

Fourth Session Fourth Parliament Republic of Trinidad
and Tobago



REPUBLIC OF TRINIDAD AND TOBAGO

Act No. 32 of 1994

[L.S.]

AN ACT to amend the Trinidad and Tobago Electricity
Commission Act, Chap. 54:70

[Assented to 22nd December, 1994]

ENACTED by the Parliament of Trinidad and Tobago as Enactment
follows:—

1. This Act may be cited as the Trinidad and Tobago Short title
Electricity Commission (Amendment) Act, 1994.

Interpretation
Chap. 54:70

2. In this Act, "the Act" means the Trinidad and Tobago Electricity Commission Act.

Section 2 amended

3. Section 2 of the Act is amended by inserting in the appropriate alphabetical sequence the following definition:

" "approved generator of electricity" means a body corporate or firm declared to be an approved generator of electricity under section 31(3c);".

Section 31 amended

4. Section 31 of the Act is amended—

(a) in subsection (2)—

(i) by inserting after paragraph (a), the following paragraphs:

"(aa) participate, with the consent of the Minister, in the formation of companies or firms which propose to engage in the generation of energy;

(ab) with the consent of the Minister, hold shares or be a partner, and exercise the rights of a shareholder or partner, in companies or firms engaged in the generation of energy;

(ac) with the consent of the Minister, purchase energy from an approved generator of electricity;

(ad) with the consent of the Minister, grant loans to an approved generator of electricity;

- (ae) subject to sections 21, 31A, 32 and 33 and with the consent of the Minister, enter into contracts of guarantee, surety or indemnity, create charges, liens, encumbrances or other forms of security interest over its property and assets and give any other undertaking in relation to its property and assets.”;
- (ii) by deleting the full stop at the end of paragraph (g) and substituting a semicolon;
- (iii) by inserting after paragraph (g), the following paragraph:
- “(h) do all things necessary, appropriate or incidental to its duties, functions and powers.”;
- (b) by repealing subsection (3) and substituting the following subsections:
- “ (3) Subject to this Act, the right to generate energy in any part of Trinidad and Tobago for the public or any member thereof is vested in the Commission who may, subject to subsection (5) enter into a licence agreement with an approved generator of electricity permitting the approved generator of electricity the non-exclusive right to generate electricity.

(3A) Subject to this Act, the right to supply energy in any part of Trinidad and Tobago to the public or any member thereof, either directly or indirectly, is vested in the Commission.

(3B) Subject to section 37, the right to lay, place and carry electric lines through, across, over or under any land in connection with the supply of energy to the public or any other member thereof and the right to erect standards or posts for that purpose are vested in the Commission exclusively and shall not be transferred or assigned to an approved generator of electricity.

(3c) The Commission may, with the approval of the Minister, by Order declare a body corporate or firm to be an approved generator of electricity.”;

(c) by inserting after subsection (4), the following subsection:

“ (5) The right of an approved generator of electricity to generate energy is subject to such terms and conditions as the Minister may determine.”.

Section 31A inserted

5. The Act is amended by inserting after section 31, the following section:

“Register of
Charges

31A. (1) Where the Commission creates a charge over any of its property or assets, it shall keep at its Head Office a copy of each deed or other instrument creating the charge, duly certified as a complete and correct copy thereof by an attorney-at-law.

(2) The Commission shall keep and maintain at its Head Office a register (hereinafter referred to as "the Register of Charges") in which shall be entered the following particulars of each charge over its property or assets:

- (a) the amount secured by the charge;
- (b) the date of the creation of the charge;
- (c) the nature of the instrument creating the charge;
- (d) a general description of the property or assets charged; and
- (e) the name, address and description of the person entitled to the charge.

(3) The Commission shall, subject to such reasonable restrictions as the Commission may impose, permit any member of the public to examine, during business hours and upon payment of such reasonable fee not exceeding ten dollars as the Commission may demand, the Register of Charges.

(4) A person dealing with the Commission in connection with any property or asset that is the subject of a charge registered under subsection (2) is deemed to have notice of that charge."

6. The Act is amended by inserting after section 33, Section 33A inserted the following section:

"Power of
Government
to give
certain
guarantees
and under-
takings

33A. (1) The Government may, in such manner and on such terms and subject to such conditions as may be agreed between it and an approved generator of electricity—

- (a) guarantee the discharge of the obligations and liabilities of the

Commission under any power purchase agreement which may be entered into by the Commission with an approved generator of electricity;

(b) undertake to indemnify an approved generator of electricity from and against such costs, liabilities, damages or loss as the approved generator of electricity may incur, where such costs, liabilities, damages or losses occur as a result of—

- (i) the imposition of environmental standards;
- (ii) the condition of any building, plant or equipment of the Commission prior to its transfer to an approved generator of electricity under section 34A(1);
- (iii) the presence on or below the surface of any property of the Commission of any hazardous material prior to the transfer of that property to an approved generator of electricity under section 34A(1);
- (iv) legal proceedings brought against the Commission, in which an approved generator of electricity is joined as a party.

(2) A guarantee or undertaking given under this section shall be in writing and signed on behalf of the Government by the Minister to whom responsibility for finance is assigned.”.

7. The Act is amended by inserting after section 34, ^{Section 34A inserted} the following sections:

"Power to
vest property,
rights, etc., of
Commission
in an
approved
generator of
electricity

34A. (1) Notwithstanding section 34(5) but subject to section 31(3B), where an agreement has been entered into by the Commission with the other shareholders or partners of an approved generator of electricity of which the Commission is a shareholder or partner, the Commission may, with the approval of the Minister, by Order transfer and vest in that approved generator of electricity any of its property, assets, rights, powers and obligations.

(2) The Commission may enter into a licence agreement with an approved generator of electricity permitting an approved generator of electricity the non-exclusive right to supply electricity.

(3) Where the Commission enters into a licence agreement with an approved generator of electricity for the supply of energy in any part of Trinidad and Tobago to the public or any member thereof, either directly or indirectly—

(a) the exercise of that right by the approved generator of electricity shall be subject to such terms and conditions as are specified in the licence agreement, including a provision—

(i) specifying the period during which the right may be exercised;

(ii) requiring the approved generator of electricity to pay to the Commission a fee for the use of such electric lines and

apparatus of the Commission as may be necessary for that purpose; and

(b) section 49 shall apply, *mutatis mutandis*, to the approved generator of electricity.

Exemption from duties Chap. 76:01 Act No. 37 of 1989

34B. (1) The Stamp Duty Act and the Value Added Tax Act, 1989 shall not apply to a transfer under section 34A(1).

(2) The Stamp Duty Act shall not apply to a transfer of shares, or an issue or transfer of debenture stock, of an approved generator of electricity of which the Commission is a shareholder.

(3) Notwithstanding any other written law, the President may, by Order, grant to an approved generator of electricity such exemption from the payment of stamp duty, customs duty, value added tax and any other taxes or duties payable on imports for such period and on such conditions as are specified in the Order.”.

Section 65A inserted

8. The Act is amended by inserting after the heading “PART VIII LICENCES FOR INSTALLATIONS”, the following section:

“Non-application of Part

65A. This Part does not apply to an approved generator of electricity.”.

Section 100 amended

9. Section 100 of the Act is amended—

(a) by repealing subsection (2) and substituting the following subsection:

“Chap. 75:01

(2) The Corporation Tax Act shall not apply to the profits or income of the Commission.”;

(b) by inserting after subsection (2), the following subsection:

“ (3) The Commission is exempt from the payment of stamp duty.”

Passed in the Senate this 5th day of December, 1994.

R. CUMBERBATCH
Acting Clerk of the Senate

Passed in the House of Representatives this 16th day of December, 1994.

N. COX
Acting Clerk of the House

House of Representatives amendment agreed to by the Senate this 20th day of December, 1994.

R. CUMBERBATCH
Acting Clerk of the Senate