected the alternative proposals.

(9) An owner or occupier who rejects or is deemed to have rejected any alternative proposals under subparagraph (8)(b) or (c) may, within 12 months from the date of service of the counter notice, refer any issue arising from a valid notice or counter notice for determination by a single arbitrator.

(10) The Arbitration (Guernsey) Law, 1982^e shall apply to an arbitration under this paragraph; and for the purposes of that Law an arbitration agreement shall be deemed to exist between the licensee and the owner or occupier concerned.

Compensation.

4. (1) A licensee shall, if it exercises any power referred to in paragraph 1(2) upon or in relation to any land, pay compensation in accordance with the provisions of this paragraph.

(2) The amount of compensation under this paragraph shall be the sum of the following heads of loss to the extent only that such heads of loss are sustained by the owner or occupier of the land upon or in relation to which the power was exercised -

- (a) the amount of any diminution in the value of the land;
and
- (b) compensation for any other loss, injury or damage;

and, in assessing the amount of compensation, there shall be taken into account the amount, if any, by which the value of the land has been enhanced by the works in question, which amount may be set off against the amount of compensation.

^e Ordres en Conseil Vol. XXVII, p. 525; Vol. XXIX, p. 178.

(3) No compensation under this paragraph shall be paid in respect of any head of loss referred to in subparagraph (2) -

- (a) unless the loss was caused by the licensee in the exercise of the powers referred to in paragraph 1(2); or
- (b) if the loss is due wholly to the fault of the owner or occupier or his servants, agents or contractors.

(4) For the purposes of the provisions of the Fatal Accidents (Guernsey) Laws, 1900 and 1960^f and Parts I, II and IV of the Law Reform (Tort) (Guernsey) Law, 1979^g, the licensee's liability to pay compensation under this paragraph shall be deemed to have arisen by reason of its negligence; and those provisions shall apply accordingly.

(5) In the absence of agreement, the amount of compensation under this paragraph shall be determined by a single arbitrator.

(6) In determining compensation under this paragraph, the arbitrator may (without limitation) take into account the prejudicial effect (if any) of the exercise of the power in question on the enjoyment, by the person claiming compensation, of the land upon or in relation to which the right is exercised.

(7) The Arbitration (Guernsey) Law, 1982 shall apply to an arbitration under this section; and for the purposes of those Laws an arbitration agreement shall be deemed to exist between the licensee and the person claiming

^f Ordres en Conseil Vol. III, p. 235; and Vol. XVIII, p. 281.

^g Ordres en Conseil Vol. XXVII, p. 50.

compensation.

Appeals.

5. (1) A person aggrieved by a decision of a licensee to exercise any power referred to in paragraph 1(2)(c) (hereinafter called "**the power in question**") may appeal to the Court against the decision.

(2) The grounds of an appeal under this paragraph shall be that the exercise of the power in question would be ultra vires or unreasonable.

(3) An appeal under this paragraph shall be instituted -

(a) within a period of 21 days immediately following the date of the notice under paragraph 7(1) of the licensee's decision or, where pursuant to that paragraph less than 28 days' notice was given, then as soon as is reasonably practicable and in any case within a period not exceeding 21 days immediately following that date;

(b) by summons served on the licensee stating the grounds and material facts upon which the appellant relies.

(4) On an appeal under this paragraph, the Court may -

(a) dismiss the appeal; or

(b) quash the licensee's decision to exercise the power in question;

and, where the Court quashes the licensee's decision, it may remit the matter to the licensee with such directions as the Court thinks fit.

(5) In determining an appeal under this paragraph, the Court may (without limitation) consider -

(a) whether any prejudice caused by the exercise by the licensee of the power in question -

(i) can be adequately compensated for by money;

(ii) would be outweighed by the benefit accruing to the persons whose access to an electric line or electrical plant would be secured or facilitated by the exercise of that power;

(b) whether the establishment, operation or maintenance of the licensee's electricity network would be materially prejudiced if the power in question were not exercised; and

(c) the objectives set out in section 2 of the Regulation Law.

(6) Where an appeal under this paragraph is instituted, the licensee may not, unless the Court directs otherwise, exercise the power in question until the appeal is determined or withdrawn.

(7) The licensee may, where an appeal under this paragraph is not determined by the Court within a period of three months immediately following the date of the summons by which the appeal was instituted, apply to the Court, by summons served on the appellant, for an order that the appeal be dismissed for want of prosecution; and upon hearing such an application the Court may -

- (a) dismiss the appeal or dismiss the application (in either case upon such terms and conditions as the Court may direct); or
- (b) make such other order as the Court considers just.

(8) An appeal from a decision of the Court made in respect of an appeal under this paragraph shall lie to the Court of Appeal on a question of law.

Proof of identity.

6. Any person seeking to enter or remain upon any land by virtue of the powers referred to in paragraph 1(2)(c) shall, whenever so requested by or on behalf of the owner or occupier of the land, furnish such proof of his identity as is necessary to establish that he is entitled to enter the land on behalf of the licensee concerned.

Notice to be served before works are carried out.

7. (1) A licensee shall, not less than 28 days before exercising the powers referred to in paragraph 1(2)(c), except in cases of emergency, in which case as much notice as is reasonably practicable shall be given, serve notice in writing on the owner and occupier of the land in question -

- (a) specifying the land upon which, and the period during which it is anticipated that, the powers are to be exercised;
- (b) stating the purpose mentioned in paragraph 1(1) for which the powers are to be exercised and the action mentioned in paragraph 1(2) which the licensee intends to take; and

(c) giving particulars of the right of appeal conferred by paragraph 5.

(2) A licensee may at any time withdraw or vary a notice under subparagraph (1); and the licensee shall serve written notification of any such withdrawal or variation upon the owner and occupier of the land in question.

Private agreements not affected.

8. (1) Nothing in this code affects the right of a licensee to make any agreement which it could otherwise have made.

(2) In the event of any conflict between the provisions of this code and the terms of any agreement made between a licensee and an owner or occupier of land, the terms of any such agreement shall take priority and apply as between the parties to the agreement in the absence of any contrary intention.

Offences.

9. A person who without reasonable excuse obstructs any person acting or purporting to act in the exercise of any power referred to in paragraph 1(2) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the uniform scale.

Service of notices.

10. Unless otherwise provided in this code, any notice or document other than a summons to be given or served for the purposes of this code shall be given or served in accordance with the provisions of section 24 of the Regulation Law, the provisions of which shall apply accordingly.

Interpretation.

11. In this code, unless the context requires otherwise -

"**emergency**" means a case where the exercise of the powers conferred by paragraph 1(2)(c), at the time when it is proposed to exercise them, is requisite in order to put an end to, or prevent the arising of, circumstances then existing or imminent which are likely to cause -

- (a) danger to persons or property;
- (b) the interruption of any electricity supply service provided by means of the licensee's electricity network;
or
- (c) substantial loss to the licensee;

"**land**" includes houses and buildings and any interest (including any leasehold interest) in land and any right over land;

"**owner**", in relation to land, means -

- (a) where the land is the subject of saisie proceedings which have resulted in the making of interim vesting order, the person in whose favour the order has been made;
- (b) where the land is not the subject of such saisie proceedings but is the subject of a vested right of usufruct, the usufructuary;
- (c) where the land is not the subject of such saisie proceedings or vested right of usufruct -
 - (i) where the land is held in trust, the trustees;

- (ii) where the land is not held in trust, the person in whom there is for the time being vested, whether solely or jointly with another person, the estate of inheritance therein;

and includes, in the case of a leasehold interest, the lessee;

"residential dwelling" means any premises, or any part of any premises, wholly or principally used or usable for the purposes of human habitation;

"upon", in connection with any land, includes under, in, over, upon, along or across that land.

SCHEDULE 2

THE ELECTRICITY SUPPLY CODE

Recovery of electricity charges etc.

1. (1) Subject to subparagraph (2), a public electricity supply licensee may recover from a tariff customer any charges due to it in respect of the supply of electricity, or in respect of the provision of any electricity meter, electric line or electrical plant.
- (2) A public electricity supply licensee who, for the purpose of meeting the needs of a disabled person replaces any electricity meter which has been provided by it with one which has been specially adapted shall not make any charge for the replacement; and Schedule 1 of this Law shall apply in relation to any dispute arising under this subparagraph as if it were a dispute arising under Part II of this Law.
- (3) If a tariff customer quits any premises at which electricity has been supplied to him by a public electricity supply licensee without giving notice thereof to the public electricity supply licensee so that it is received by the public electricity supply licensee at least two working days before he quits the premises, he shall be liable to pay the public electricity supply licensee all charges in respect of the supply of electricity to the premises accruing due up to whichever of the following first occurs, namely-
 - (a) the second working day after he gives such notice to the public electricity supply licensee provided that reasonable access to the premises has been granted;

- (b) the next day on which the register of any meter is ascertained;
and
 - (c) the day from which any subsequent occupier of the premises requires the public electricity supply licensee to supply electricity to the premises.
- (4) Subparagraph (3), or a statement of the effect thereof, shall be endorsed upon every demand note for electricity charges payable to a public electricity supply licensee by a tariff customer.
- (5) If a tariff customer quits any premises at which electricity has been supplied to him by a public electricity supply licensee without paying all charges due from him in respect of the supply, or the provision of any electricity meter, electric line or electrical plant for the purposes of the supply, the public electricity supply licensee-
 - (a) may refuse to furnish him with a supply of electricity at any other premises until he pays the amount due; but
 - (b) shall not be entitled to require payment of that amount from the next occupier of the premises.
- (6) If a tariff customer has not, within the requisite period, paid all charges due from him to a public electricity supply licensee in respect of the supply of electricity to any premises, or the provision of any electricity meter, electric line or electrical plant for the purposes of that supply, the public electricity supply licensee, after the expiration of not less than two working days notice of its intention, may-

- (a) cut off the supply to the premises, or to any other premises occupied by the customer, by such means as it thinks fit; and
 - (b) recover any expenses incurred in so doing from the customer.
- (7) In subparagraph (6) "**the requisite period**" means-
- (a) in the case of premises which are used wholly or mainly for domestic purposes, the period of not less than 10 days after the making by the public electricity supply licensee of a demand in writing for the payment of the charges due; and
 - (b) in the case of any other premises, the period of 10 days after the making of such a demand.
- (8) The powers conferred by subparagraph (6) shall not be exercisable as respects any amount which is genuinely in dispute.
- (9) In this paragraph a reference to the provision of any electric line or item of electrical plant is a reference to the provision of such a line or item by the installation of a new one or by the modification of an existing one.

Restoration of supply by Public Electricity Supply Licensee

2. (1) Where a public electricity supply licensee has cut off the supply of electricity to any premises in consequence of any default on the part of a tariff customer, the public electricity supply licensee shall be under an obligation to resume the supply of electricity before the end of the

period of two working days beginning with the time when the requirements of subparagraph (2) are satisfied.

- (2) The requirements of this subparagraph are that the customer in default-
 - (a) has made good the default;
 - (b) has paid the reasonable expenses of disconnecting and re-connecting the supply; and
 - (c) has given such security as is mentioned in section 14(1) of this Law.
- (3) The obligation imposed by subparagraph (1) shall be a duty owed to any person who may be affected by a failure to comply with the obligation.
- (4) Where a duty is owed by virtue of subparagraph (3) to any person any breach of the duty which causes that person to sustain loss or damage shall be actionable at the suit or instance of that person.
- (5) In any proceedings brought against a public electricity supply licensee in pursuance of subparagraph (4), it shall be a defence for the public electricity supply licensee to prove that it took all reasonable steps and exercised all due diligence to avoid failing to comply with the obligation imposed by subparagraph (1).

Restoration of supply without consent

3. (1) Where a supply of electricity to any premises has been cut off by a public electricity supply licensee no person shall restore the supply except that public electricity supply licensee.

- (2) If any person acts in contravention of subparagraph (1), he shall be liable on summary conviction to a fine not exceeding level 5 on the uniform scale and the public electricity supply licensee may again cut off the supply.

Damage to electrical plants etc.

4. (1) If any person intentionally or negligently damages, otherwise interferes with or allows to be damaged-

- (a) any electrical plant or electric line belonging to or operated by a public electricity supply licensee; or

- (b) any part of any domestic electricity supply equipment belonging to or operated by a public electricity supply licensee and situated upon that person's property;

he shall be liable on summary conviction to a fine not exceeding level 5 on the uniform scale.

- (2) Under this paragraph “**domestic electricity supply equipment**” means all electric line and electrical plant up to and including the meter, situated upon a consumer’s property.

- (3) Where an offence has been committed under subparagraph (1)(a), the public electricity supply licensee concerned may discontinue the supply of electricity to the person so offending until the matter has been remedied.

- (4) Where an offence has been committed under subparagraph (1)(b), the public electricity supply licensee concerned-

- (a) may discontinue the supply of electricity to the person so offending until the matter has been remedied; and
 - (b) may remove any meter in respect of which any offence is committed.
- (5) Where a public electricity supply licensee removes a meter under subparagraph (4), he shall keep it safely until the Director General authorises him to destroy it or otherwise dispose of it.
- (6) Where domestic electricity supply equipment is damaged through no fault of a public electricity supply licensee, its employees, servants or agents-
- (a) the costs of repairing that damage may be charged to the consumer by the licensee; and
 - (b) the licensee may, at its discretion, refuse to carry out any repairs, until such time as adequate security for the costs of repair is provided by or on behalf of the consumer.

Entry during continuance of supply

5. (1) Any officer authorised by a public electricity supply licensee may at all reasonable times, on the production of some duly authenticated document showing his authority, enter any premises to which a supply of electricity is being given by the public electricity supply licensee, or by a special supply licensee (wholly or partly) through the electric lines and electrical plant belonging to or operated by the public electricity supply licensee, for any of the following purposes, namely-

- (a) inspecting any electric line or electrical plant belonging to or operated by the public electricity supply licensee;
 - (b) ascertaining the register of any electricity meter and, in the case of a prepayment meter, removing any money or tokens belonging to or operated by the public electricity supply licensee; or
 - (c) removing, inspecting or re-installing any electricity meter or installing any substitute meter or associated equipment.
- (2) Except where a supply of electricity is being given to the premises by a special supply licensee (wholly or partly) through the electric lines and electrical plant belonging to or operated by a public electricity supply licensee, subparagraph (1)(a) and (b) does not apply if-
- (a) the consumer has applied in writing to the public electricity supply licensee for it to cease to supply electricity to the premises; and
 - (b) the public electricity supply licensee has failed to do so within a reasonable time.
- (3) Subparagraph (1)(c) does not apply in relation to the removal of a meter unless two working days notice is given to the occupier, or the owner of the premises if they are unoccupied.

Entry on discontinuance of supply

6. (1) Where a public electricity supply licensee is authorised by paragraph 4(3) or paragraph 8(3) of Schedule 3 to this Law-

- (a) to discontinue the supply of electricity to any premises; and
- (b) to remove the electricity meter as respects which the offence under that paragraph was committed,

any officer authorised by the public electricity supply licensee may at all reasonable times, on production of some duly authenticated document showing his authority, enter the premises for the purpose of disconnecting the supply or removing the meter.

(2) Where-

- (a) a public electricity supply licensee is authorised by any other provision of this Law or of regulations made under it (including any such provision as applied by such an agreement as is mentioned in section 16(1) of this Law) to cut off or discontinue the supply of electricity to any premises;
- (b) a person occupying premises supplied with electricity by a public electricity supply licensee, or by a special supply licensee (wholly or partly) through the electric lines and electric plant belonging to or operated by a public electricity supply licensee, ceases to require such a supply;
- (c) a person entering into occupation of any premises previously supplied with electricity by a public electricity supply licensee, or by a special supply licensee (wholly or partly) through the electric lines and electrical plant belonging to or operated by a public electricity supply licensee, does not require such a supply; or

- (d) a person entering into occupation of any premises previously supplied with electricity through a meter belonging to or operated by a public electricity supply licensee does not hire or borrow that meter,

any officer authorised by the public electricity supply licensee concerned, after one working day's notice to the occupier, or to the owner of the premises if they are unoccupied, may at all reasonable times, on production of some duly authenticated document showing his authority, enter the premises for the purpose of disconnecting the supply or removing any electrical plant, electric line or electricity meter.

Entry for replacing, repairing or altering lines or plant

- 7. (1) Any officer authorised by a public electricity supply licensee, after one working day's notice to the occupier of any premises, or to the owner of any premises which are unoccupied, may at all reasonable times, on production of a duly authenticated document showing his authority, enter the premises for the purpose of-
 - (a) placing a new electric line or new electrical plant in place of or in addition to any existing line or plant which has already been lawfully placed; or
 - (b) repairing or altering any such existing line or plant.
- (2) In the case of emergency arising from faults in any electric line or electrical plant entry may be made under subparagraph (1) without the notice required to be given by that subparagraph, but the notice shall then be given as soon as possible.

Provisions as to power of entry

8. (1) If, in attempt to exercise any of the powers of entry conferred by this Schedule, a public electricity supply licensee has-

(a) made all reasonable efforts, otherwise than by the use of force, to obtain entry to the premises; and

(b) those efforts have been unsuccessful;

the Magistrate's Court may grant an order to the public electricity supply licensee authorising any officer authorised by the public electricity supply licensee to enter the premises by force.

(2) An order granted under subparagraph (1) shall specify the action which may be taken by the public electricity supply licensee to effect the entry by force and may stipulate conditions to be observed by the public electricity supply licensee.

(3) A public electricity supply licensee shall incur no liability to any person in respect of the entry by force to the premises provided that it-

(a) takes no action to effect entry other than is specified by the order;

(b) observes any condition stipulated by the order; and

(c) does as little damage as is reasonably practicable in taking the specified action and in observing any stipulated condition.

(4) An application by a public electricity supply licensee for an order under paragraph 8(1) shall be made *ex parte*.

- (5) No appeal shall lie from a decision of the Magistrate's Court-
 - (a) to grant or not to grant an order under subparagraph (1); or
 - (b) in respect of the terms of, or the conditions stipulated by the order.
 - (6) Any costs incurred by a public electricity supply licensee in obtaining and executing an order under subparagraph (1) shall be recoverable as a civil debt from the owner or the occupier (as appropriate) of the premises to which the order relates.
9. (1) Where in pursuance of any powers of entry conferred by this Schedule, entry is made on any premises by an officer authorised by a public electricity supply licensee-
- (a) the officer shall ensure that the premises are left no less secure by reason of the entry; and
 - (b) the public electricity supply licensee shall make good, or pay compensation for, any damage caused by the officer, or by any person accompanying him in entering the premises, in taking any action therein authorised by this Schedule, or in making the premises secure.
- (2) Any officer exercising powers of entry conferred by this Schedule may be accompanied by such persons as may be necessary or expedient for the purpose for which the entry is made or for the purposes of subparagraph (1).

- (3) If any person intentionally obstructs any officer exercising powers of entry conferred by this Schedule, he shall be liable on summary conviction to a fine not exceeding level 5 on the uniform scale.

Electrical plant etc. not to be subject to distress

10. Any electrical plant, electric line or electricity meter owned by or let for hire or lent to a consumer by a public electricity supply licensee and marked or impressed with a sufficient mark or brand indicating the public electricity supply licensee as the owner thereof-
- (a) shall be deemed not to be landlord's fixtures, notwithstanding that they may be fixed or fastened to any part of the premises in which they may be situated; and
 - (b) shall not be subject to arrest or be liable to be taken in execution under-
 - (i) process of any court;
 - (ii) any proceedings in bankruptcy, insolvency or winding-up; or
 - (iii) any proceedings under the Loi Ayant Rapport aux Débiteurs et à la Renonciation 1929^h,against a person in whose possession they may be.

^h

Ordres en Conseil Vol. VIII, p. 310

SCHEDULE 3

USE ETC. OF ELECTRICITY METERS

Consumption to be ascertained by appropriate meter

1. (1) Where a consumer of electricity is to be charged for his supply wholly or partly by reference to the quantity of electricity supplied, unless otherwise agreed between the consumer and public electricity supply licensee or special supply licensee, the supply shall be given through, and the quantity of electricity shall be ascertained by, an appropriate meter.
- (2) The meter shall be provided-
 - (a) by the relevant public electricity supply licensee or special supply licensee concerned, whether by way of sale, hire or loan; or
 - (b) if agreed by the parties in the case of a meter used or intended to be used in connection with an exempt supply, by the consumer.
- (3) The meter shall be installed on the consumer's premises in a position determined by the public electricity supply licensee or the special supply licensee, unless in all the circumstances it is more reasonable to place it outside those premises or in some other position.
- (4) A public electricity supply licensee or special supply licensee may require the replacement of any meter provided and installed in accordance with subparagraphs (2) and (3) where its replacement-

- (a) is necessary to secure compliance with this Schedule or any regulations made under it; or
- (b) is otherwise reasonable in all the circumstances;

and any replacement meter shall be provided and installed in accordance with those paragraphs.

- (5) If a consumer refuses or fails to take his supply through an appropriate meter provided and installed in accordance with subparagraphs (2) and (3), the relevant public electricity supply licensee or special supply licensee may refuse to give or may discontinue the supply.
- (6) For the purposes of this paragraph a meter is an appropriate meter for use in connection with any particular supply if it is of a pattern or construction which, having regard to the terms on which the supply is to be charged for, is suitable for such use.
- (7) Section 17 of this Law shall apply in relation to any dispute arising under this paragraph between a person licensed under section 2(1)(a)(iii) or (iv) and a consumer as if it were a dispute arising under Part II.
- (8) Pending the determination under section 17 of this Law of any dispute arising under this paragraph, the meter and its provision and installation shall be such as the Board of Industry may direct; and directions under this subparagraph may apply either in cases of particular descriptions or in particular cases.

(9) Parts I and II shall apply as if any duty or other requirement imposed on a public electricity supply licensee by directions under subparagraph (8) were imposed by directions under section 17 of this Law.

(10) In this Schedule "**exempt supply**" means a supply of electricity to any premises where-

(a) the premises are not premises used wholly or mainly for domestic purposes; or

(b) the special supply licensee or the consumer is a person authorised by an exemption to supply electricity to those premises.

Restrictions on use of meters

2. (1) No meter shall be used for ascertaining the quantity of electricity supplied by a public electricity supply licensee or a special supply licensee to a consumer unless the meter-

(a) is of an approved pattern or construction and is installed in an approved manner; and

(b) subject to subparagraph (2), is certified under subparagraph (4);

and in this Schedule "**approved**" means approved by the Board of Industry by or under regulations made under this paragraph.

(2) Subparagraph (1)(b) shall not apply to a meter used in connection with an exempt supply if a public electricity supply licensee or special

supply licensee and a consumer have agreed in writing to dispense with the requirements of that paragraph.

- (3) Regulations under this paragraph may provide-
 - (a) for determining the fees to be paid for approvals given by or under the regulations;
 - (b) for revoking an approval so given to any particular pattern or construction of meter and requiring meters of that pattern or construction which have been installed to be replaced with meters of an approved pattern or construction within a prescribed period; or
 - (c) for revoking an approval so given to any particular manner of installation and requiring meters which have been installed in that manner to be installed in an approved manner within such a period;

and may make different provision for meters of different descriptions or for meters used or intended to be used for different purposes.

3. (1) If a public electricity supply licensee or a special supply licensee supplies electricity through a meter which is used for ascertaining the quantity of electricity supplied and-
 - (a) is not of an approved pattern or construction or is not installed in an approved manner; or
 - (b) in the case of a meter to which paragraph 2(1)(b) applies, is not certified under paragraph 4,

it shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the uniform scale.

- (2) Where the commission by any person of an offence under this paragraph is due to the act or default of some other person, that other person shall also be guilty of the offence; and a person may be charged with and convicted of the offence by virtue of this subparagraph whether or not proceedings are taken against the first-mentioned person.
- (3) In any proceedings in respect of an offence under this paragraph it shall be a defence for the person charged to prove that he took all reasonable steps and exercised all due diligence to avoid committing the offence.

Certification of meters

4. (1) The Board of Industry may appoint any person to examine or certify meters and a meter shall be considered to be duly certified if it is certified by any such person.
- (2) No meter shall be certified in accordance with subparagraph (1) unless-
 - (a) the meter is of an approved pattern or construction; and
 - (b) the meter conforms to such standards (including standards framed by reference to margins of error) as may be prescribed;

and reference in this Schedule to prescribed margins of error shall be construed accordingly.

- (3) Regulations under this paragraph may make different provisions for meters of different descriptions or for meters used or intended to be used for different purposes and may include provision-
 - (a) for the termination of certification in the case of meters which no longer conform to the prescribed standards and in such other cases as may be prescribed;
 - (b) for determining the fees to be paid for examining, testing and certifying meters, and the persons by whom they are to be paid; and
 - (c) as to the procedure to be followed in examining, testing and certifying meters.
5.
 - (1) Where a consumer of a public electricity supply licensee or a special supply licensee is to be charged for his supply wholly or partly by reference to the quantity of electricity supplied, the public electricity supply licensee or the special supply licensee may, in the normal course of business, estimate the amount of electricity consumed by the consumer and recover charges accordingly, so long as the estimated consumption is corrected by a meter reading within a reasonable period of time.
 - (2) In the event of-

- (a) a meter used to register the quantity of electricity supplied to any person, being proved to register consumption incorrectly; or
- (b) the malfunction of any meter; or
- (c) any person altering the register of any meter used for measuring the quantity of electricity supplied to any premises;

a public electricity supply licensee or special supply licensee shall be entitled to estimate consumption and recover charges accordingly.

- (3) Any dispute arising under subparagraphs (1) or (2) which cannot be resolved between a public electricity supply licensee and the person requiring a supply of electricity-

- (a) may be referred by either party to the Board of Industry or, if the Board of Industry think fit, to the Director General or an arbitrator appointed by the Board of Industry; and

- (b) on such a reference, shall be determined by order made by the Board of Industry, or if the Board of Industry think fit, by the Director General or by an arbitrator appointed by the Board of Industry.

- (4) Where the consumption of electricity has been estimated by a public electricity supply licensee or a special supply licensee in accordance with subparagraphs (1) or (2), the consumer shall pay for any electricity consumed in accordance with the estimate prepared by the public electricity supply licensee or the special supply licensee or otherwise determined in accordance with paragraph (3).

Presumptions and evidence

6. (1) This paragraph applies to meters used for ascertaining the quantity of electricity supplied to any premises.
- (2) The register of a meter to which this paragraph applies shall be admissible in any proceedings as evidence of the quantity of electricity supplied through it.
- (3) Where electricity has been supplied for any period through such a meter which is of an approved pattern or construction and is installed in an approved manner, the register of the meter shall be presumed to have been registering for that period-
- (a) within the prescribed margins of error; and
 - (b) in the case of a meter used in connection with an exempt supply, within any agreed margins of error,
- unless the contrary is proved.
- (4) Where a meter to which this paragraph applies has been operating for any period-
- (a) within the prescribed margin of error; and
 - (b) in the case of a meter used in connection with an exempt supply, within any agreed margins of error,
- the meter shall be conclusively presumed to have been correctly registering for that period the quantity of electricity supplied through it.

Meters to be kept in proper order

7. (1) A consumer of an electricity supply shall at all times, at his own expense, keep any meter belonging to him in proper order for correctly registering the quantity of electricity supplied to him; and in default of his doing so the public electricity supply licensee or the special supply licensee may discontinue the supply of electricity through that meter.
- (2) A public electricity supply licensee or a special supply licensee shall at all times, at its own expense, keep any meter let for hire or lent by it to any consumer in proper order for correctly registering the quantity of electricity supplied and, in the case of pre-payment meters, for operating properly on receipt of the necessary payment.
- (3) A public electricity supply licensee or a special supply licensee shall have power to remove, inspect and re-install any meter by which the quantity of electricity supplied by it to a consumer is registered, and shall, while any such meter is removed, fix a substituted meter on the premises; and the cost of removing, inspecting and re-installing a meter and of fixing a substituted meter shall be defrayed by the public electricity supply licensee or the special supply licensee.
- (4) Subparagraphs (2) and (3) are without prejudice to any remedy the public electricity supply licensee or the special supply licensee may have against the consumer for failure to take proper care of the meter.

Interference with meters

8. (1) If any person intentionally or negligently-

- (a) alters the register of any meter used for measuring the quantity of electricity supplied to any premises by a public electricity supply licensee or a special supply licensee; or
- (b) prevents any such meter from duly registering the quantity of electricity supplied,

he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the uniform scale.

- (2) Where any person is prosecuted for an offence under subparagraph (1), the possession by him of artificial means for causing an alteration of the register of the meter or, as the case may be, the prevention of the meter from duly registering shall, if the meter was in his custody or under his control, be sufficient evidence that the alteration or prevention was intentionally caused by him.
- (3) Where an offence under subparagraph (1) has been committed, the public electricity supply licensee or the special supply licensee may discontinue the supply of electricity to the premises until the matter has been remedied and remove the meter in respect of which the offence was committed.

Special provision for pre-payment meters

- 9. (1) A consumer of a public electricity supply licensee or a special supply licensee who takes his supply through pre-payment meter shall be under a duty to take all reasonable precautions for the safekeeping of any money or tokens which are inserted into that meter.
- (2) Except with the permission of the consumer, a pre-payment meter shall not be used to recover any sum owing to a public electricity supply

licensee or a special supply licensee otherwise than in respect of the supply of electricity, the provision of an electric line or electrical plant or the provision of the meter.

10. In this Schedule-

"exempt supply" has the meaning given in paragraph 1(10);

"prescribed" means prescribed by regulations;

"prescribed margins of error" has the meaning given by paragraph 4(2);

and

"regulations" means regulations made by the Board of Industry.

SCHEDULE 4

PRESERVATION OF AMENITY AND FISHERIES

Preservation of Amenity

1. In formulating any relevant proposals, a licensee or a person authorised by an exemption to generate or supply electricity shall-
 - (a) have regard to the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest; and
 - (b) do what he reasonably can to mitigate any effect which the proposals would have on the natural beauty of the countryside or on any such flora, fauna, features, sites, buildings or objects.

2. Without prejudice to paragraph 1, in exercising any relevant functions each of the following, namely-
 - (a) a licensee, or
 - (b) a person authorised by an exemption to generate or supply electricity,

shall avoid, so far as reasonably practicable, causing injury or damage to the marine environment, fisheries or the stock of fish in any waters.

3. In this Schedule-

"relevant functions" means any powers conferred and any duties imposed-

- (i) by or under this Law,
- (ii) by or under a licence granted by the Director General,
- (iii) by or under an exemption granted by the Director General under this Law, or
- (iv) by or under any direction or regulation made under this Law;

"relevant proposals" means any proposals-

- (i) for the construction or extension of a generating station, or for the operation of such a station in a different manner,
- (ii) for the installation (whether above or below ground) of an electric line, or
- (iii) for the execution of any other works for or in connection with the generation, conveyance or supply of electricity; and

"fish" includes crustaceans and molluscs.

SCHEDULE 5
REPEAL AND AMENDMENT OF ENACTMENTS

Section 35

PART I
REPEALS

1. The Loi relative à la Fourniture de l'Electricité par les Etats, 1933 is repealed.
2. The Electricity (Modification) (Guernsey) Law, 1955ⁱ is repealed.
3. The Electricity (Modification) (Guernsey) Law, 1955, (Commencement) Ordinance, 1956^j is repealed.
4. The Electricity (Guernsey) Ordinance, 1956^k is repealed.
5. The Electricity (Amendment) (Guernsey) Law, 1966^l is repealed.

ⁱ Ordres en Conseil Vol. XVI, p. 184.

^j Recueil d'Ordonnances Tome XI, p. 183.

^k Recueil d'Ordonnances Tome XI, p. 193

^l Ordres en Conseil Vol. XX, p. 331.

6. The Electricity (Amendment) (Guernsey) Law, 1966, (Commencement) Ordinance, 1967^m is repealed.

7. The Electricity (Amendment) (Guernsey) Law, 1974ⁿ is repealed.

8. The Electricity (Amendment) (Guernsey) Law, 1981^o is repealed.

9. The Electricity (Guernsey) Ordinance, 1983^p is repealed.

10. The Electricity (Amendment) (Guernsey) Law, 1986^q is repealed.

11. The Electricity (Amendment) (No. 2) (Guernsey) Law, 1986^r is repealed.

12. The Electricity (Amendment) (Guernsey) Law, 1990^s is repealed.

^m Recueil d'Ordonnances Tome XV, p. 49.

ⁿ Ordres en Conseil Vol.XXIV, p. 247.

^o Ordres en Conseil Vol.XXVII, p. 305.

^p Recueil d'Ordonnances Tome XXII, p. 586.

^q Ordres en Conseil Vol. XXIX, p. 140.

^r Ordres en Conseil Vol. XXIX, p. 324.

^s Ordres en Conseil Vol.XXXII, p. 102.

PART II
AMENDMENTS

13. In the Ordonnance portant modification à l'Ordonnance provisoire par rapport à l'Installation de l'Éclairage Électrique^t for the words "Comité des Etats" and the word "Comité" substitute "States Board of Industry" and "Board" respectively.

14. In the Ordonnance par rapport à l'Installation pour la Lumière ou l'Energie Électrique^u for "The States Electric Lighting Committee" substitute the "States Board of Industry".

15. In the Ordonnance relative à la Fourniture de Électricité par les Etats^v, section 1 is repealed and replaced with the following-

"1. In this Ordinance, unless the context otherwise requires-

"**the Board**" means the States Board of Industry; and

"**energy**" means electrical energy."

16. In section 1(1) of The Safety of Employees (Electricity) Ordinance, 1956^w for the definition of "the Board" substitute the following-

^t Recueil d'Ordonnances Tome V, p. 95

^u Recueil d'Ordonnances Tome VI, p. 135.

^v Recueil d'Ordonnances Tome VII, p. 14.

"the Board" means the States Board of Industry;"

^w Recueil d'Ordonnances Tome XI, p. 201; Tome XXIV, p. 162 and XXXI of 1996.