

UTILITIES REGULATORY COMMISSION BILL, 2023

(Bill No. 7 of 2023)

EXPLANATORY STATEMENT OF OBJECTS OF AND REASONS FOR THE BILL

The object of this Bill is to make provisions for the establishment of a Commission for regulating the electricity, water and sewerage sectors and for other connected or incidental matters. The Bill is divided into 4 parts.

Part I provides for preliminary provisions such as short title, commencement and interpretation of various expressions used in the Bill.

Part II provides for the establishment of the Utilities Regulatory Commission, explain the objects of the Commission, functions of the Commission, general powers of the Commission, appointment of the Commissioners, terms of mandate of the Commissioners, termination of the mandate of the Commissioners, prohibition and conflict of interest of the Commissioners, functions and duties of the Commission, Chairperson of the Commission, decisions of the Commission, review of the decisions of the Commission and appeal against the decision, meetings of the Commission, staff and organisation of the Commission, appointment of the Chief Executive officer, appointment of experts, advisory committees, delegation of powers, annual report, requirement of transparency.

Part III provides for the transfer of funds of the existing Seychelles Energy Commission, funds of the Commission, levy of fees by the Commission, financial year of the Commission, accounts and audit.

Part IV provides for miscellaneous matters like noncompliance with the decision of the Commission, willful default by the service providers, budget of the Commission, repeal of the Energy Act, 2012, savings and transitional provisions.

Schedule describes the utility services.

Dated this 17th day of July, 2023.

**FLAVIEN JOUBERT
MINISTER OF AGRICULTURE,
CLIMATE CHANGE AND ENVIRONMENT**

UTILITIES REGULATORY COMMISSION BILL, 2023

(Bill No. 7 of 2023)

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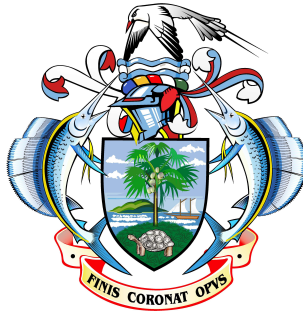
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UTILITIES REGULATORY COMMISSION BILL, 2023

(Bill No. 7 of 2023)

**A BILL****FOR**

AN ACT TO ESTABLISH THE UTILITIES REGULATORY COMMISSION FOR REGULATING THE ELECTRICITY, WATER AND SEWERAGE SECTORS AND FOR OTHER CONNECTED OR INCIDENTAL MATTERS.

ENACTED by the President and the National Assembly.

PART I - PRELIMINARY**Short title and commencement**

1.(1) This Act may be cited as the Utilities Regulatory Commission Act, 2023.

(2) This Act shall come into operation on such date as the Minister may, by notice published in the *Gazette*, appoint.

Interpretation

2. In this Act, unless the context otherwise requires —

“Chairperson” means the Chairperson chosen under section 3;

“Chief Executive Officer” means the Chief Executive Officer appointed under section 17;

“Commission” means the Utilities Regulatory Commission established under section 3;

“Commissioner” means the Commissioner appointed under section 7;

“consumer” means any person who uses any service provided by a service provider, including a person who has entered into a transaction with a service provider;

“energy efficiency standards” mean a set of rules that prescribe the minimum level of energy performance for the commercial, residential, industrial, transport and public sectors, and energy-using products including but not limited to lighting appliances, transport vehicles and machinery;

“licensee” means any person who holds a licence, or who currently carries out an activity in any regulated sector;

“Minister” means the Minister responsible for utility services;

“regulatory laws” means the laws in respect of which the Commission has regulatory functions and powers;

“regulated sector” means any sector in respect of which the Commission has regulatory functions and powers, in accordance with the corresponding regulatory laws;

“service provider” means any person who provides a utility service or any other service in any regulated sector;

“tariff” means the rate charged to the customer by any person carrying out activities in any regulated sector.

“utility service” means a service specified in any regulated sector, as specified in the Schedule.

PART II - ESTABLISHMENT OF THE COMMISSION

Establishment of the Commission

3.(1) There is established a Commission known as the Utilities Regulatory Commission.

(2) The Commission is a body corporate.

(3) The Commission shall consist of five Commissioners, from whom one Chairperson and one Vice-Chairperson shall be chosen.

(4) The Commissioners shall be appointed in accordance with section 7 and be employed by the Commission on a part-time basis.

Objects of the Commission

4.(1) The objects of the Commission are to regulate the activities of regulated sectors for adequate, reliable, cost effective and affordable services while protecting and conserving the environment.

(2) In pursuing the objects, the Commission shall carry out its functions in such a manner as to —

- (a) maintain an efficient structure for the regulated sectors to ensure their economic feasibility;
- (b) encourage investments and infrastructure development in the regulated sectors;
- (c) promote efficiency and competitiveness among the service providers;

- (d) improve the standards of service and quality of services supplied by the service providers;
- (e) comply with the policies and strategies adopted by the Government in relation to any regulated sector; and
- (f) promote the use of renewable energy, and water and energy efficiency.

Functions of the Commission

5.(1) The functions of the Commission are to —

- (a) advise the Minister on the formulation of the national policy on matters relating to any regulated sector;
- (b) promote the efficient and economic development of any regulated sector;
- (c) monitor compliance with the Government's international and regional obligations relating to services in the regulated sectors;
- (d) determine the standards of service applicable to service providers in any regulated sector;
- (e) receive and evaluate applications for licences and authorisations in accordance with the corresponding regulatory laws;
- (f) issue, modify or extend licences and authorisations related to the performance of activities in the energy, water and sewerage sectors in accordance with the requirements established in any regulatory laws;
- (g) periodically approve, monitor compliance and review tariff schemes and tariffs in accordance with any regulatory laws;

- (h) monitor, enforce and ensure compliance by licensees or authorisation holders carrying out activities in any regulated sector, of the obligations and conditions established in —
 - (i) regulatory laws;
 - (ii) licences or authorisations to carry out an activity in a regulated sector;
 - (iii) regulations adopted pursuant to the regulatory laws; and
 - (iv) approved service standards;
- (i) ensure the protection of the interests of consumers in relation to the provision of a service in any regulated sector;
- (j) receive and settle disputes in regulated sectors in accordance with the regulatory laws;
- (k) propose energy efficiency standards;
- (l) promote competition to the extent that competition is feasible in any regulated sector, and in accordance with the corresponding regulatory laws;
- (m) maintain a register in the prescribed form containing records of licensees and authorisation holders carrying out activities in a regulated sector;
- (n) promote the sustainable development of regulated sectors including efficiency in the use of regulated services;
- (o) undertake inspections;
- (p) require payments of and collect fees payable under this Act and the regulatory laws; and

(q) perform such other functions specified in this Act.

(2) In addition to the functions specified in subsection (1), the Commission shall have such other functions that have been granted to it by any regulatory laws and regulations.

General powers of the Commission

6.(1) Subject to this Act and any other applicable written law, the Commission shall have all the necessary powers as are necessary and convenient for carrying out its functions.

(2) Without prejudice to the generality of the powers conferred by subsection (1), the Commission may —

- (a) require from service providers and licensees any such documents and data as may be necessary to monitor compliance with this Act, regulatory laws and regulations and licences;
- (b) apply to service providers and licensees the penalties imposed under this Act, regulatory laws and regulations and licences;
- (c) enter into contracts;
- (d) acquire by lease, sublease, easement, or as otherwise allowed by law, any improved or unimproved land or interest in land, for the purposes of this Act;
- (e) erect any building or structure required for the purposes of this Act on land belonging to or administered by the Commission;
- (f) alter or reconstruct any building or property belonging to or administered by the Commission;
- (g) dispose of by sale, lease, sublease, or easement, any building or interest in such building;

- (h) dispose of by lease, sublease, or easement any land or interest in such land;
- (i) acquire by purchase, lease, or sublease any personal property or license which the Commission considers necessary or convenient for carrying out its objects and functions;
- (j) dispose of by sale or any other manner allowed by law, any property of the Commission;
- (k) borrow money and accept advances, contributions, gifts, or other forms of assistance;
- (l) invest or reinvest its funds;
- (m) take and hold any property as security for the payment of funds borrowed or invested;
- (n) insure or provide for the insurance of any property, project or operation against any risk;
- (o) appoint agents, attorneys or accountants;
- (p) set the rules on selection of consultants and inspectors, and on selection, promotion, remuneration and other matters related to its staff;
- (q) approve its financial, administrative and, operational procedures;
- (r) regulate the internal procedures for the imposition of sanctions in the event of statutory, regulatory or contractual infringements, and ensuring due process in the procedures;
- (s) require data and information from any other authority, organisation or person as may be necessary to perform its functions and powers;

- (t) perform any other function that may be imposed on it by regulations, licences and any other legislation to be adopted pursuant to this Act;
- (u) approve its own Code of Conduct and Ethics, which shall be respected by the Commissioners and by the staff of the Commission; and
- (v) do any such other act as may be conducive to the best attainment of its functions and objectives of this Act.

Appointment of Commissioners

7.(1) The President shall appoint the Commissioners and cause their appointment to be published in the *Gazette*.

(2) A person is eligible and qualified to be appointed as a Commissioner if he or she —

- (a) demonstrates technical, financial, legal, economic or other professional experience and expertise relevant to the field of competence of the Commission; and
- (b) is not disqualified or otherwise ineligible in terms of section 10 or 11.

(3) Notwithstanding the generality of subsection (2), the composition of the Commission shall ensure that at least —

- (a) one Commissioner has technical, financial, legal, economic or other professional experience and expertise in the electricity sector; and
- (b) one Commissioner has technical, financial, legal, economic or other professional experience and expertise in the water or sewerage sector.

Term of appointment of Commissioners

8.(1) The Commissioners shall be appointed for a term of five years and shall be eligible for re-appointment for an additional term of five years.

(2) Notwithstanding subsection (1), in order to promote continuity in the Commission's statutory mandate, the term of appointment of the Commissioners of the first Commission appointed under this Act shall be as follows —

- (a) two Commissioners shall be appointed for five years;
- (b) two Commissioners shall be appointed for four years;
- (c) one Commissioner shall be appointed for three years;

(3) The term of appointment of each Commissioner may be renewed once.

(4) A Commissioner shall continue in office after the expiry of his or her term until he or she has been re-appointed, or his or her successor has been appointed, provided that a Commissioner shall not hold office pursuant to this subsection for a period longer than twelve months.

(5) Where the post of any Commissioner for any reason becomes vacant before the expiration of his or her term —

- (a) the Chairperson of the Commission, or the Vice-Chairperson in the absence of the Chairperson, shall immediately notify the President; and
- (b) a replacement Commissioner shall, within three months from the date the vacancy arose, be appointed in accordance with the provisions of section 8 for the remaining term of office of that Commissioner.

Termination of appointment of Commissioners

9.(1) The President may terminate the appointment of a Commissioner if the Commissioner —

- (a) fails to comply with prohibitions and obligations, or has a conflict of interest, in terms of section 11;
- (b) is absent from office for three consecutive meetings of the Commission without leave of the Chairperson;
- (c) is declared bankrupt;
- (d) is incapacitated by physical or mental illness, or when it is certified in a report prepared by a recognised medical facility that the Commissioner cannot continue his or her duties for the remaining term;
- (e) is convicted of a criminal offence involving dishonesty, fraud or moral turpitude;
- (f) is guilty of misconduct; or
- (g) becomes ineligible for any of the reasons specified in sections 10 or 11.

Ineligibility

10.(1) A person shall be ineligible to hold office as a Commissioner if such person —

- (a) does not comply with the eligibility requirements indicated in section 7(2);
- (b) holds any position, paid or unpaid, in a service provider in any regulated sector;
- (c) has been convicted of an offence involving dishonest or fraudulent acts within or outside Seychelles;

- (d) has been adjudged as an insolvent by a competent court; or
- (e) was terminated from public service due to poor performance or misconduct;

Prohibitions and conflict of interest

11.(1) A Commissioner shall not acquire, hold or maintain directly or indirectly any personal, property or pecuniary interest in any service provider or licensee in any regulated sector.

(2) A Commissioner has a conflict of interest in a subject matter before the Commission if the subject matter relates to property or pecuniary interest owned, directly or indirectly, in any service provider or licensee in any regulated sector by a relative of that Commissioner.

(3) If an interest referred to in subsections (1) or (2) arises by way of succession or testamentary disposition or for any other reason, the Commissioner shall —

- (a) immediately notify the Commission in writing; and
- (b) divest himself or herself from such interest within a period of three months of such interest being acquired; or
- (c) resign from the Commission.

(4) At the time of his or her appointment, each Commissioner shall submit to the Commission a statement in writing to the effect that he or she does not have any interest referred to in subsections (1), (2) or (3).

(5) A Commissioner shall not accept employment or enter into a contract of service with a service provider of a regulated sector —

- (a) throughout his or her term of appointment; or
- (b) within two years of the date of ceasing to be a Commissioner.

Chairperson

12.(1) The Chairperson shall be the principal representative of the Commission, and the Vice- Chairperson shall act for the Chairperson in the event of his or her temporary disability or absence.

- (2) The Chairperson shall —
- (a) determine the agenda, date and time of the Commission meetings and administer the meetings;
 - (b) represent the Commission at official and public organisations and events; and
 - (c) sign contracts and agreements as authorised by the Commission.

Meetings

13.(1) The Commission shall meet as often as it deems necessary but not less than twice every month, upon an invitation from the Chairperson or his or her replacement.

(2) The Chairperson shall notify all the Commissioners of the date and venue of the meeting, at least three working days before the date of the meeting.

(3) Two Commissioners may request in writing or by electronic means to the Chairperson to convene a meeting of the Commission to discuss specified matters.

(4) The Chairperson shall, upon receiving a request under subsection (3) convene a meeting within a period that shall not exceed four days from the date of receiving the request.

Decisions

14.(1) Three Commissioners shall constitute quorum for any meeting.

(2) If a meeting fails to constitute a quorum, the Chairperson shall adjourn the meeting to another date not earlier than five working days from that day, and shall notify the members accordingly.

(3) All decisions of the Commission shall be taken by a simple majority of the members present and voting.

(4) In the event of a tie in votes cast, the Chairperson or his or her replacement shall have a casting vote.

Review of decisions and appeals

15.(1) The Commission may review its decisions and revoke them, on its own initiative or upon the request of any of the parties affected by the decisions.

(2) Any person dissatisfied with any order or decision of the Commission may appeal to the Appeals Tribunal established under section 14 of the Fair Trading Act, 2022.

(3) An appeal shall not of itself stay or suspend the operation of any decision or order of the Commission but the Tribunal may by order, stay or suspend, in whole or part, the operation of the decision or order of the Commission pending the appeal.

Staff and organisation

16.(1) The Commission may —

- (a) employ technical, professional, ancillary and such other staff as may be necessary to carry out the functions of the Commission;
- (b) appoint external consultants or inspectors;
- (c) set its internal organisation and operational procedures; and
- (d) approve its own rules on —

- (i) selection of consultants and inspectors;
- (ii) selection, promotion, remuneration and other matters related to its staff; and
- (iii) the criteria of selection which in all cases shall comply with the principles of transparency, objectivity and non-discrimination, and shall be based on professional qualifications and merit.

Chief Executive Officer

17.(1) The Commission shall appoint a person as the Chief Executive Officer to manage the day-to-day affairs of the Commission, on such terms and conditions as the Commission determines.

(2) Notwithstanding the generality of subsection (1), the Chief Executive Officer shall —

- (a) be responsible for the supervision of the work and staff of the Commission;
- (b) follow up the financial and administrative affairs and cooperate with any other authority;
- (c) prepare the annual budget and accounts of the Commission and present it to the Commission for approval;
- (d) prepare the annual report of the Commission and present it to the Commission for approval;
- (e) perform the functions entrusted to him or her under this Act, any regulatory law or the Commission; and
- (f) attend meetings of the Commission when required by the Chairperson or his or her replacement, provided that he or she shall not have voting rights in the meetings.

Experts

18.(1) The Commission may appoint or engage persons having technical or other special knowledge to assist the Commission in performing its functions.

(2) The Commission shall determine the remuneration of persons engaged under subsection (1).

Advisory committees

19.(1) The Commission may appoint advisory committees for matters related to the functions of the Commission for such period as may be determined by the Commission.

(2) The Commission shall determine the terms of reference and the remuneration for the members of the advisory committees.

(3) The members of the advisory committee appointed under subsection (1) shall not be considered as staff of the Commission.

(4) The opinions or recommendations made by an advisory committee appointed under subsections (1) are not binding on the Commission but may be considered by the Commission in making decisions related to its functions.

Delegation

20. The Commission may delegate, in writing, to one or more Commissioners or to the Chief Executive Officer, the power to carry out on behalf of the Commission such functions as the Commission may determine, except the functions specified under section 5 (1) (e), (f), (g), and (h).

Annual report

21. The Commission shall, not later than 6 months after the end of each financial year, prepare in such form as may be prescribed, an annual report giving full account of its activities during the previous year, and shall

submit the report together with the audited statement of accounts to the Minister, who shall cause the report and accounts to be tabled before the National Assembly.

Transparency and confidentiality

22.(1) The Commission shall, while exercising its powers, discharging its duties and adopting its decisions, make available on its website all relevant data and information, for transparency purposes.

(2) The Commission shall —

- (a) justify its decisions; and
- (b) publish its decisions.

(3) The Commission shall —

- (a) make publicly available all relevant information, files, records and data related to any regulated sector, except those containing confidential information; and
- (b) publish a balance sheet and a summary of its budget at the end of each financial year.

(4) The confidentiality of decisions or of any kind of documents or information referred to in subsection (3) shall —

- (a) not be presumed; and
- (b) need to be explicitly determined and justified by the Commission.

(5) The Commission shall develop a website, making available relevant information and legislation, including —

- (a) laws and regulations related to the regulated sectors or applicable to them;

- (b) its own decisions;
- (c) its annual reports,
- (d) consultation documents and information related to public hearings;
- (e) its internal organisation and procedures; and
- (f) any other relevant information concerning the regulated sectors.

(6) The Commission may hold public hearings and issue consultation documents when it considers this necessary, in order to inform and to seek opinion from persons carrying out activities in any regulated sector, to consumers or to any interested person in respect of a matter that is relevant for or has a significant impact on —

- (a) the rights, obligations or interests of licensees, authorisation holders or consumers, or
- (b) the regulation and development of any regulated sector.

(7) Without prejudice to the generality of subsection (6), the Commission shall hold a public hearing or shall issue consultation documents where it is required by a regulatory law or before setting or reviewing tariffs.

PART III - FUNDS OF THE COMMISSION

Transfer of funds

23.(1) The Commission shall have its own funds, and all the funds transferred from the Seychelles Energy Commission constituted under the Energy Act, 2012 shall be credited to the Commission funds.

(2) All payments made by the Commission and all expenses incurred by the Commission shall be made from the funds.

Funds

24.(1) The funds of the Commission shall consist of —

- (a) the fees that may be levied on a service provider pursuant to section 25;
- (b) the funds transferred from the Seychelles Energy Commission in accordance with section 23;
- (c) moneys received by the Commission by way of donations or grants for the purposes of the Commission;
- (d) moneys approved by an Appropriation Act;
- (e) other funds, assets or resources as may be assigned under the applicable laws and regulations; and
- (f) the interests and profits generated from the management of its own funds.

Fees

25.(1) All service providers carrying out an activity in any regulated sector shall pay to the Commission an annual supervision fee.

(2) The fee referred to under subsection (1) shall be fixed by the Commission for each individual service provider and for each licensee in accordance with the internal financial procedures set by the Commission.

(3) The Commission shall, not later than sixty days before the beginning of the financial year, determine with respect to each licensee, and subject to this Act, an annual assessment pursuant to subsection (1) and (2), and notify each licensee of the annual assessment to which it is subject.

(4) Each licensee shall pay to the Commission the supervision fee fixed pursuant to subsections (1), (2) and (3) in two equal installments on the fifteenth day of January and the fifteenth day of July in each year.

(5) The Commission shall prepare, on or before the 1st day of April in each year, an accountability report of the funds received pursuant to subsections (1), (2), (3) and (4) and submit it to the Minister.

(6) Where a service provider fails to pay the supervision fee under subsection (1) and (2), the Commission may recover such fee in such manner as may be prescribed.

(7) The maximum amount which may be levied on a service provider pursuant to subsections (1) and (2) is two percent of the gross sales of the service provider.

(8) Every service provider shall pay licence fees, application fees, and any other fee that may be determined and required by other regulatory laws and regulations.

Budget

26.(1) The Commission shall prepare and determine its annual budget.

(2) Each year and not later than the 15th day of November, the Commission shall prepare and approve estimates of the income and expenditure of the Commission for the following year, including its capital budget for the financial year.

(3) If the estimated budget resources for the year resulted in being insufficient due to unforeseeable occurrences at the time of budget preparation, the Commission shall be entitled to a complementary charge, subject to the approval of the Cabinet, to meet its financial needs and obligations.

(4) If the estimated budget resources for the year exceed the actual expenses of that year, the surpluses shall be accrued as income for the subsequent financial year.

Financial year

27.(1) Subject to subsection (2), the financial year of the Commission shall be a period of 12 months ending on 31st December of each year.

(2) The first financial year of the Commission shall end on 31st December of the year next following the date on which this Act comes into operation.

Accounts and audit

28.(1) The Commission shall keep proper accounts and other relevant records of accounts, and prepare, in respect of each financial year, a statement in such form and manner as may be prescribed by regulations.

(2) The accounts of the Commission shall be audited by the Auditor General in accordance with Article 158 of the Constitution.

PART IV - MISCELLANEOUS

Non-compliance with decision or order of the Commission

29. A service provider or licensee that refuses or fails to comply with a decision or order of the Commission under this Act or to a regulatory law commits an offence and shall, on conviction, be liable to a fine not exceeding level 7 in the Schedule of the Criminal Offences (Standard Scale of Fines) Act, 2021.

Compounding of offences

30.(1) Where the Chief Executive Officer is satisfied that an offence under section 29 has been committed by any person and the person admits to committing the offence, accepts liability for the commission of the offence and agrees in writing to the matter being dealt with under this section, the Chief Executive Officer may, in consultation with the Attorney General, compound the offence *in lieu* of instituting legal proceedings by accepting a sum of not more than the maximum fine specified for the offence.

(2) A sum of money received under this section shall be dealt with as though it were a fine imposed by a Court.

(3) The Chief Executive Officer shall determine the sum of money to be paid by the offender having due regard to the provisions of this Act, the nature, circumstances, extent and gravity of the offence, the past behavior of

the offender and the financial benefit accrued to the offender from the failure or refusal to comply with the decision or order of the Commission.

(4) An *ad-hoc* compounding committee may be established to advise the Chief Executive officer in determination of the sum of money to be paid by the offender in accordance with subsection (1).

(5) Upon determination of the sum of money to be paid by the offender by way of fine in accordance with subsection (3), the Chief Executive Officer shall sign the compounding agreement and serve it on the offender who shall pay the sum of money within 14 days from the date of service of the compounding agreement.

(6) In the event that the offender fails to pay the sum of money within the period set out in subsection (5), the compounding agreement shall be void and the judicial proceedings shall be instituted or continued as the case may be.

(7) On payment of the sums provided under this section, the compounding of any offence under subsection (1) shall be filed in court and any proceedings in connection with the commission of the offence which are pending shall be noted as compounded and the offender absolutely discharged.

(8) The compounding of an offence under this section shall be conclusive and final and no court proceedings shall be instituted for that offence.

(9) In any proceedings brought against any person for an offence under section 29, it shall be a defence if the person proves that the offence has been compounded under this section.

Willful default by service provider in furnishing information

31. Where the Commission serves a notice on any service provider or licensee requiring information to comply with its functions under this Act or any regulatory law, service provider or the licensee who refuses or fails to comply with the order of the Commission is liable to pay an administrative

penalty of SCR5,000, and in the case of a continuing refusal or failure, a further penalty of SCR1,000 for each day during which the refusal or failure continues.

Regulations

32.(1) The Minister may make Regulations for carrying into effect the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), regulations made under subsection (1) may provide for —

- (a) form of register of licencees and authorisation holders;
- (b) form of annual report;
- (c) calculation of fees to be paid by the service providers or licencees;
- (d) recovery of fees from service providers; and
- (e) keeping records of accounts.

Repeal and savings

33.(1) The Energy Act, 2012 is repealed.

(2) Notwithstanding the repeal under subsection (1), any regulations and directions issued and notifications made under the repealed Act shall continue in operation until they are repealed or amended under this Act.

Transitional

34. Upon the coming into operation of this Act —

- (a) all acts done or commenced by or under the repealed Act prior to the date of operation of this Act, and where such act is within the powers of the Commission, shall be carried on and completed by or under this Act;

- (b) all acts done, decisions taken, licences or authorisations granted by the Minister or by the Commission, the Chief Executive Officer, officers or employees of the Commission under the repealed Act which were validly done, taken, or granted under any written laws or pursuant to the repealed Act shall continue to have effect in accordance with their terms or until amended, annulled, or withdrawn in accordance with this Act;
- (c) all agreements, deeds, bonds or arrangements which fall within the scope of the objects and functions of the Commission under the repealed Act, to which the Commission is a party, and that exists immediately before the date of coming into force of this Act, shall continue in force and shall be enforceable by or against the Commission as if the Commission had been a party to such deeds, bonds, agreements, or arrangements;
- (d) all debts, obligations and liabilities incurred, all contracts entered into, and all matters engaged to be done by or for the Government immediately before such day for or in connection with the objects of the Commission under the repealed Act shall be incurred by the Commission and the Commission shall have all powers necessary to take possession of, recover and deal such assets, and discharge such liabilities;
- (e) all suits and legal proceedings pending or which could have been instituted by or against the Government immediately before such day for any matter in relation to the Commission under the repealed Act, shall be continued or instituted as if the Commission was a party to them;
- (f) all officers and other employees of the Commission under the repealed Act shall be deemed to be officers and employees of the Commission on conditions not less favourable than those existing immediately prior to the said date of repeal.

Transfer of assets

35.(1) The Board established under the repealed Act may vest in or transfer to the Commission immediately before the coming into operation of this Act —

- (a) movable and immovable properties vested in the Commission constituted under the repealed Act;
- (b) assets, rights, interests, privileges, liabilities and obligations of the Commission constituted under the repealed Act.

(2) Where a question arises as to whether a particular movable or immovable property, asset, right, interest, privilege, liability or obligation has been transferred to or vested in the Commission under subsection (1), a certificate issued under the hand of the Minister shall be conclusive evidence that the movable or immovable property, asset, right, interest, privilege, liability or obligations was or was not so transferred or vested.

SCHEDULE

(Section 2)

Utility services

1. Generation, distribution or supply of electricity;
2. Distribution or supply of water; or
3. Supply of sewerage services.