

CAYMAN ISLANDS



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**A BILL FOR A LAW TO AMEND THE ELECTRICITY REGULATORY  
AUTHORITY LAW (2010 REVISION) AS A CONSEQUENCE OF THE  
ESTABLISHMENT OF THE UTILITY REGULATION AND  
COMPETITION OFFICE; TO DISSOLVE THE ELECTRICITY  
REGULATORY AUTHORITY AND TRANSFER ITS POWERS AND  
RESPONSIBILITIES TO THE UTILITY REGULATION AND  
COMPETITION OFFICE; AND TO MAKE PROVISION FOR RELATED  
MATTERS**

**THE ELECTRICITY REGULATORY AUTHORITY (AMENDMENT)  
BILL, 2016**

**MEMORANDUM OF OBJECTS AND REASONS**

This Bill seeks to amend the Electricity Regulatory Authority Law (2010 Revision) in order to dissolve the Electricity Regulatory Authority (“the Authority”) and transfer its powers, functions and responsibilities to the Utility Regulation and Competition Office (“the Office”).

Clause 1 of the Bill provides for the short title and commencement of the legislation.

Clause 2 renames the principal Law as the ‘Electricity Sector Regulation Law’.

Clause 3 deletes from the principal Law the definitions of various terms that would no longer be used there (for example, “Board” and “director”). The clause also adds new definitions (for example, the definition of “critical national infrastructure”).

Clauses 4, 5 and 17 repeal Part II (other than section 9) and the First Schedule of the principal Law for the purpose of removing the provisions relating to -

- (a) the establishment and administration of the Authority;
- (b) the Authority’s Board of directors;
- (c) the Authority’s power to employ staff; and
- (d) the Authority’s finances.

Provision is made for the transfer of the Authority’s functions to the Office.

Clause 6 of the Bill repeals section 24 of the principal Law, thereby removing the need for the Authority’s approval prior to the issue or transfer of certain shares held by persons licensed under the principal Law.

Clause 7 repeals the provisions of Parts V, VI and VII of the principal Law, provisions which respectively deal with anti-competitive practices, cease-and-desist orders and administrative fines. Those provisions would now apply to the Office, instead of to the Authority.

Clause 8 amends section 68 of the principal Law to remove the requirement for persons licensed under the principal Law to provide standards for the certification of technicians, electricians and electrical engineers.

Clause 9 repeals Part X of the principal Law to remove the provisions dealing with the reconsideration of the Authority's decisions and appeals against those decisions. Provision is made in relation to the Office's decisions, instead of the Authority's decisions.

Clauses 10 and 11 of the Bill repeal miscellaneous provisions of the principal Law which relate to offences against the Authority. Provision is made in respect of offences committed against the Office, instead of against the Authority.

Clause 12 amends section 89 of the principal Law to enable the Office to make rules in relation to critical national infrastructure as defined in the legislation.

Clause 13 repeals section 90 of the principal Law. Provision is made in relation to the Office's immunity, instead of the Authority's immunity.

Clause 14 inserts into the principal Law a new Part XIII which deals with the dissolution of the Authority, the transfer of its employees, and their medical and pension benefits.

Clause 15 contains transitional provisions.

Clause 16 inserts into the principal Law a new section 94 which defines various terms for the purposes of Part XIII.

Clause 18 amends miscellaneous provisions of the principal Law to substitute the word "Office" for the word "Authority", thereby transferring various powers, functions and responsibilities from the Authority to the Office.

Clause 19 amends miscellaneous provisions of the principal Law to substitute the word "Cabinet" for the word "Governor" in order to comply with Constitutional requirements.

**THE ELECTRICITY REGULATORY AUTHORITY (AMENDMENT)  
BILL, 2016**

**ARRANGEMENT OF CLAUSES**

1. Short title and commencement
2. Amendment of section 1 of the Electricity Regulatory Authority Law (2010 Revision) - short title
3. Amendment of section 2 – definitions
4. Amendment of Part II - Establishment, Capital and Administration of Authority
5. Amendment of section 9 - functions of Authority
6. Repeal of section 24 - shares of licensee etc. not to be issued or transferred without approval of Authority
7. Repeal of Parts V, VI and VII - Anti-competitive Practices; Cease-and-desist Orders; Administrative Fines
8. Amendment of section 68 - equipment standards and technician certification
9. Repeal of Part X - Reconsideration of Decisions and Appeals
10. Repeal of sections 78 and 79 - refusal to produce documents, etc.; giving false information
11. Repeal of sections 83 to 86 - offences by bodies corporate; offences under Part V; destroying or falsifying documents; false or misleading information
12. Amendment of section 89 - power to make regulations
13. Repeal of section 90 - immunity and indemnity
14. Insertion of Part XIII - Dissolution of Authority
15. Repeal and substitution of section 93 - transitional provisions
16. Insertion of section 94 - interpretation for the purposes of Part XIII
17. Repeal of First Schedule - Procedure of Board
18. Amendment of miscellaneous provisions - substitution of the word “Office” for the word “Authority”
19. Amendment of miscellaneous provisions - substitution of the word “Cabinet” for the word “Governor”

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**A BILL FOR A LAW TO AMEND THE ELECTRICITY REGULATORY  
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ESTABLISHMENT OF THE UTILITY REGULATION AND  
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ENACTED by the Legislature of the Cayman Islands.

1. (1) This Law may be cited as the Electricity Regulatory Authority (Amendment) Law, 2016.

Short title and  
commencement

(2) This Law comes into force immediately after the coming into force of the Utility Regulation and Competition Law, 2016.

2. The Electricity Regulatory Authority Law (2010 Revision), in this Law referred to as the “principal Law”, is amended in section 1 by deleting the words “Regulatory Authority” and substituting the words “Sector Regulation”.

Amendment of section 1  
of the Electricity  
Regulatory Authority  
Law (2010 Revision) -  
short title

3. The principal Law is amended in section 2 as follows -

Amendment of section  
2 - definitions

- (a) by deleting the respective definitions of the words “Authority”, “Board”, “director”, “Governor”, “managing director” and “reserve fund”; and

- (b) by inserting in the appropriate alphabetical sequence, the following definitions -

“administrative determinations” includes any orders, regulations, directions, decisions, or other written determinations by which the Office establishes the legal rights and obligations of one or more licensees, but does not include any advisory guidelines;

“critical national infrastructure” means systems and assets, whether physical or virtual, so vital to the Islands that the incapacity or destruction of the systems and assets would have a debilitating impact on security, national economic security, national public health or safety, or any combination of those matters;”; and

“Office” means the Utility Regulation and Competition Office established under section 4 of the Utility Regulation and Competition Law, 2016;”.

Amendment of Part II -  
Establishment, Capital  
and Administration of  
Authority

4. The principal Law is amended in Part II as follows -

- (a) by deleting the heading and substituting the following heading -

“**PART II - Powers and functions of Office**”; and

- (b) by repealing all of the sections except section 9.

Amendment of section 9  
- functions of Authority

5. The principal Law is amended in section 9 by deleting the marginal note and substituting the following marginal note -

“Powers and functions of Office”.

Repeal of section 24 -  
shares of licensee etc.  
not to be issued or  
transferred without  
approval of Authority

6. The principal Law is amended by repealing section 24.

Repeal of Parts V, VI  
and VII - Anti-  
competitive Practices;  
Cease-and-desist Orders;  
Administrative Fines

7. The principal Law is amended by repealing Parts V, VI and VII.

Amendment of section  
68 - equipment  
standards and technician  
certification

8. The principal Law is amended in section 68 as follows -

- (a) in the marginal note by deleting the words “and technician certification”; and

- (b) in subsection (1) by deleting the words “and for certification of technicians, electricians and electrical engineers”.

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| 9.  | The principal Law is amended by repealing Part X.  | Repeal of Part X -<br>Reconsideration of<br>Decisions and Appeals  |
| 10. | The principal Law is amended by repealing sections 78 and 79.  | Repeal of sections 78<br>and 79 - refusal to<br>produce documents, etc.;<br>giving false information   |
| 11. | The principal Law is amended by repealing sections 83, 84, 85 and 86.  | Repeal of sections 83 to<br>86 - offences by bodies<br>corporate; offences<br>under Part V; destroying<br>or falsifying documents;<br>false or misleading<br>information |
| 12. | The principal Law is amended in section 89(3) by inserting after paragraph (b) the following paragraph -<br><br>“(ba)critical national infrastructure;”. | Amendment of section<br>89 - power to make<br>regulations  |
| 13. | The principal Law is amended by repealing section 90.  | Repeal of section 90 -<br>immunity and indemnity   |
| 14. | The principal Law is amended by inserting after section 92 the following -   | Insertion of Part XIII -<br>Dissolution of Authority   |

**“PART XIII - Dissolution of Authority**

Dissolution of  
Authority

92A.(1)On the operative date, the Authority is dissolved and the assets, liabilities, property and contracts of the Authority, together with all functions and powers required to ensure the effectiveness and continuity of regulation, are transferred to the Office.

(2) Every matter commenced under the former Law and partly dealt with by the former Board when the new Law comes into force, is to be continued and dealt with in all respects under the new Law and the provisions of the new Law are to apply accordingly.

(3) Every matter commenced under the former Law and not wholly or partly dealt with by the former Board when the new Law comes into force, is to be taken to be a matter commenced under the new Law and the provisions of the new Law are to apply accordingly.

(4) Any subordinate legislation or instructions that

relates to the functions or powers of the Authority shall continue to apply to the Office, with all necessary changes being made, until such time as the Office issues administrative determinations for similar purposes under the Utility Regulation and Competition Law, 2016 that are inconsistent with that subordinate legislation or those instructions; and, where the Office issues such administrative determinations that are inconsistent with that subordinate legislation or those instructions, then, to the extent of the inconsistency, the subordinate legislation or instructions shall cease to apply.

Transfer of  
employees to the  
Authority

92B.(1) A person employed in the Authority on the day preceding the operative date, may be offered employment by the Office and, if the person accepts the offer, the person shall become an employee of the Office on terms and conditions of employment no less favourable than those that applied to the person's office in the person's employment in the Authority, except -

- (a) to the extent other terms and conditions are agreed between the employee and the Office; and
- (b) that disciplinary matters shall be dealt with in accordance with the Labour Law (2011 Revision) and the disciplinary rules and procedures of the Office.

(2) Pension arrangements and medical benefits relating to any employee specified under subsection (1) shall be subject to sections 92C and 92D, respectively.

Pensions  
transferred  
employees

92C.(1) The Office shall ensure the payment of pensions to all of its employees and shall, for that purpose -

- (a) with respect to employees transferred from the Authority in accordance with this Law, continue maintaining or subscribing to a fund in accordance with the National Pensions Law, 2016; and
- (b) with respect to employees employed by the Office after the operative date and who have not been transferred in accordance with this Law, create and maintain or subscribe to a fund in accordance with the provisions of the



National Pensions Law, 2016;

but the Office shall not subscribe to any fund in respect of those employees who are employed under contracts which are six months or less in duration.

Medical care for employees of the Office and applicability of Health Insurance Law (2016 Revision)

92D. The Health Insurance Law (2016 Revision) shall apply to the Office except that -

- (a) the Office may elect to provide free or subsidized medical benefits in lieu of, or in addition to, insurance coverage under the Health Insurance Law (2016 Revision); and
- (b) a person described in section 92B shall, unless otherwise notified by the Office, be entitled to receive from the Office the medical benefits provided to that person on the day preceding that person's transfer to the Office."

15. The principal Law is amended by repealing section 93 and substituting the following section -

Repeal and substitution of section 93 - transitional provisions

"Transitional provisions

93. (1) A licence or other enabling instrument issued to a person to provide any aspect of generation or transmission and distribution of electricity in the Islands granted by the Cabinet and valid and in force immediately prior to the operative date shall continue valid and in force for the remainder of the term as if it were a licence granted under this Law on the operative date and such licence shall continue to be subject to each and every one of the terms, conditions and exemptions attaching to such licence as if the terms, conditions and exemptions had been imposed or granted under this Law on the operative date but shall otherwise be subject to the provisions of this Law.

(2) Where a person who possesses such a licence or enabling instrument as described in subsection (1) has entered into an agreement with the Office being an agreement to surrender and terminate such licence or enabling instrument and to replace the same with a new licence or licences, immediately upon the surrender and termination of such licence or enabling instrument, the Office shall grant to such person such new licences on such terms, conditions and exemptions as have been so agreed, but

such licences shall otherwise be subject to this Law; and the Cabinet may, for such period of time as it shall determine, appoint such persons as it considers necessary to assist in carrying out such functions as are deemed reasonably necessary to effect the issuance of such licences.”.

Insertion of section 94 - interpretation for the purposes of Part XIII

16. The principal Law is amended by inserting after section 93 the following section -

“Interpretation for the purposes of Part XIII

94. In this Part -

“Authority” means the Electricity Regulatory Authority established under the former Law;

“former Board” means the Board of directors of the Authority;

“former Law” means the principal Law in force immediately before the date of commencement of the Electricity Regulatory Authority (Amendment) Law, 2016;

“new Law” means the principal Law as amended by the Electricity Regulatory Authority (Amendment) Law, 2016;

“Office” means the Utility Regulation and Competition Office established under the Utility Regulation and Competition Law, 2016; and

“operative date” means the date of commencement of section 13 of the Electricity Regulatory Authority (Amendment) Law, 2016.”.

Repeal of First Schedule - Procedure of Board

17. The principal Law is amended by repealing the First Schedule.

Amendment of miscellaneous provisions - substitution of the word “Office” for the word “Authority”

18. The principal Law is amended by deleting the word “Authority” wherever it appears and substituting the word “Office”, except in sections 92A and 94.

19. The principal Law is amended by deleting the word “Governor” wherever it appears and substituting the word “Cabinet”.

Amendment of miscellaneous provisions - substitution of the word “Cabinet” for the word “Governor”

Passed by the Legislative Assembly the                      day of                      , 2016.

Speaker.

Clerk of the Legislative Assembly.