



**THE GOVERNMENT OF ABU DHABI PRIVATISATION
COMMITTEE WATER AND ELECTRICITY SECTOR**

**LAW No (2) CONCERNING THE
REGULATION OF THE WATER
AND ELECTRICITY SECTOR**

ENGLISH LANGUAGE TRANSLATION

NOTES

1. This document is an English language translation of the Law issued in the Arabic language. Whilst every effort has been made accurately to translate the Arabic text into English, complete accuracy cannot be guaranteed. The Arabic text takes precedence over this translation.
2. The Arabic text does not contain a contents page. The contents page is included only for ease of reference.
3. The definitions in Article (1) appear in a different sequence to that found in the Arabic version.
4. Headings are included for ease of reference and do not affect the interpretation of the Law.

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LAW No (2) OF 1998

CONCERNING THE REGULATION OF WATER AND ELECTRICITY SECTOR

WE KHALIFA BIN ZAYED AL NAHYAN, DEPUTY RULER OF ABU DHABI,

IN ACCORDANCE WITH THE AUTHORITIES GRANTED TO US BY THE RULER OF
ABU DHABI

Having Perused Law No. (1) of 1974 Concerning the Re-organisation of the Government System
in the Emirate of Abu Dhabi and the amendments thereof;

AND Law No. (2) of 1971 Concerning the National Consultative Council and the amendments
thereof;

AND Amiri Decree No. (8) of 1974 Concerning the Water and Electricity Department;

AND the Crown Prince's Decision No. (1) 1996 Concerning the Establishment of the
Privatisation Committee for the Water and Electricity Sector;

AND Amiri Decree No. (7) 1997 Concerning the Privatisation Committee for the Water and
Electricity Sector in the Emirate of Abu Dhabi;

AND the Crown Prince's Decision No. (4) 1997 Establishing the Privatisation Committee for the
Water and Electricity Sector;

AND in accordance with what has been submitted by the member of the Executive Council and
approved by the Executive Council;

WE issue the following Law—

PART ONE

PRELIMINARY MATTERS

Article (1)

Definitions

In this Law, the following terms shall have the following meanings—

"Authority": the Abu Dhabi Water and Electricity Authority;

"ancillary services": services which may be required from time to time for reasons of system security and stability and which are identified in a transmission code;

"by-pass sales": sales of water or electricity by providers of production capacity to persons other than the Abu Dhabi Water and Electricity Company;

"calendar year": the period of twelve months commencing 1st January and ending on 31st December of any year;

"central services": services relating to transportation, industrial security and central workshops or any other services as may be determined by the Authority from time to time;

"Dirham": dirham, the lawful currency of the United Arab Emirates;

"distribution": the distribution of water or electricity;

"distribution code": the distribution code required to be prepared and maintained by a licensed distribution operator pursuant to the terms of its licence which prescribes standard technical rules to be observed by all those connected to a distribution system for the connection to, use and operation of that system;

"distribution companies": the distribution companies established pursuant to this Law;

1 Part One

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"economic purchase": the purchase on the best terms reasonably obtainable, having regard to quality, quantity and nature of the things to be purchased;

"eligible customers": those persons, or classes of persons, designated as such in an order made by the Authority pursuant to Article (76) of this Law;

"Emirate": the Emirate of Abu Dhabi;

"exemption": an exemption from the requirement to hold a licence issued by the Regulation and Supervision Bureau pursuant to this Law;

"final order": a final order made or confirmed under Article (106) of this Law;

"fuel": natural gas and back up fuel;

"Government": the government of the Emirate of Abu Dhabi;

"licence": a licence issued by the Regulation and Supervision Bureau pursuant to this Law;

"licensed distribution operator": a person authorised pursuant to this Law to carry on distribution of water or electricity;

"licensed operator": the holder of a licence issued pursuant to Article (82) of this Law;

"licensed production operator": the generation and desalination companies established pursuant to this law;

"licensed transmission operator": the Abu Dhabi Transmission and Despatch Company or any other person authorised pursuant to Article (82) of this Law to carry on transmission of water or electricity;

"notice": a notice in writing issued pursuant to this Law;

"output": the physical water and/or electricity produced by a production facility;

"preliminary order": a preliminary order made under Article (107) of this Law;

"premises": any land, building or structure;

"production capacity": water desalination capacity, storage capacity and/or electricity generation capacity;

"production facilities": facilities for the generation of electricity or the desalination and/or storage of water;

"qualified person": a person appointed by the Regulation and Supervision Bureau having particular qualifications determined by the Regulation and Supervision Bureau;

"register": the register to be prepared by the Regulation and Supervision Bureau pursuant to Article (56) of this Law;

"regulated activities": the activities listed in Article (71) of this Law;

"regulatory dispute": a dispute between persons conducting a regulated activity and the Regulation and Supervision Bureau referred to arbitration pursuant to Article (130) of this Law;

"Regulation and Supervision Bureau": the Regulation and Supervision Bureau for the Water and Electricity Sector in the Emirate of Abu Dhabi;

"relevant assets and liabilities": all physical assets, contracts, rights and liabilities used for the purpose of (1) water desalination, (2) storage, (3) electricity generation, (4) water transmission, (5) electricity transmission, (6) water distribution or electricity distribution;

"securities": loan debentures or shares in a company;

"self supply": the supply of water or electricity by a person to himself, his employees or his business;

"state": the United Arab Emirates;

"streetworks": any kind of work (including but not limited to, installation, maintenance, repair or alterations) to water trunk mains, water mains, water plants, electric lines or electric plants and all works associated with or incidental thereto (including but not limited to, opening and breaking up streets, sewers or tunnels under streets, tunnelling or boring and removing earth and other materials);

"successor entity": an entity nominated by the Authority pursuant to Article (137) of this Law;

"transfer scheme": the scheme to be prepared by the Abu Dhabi Water and Electricity Authority pursuant to Article (137) of this law;

"transmission": the transmission of water or electricity;

"transmission code": the transmission code required to be prepared and maintained by the Abu Dhabi Transmission and Despatch Company or any other licensed transmission operator pursuant to the terms of its licence which prescribes standard technical rules to be observed by all those connected to a transmission system for the connection to, and the use and operation of, that system; and

"WED": means the Water and Electricity Department in the Emirate of Abu Dhabi.

Article (2)

Interpretation

- (1) In this Law, a company shall be regarded as wholly owned by the Government at any time when all of the issued shares in the company are held
- by, or by a nominee of, the Government; or
- by the Abu Dhabi Water and Electricity Authority; or
- by the Abu Dhabi Power Corporation; or
- by any other entity or entities which are wholly owned by the Government.
- (2) A reference in this Law to an Article or Schedule is, unless the context otherwise admits, a reference to an article or schedule of this Law and a reference to the Law includes, where the context permits, a reference to regulations made pursuant to the Law.

PART TWO

ABU DHABI WATER AND ELECTRICITY AUTHORITY

Article (3)

Establishment as Government Authority

There is hereby established as a public organisation, wholly owned by the Government, the Abu Dhabi Water and Electricity Authority for the purpose of carrying out the duties given to it under this Law.

Article (4)

Independence

The Authority shall have a separate legal personality and shall have the capacity to act as such in accordance with this Law and shall have financial and administrative independence in carrying out its affairs.

Article (5)

Management

- (1) The Authority shall be managed by a board of management, including a Chairman, appointed by an Amiri Decree.
- (2) Unless otherwise provided, all of the powers allocated to the Authority under this law shall be carried out by its board of management. The Board of Management may delegate part of its powers to the Chairman.
- (3) The remuneration of the Board of Management shall be determined by a decision of the Executive Council of the Emirate of Abu Dhabi pursuant to a recommendation of the Chairman of the Board of Management of the Authority.

Article (6)

Powers and functions - policy

The Authority shall determine all matters relating to the formulation, development and implementation of the policy of the Government in relation to the water and electricity sector, including all matters relating to the privatisation of the water and electricity sector.

Article (7)

Holding company ownership

The Authority shall be entitled to retain ownership of all of the share capital of the Abu Dhabi Power Corporation.

Article (8)

Directions

The Authority may issue directions to the Abu Dhabi Power Corporation for the purposes of the implementation of the policy of the Government in relation to the water and electricity sector and its privatisation.

Article (9)

Subsidiaries

The Authority shall for the purpose of carrying out its functions under this Law, have power to—

- (1) form public and private joint stock companies, limited liability companies and other types of companies on its own or in association with others and the Authority may own all shares in such companies on incorporation;
- (2) merge the Abu Dhabi Water and Electricity Company with the Abu Dhabi Transmission and Despatch Company. If it does so, the merged entity shall be subject to all provisions of this Law which previously applied to the two separate entities and to such additional requirements specified by the Regulation and Supervision Bureau which were applicable to those companies before the decision of the merger was issued;
- (3) dispose of its interest in any entity established pursuant to sub-paragraph (1) of this Article; and
- (4) require any of the entities established pursuant to sub-paragraph (1) of this Article to dispose of all or any of its assets.

Article (10)

Other functions

The Authority shall be responsible for—

- (1) promoting research for the purpose of developing of the water and electricity sector in the Emirate;
- (2) promoting the conservation and efficient use of water and electricity resources in the Emirate;
- (3) ensuring the recruitment and training of United Arab Emirates nationals in the water and electricity sector; and
- (4) the publication of information or advice, where having regard to the public interest, it believes it advisable that consumers, or potential consumers, of water and electricity shall receive such information or advice provided that information to be published shall exclude, in so far as is practicable and to the extent consistent with the public interest, matters the publication of which, in the opinion of the Authority, may unduly prejudice any person or class of person.

Article (11)

Independent water and power projects

In relation to independent water and electricity generation projects, the Authority—

- (1) may enter into binding commitments with private sector entities regarding funding of the public sector participation in such projects;
- (2) shall lease, or procure the lease of, land owned by the Government required for implementation of such projects and rights related to the use of such land; and
- (3) shall provide assistance in the procurement of consents and permits required for implementation of such projects and liaise with other Government authorities as necessary in connection therewith.

Article (12)

Developer of last resort

Authority to provide capacity

- (1) The Authority may issue directions to the Abu Dhabi Power Corporation that a subsidiary of the Abu Dhabi Power Corporation constructs production facilities to cover any additional production capacity until such time as capacity is made available by a contracted private provider if any of the following shall occur—
 - (a) termination of an agreement for the provision of production capacity or following issue of an invitation to tender under paragraph (1) of Article (35) no agreement is entered into with a provider of production capacity; and
 - (b) the Abu Dhabi Water and Electricity Company has not been able to secure on reasonable economic terms the provision of production capacity with an existing provider of production capacity.

Disposal of facilities

- (2) Where the Authority procures the construction of production facilities for the provision of additional production capacity, the Authority may at any time direct the Abu Dhabi Power Corporation to sell, by tender or public offering, part or all of its shares in the provider of the additional capacity or direct it to—
 - (a) sell such production facilities by invitation to tender;
 - (b) contract by way of invitation to tender for the operation and maintenance of such facilities,

and in both cases the provisions of Article (35) shall apply.

Article (13)

Control of WED by the Abu Dhabi Water and Electricity Authority

Immediately upon this Law becoming effective, WED shall come under the direct control and management of the Authority until the completion of the transfer scheme.

Article (14)

Financial matters

The Authority shall have an independent budget which shall be approved by the members of the Board of Management of the Authority and shall be entitled to receive all funds allocated to it and shall be free to deal with its funds and income including investing such funds and opening and managing of its bank accounts and withdrawal therefrom for the purposes of achieving its objectives. The Authority's funds shall consist of the following—

- (1) funds allocated to it by the Government of Abu Dhabi;
- (2) income generated by it;
- (3) dividends paid to it by any of the companies partly or wholly owned by it or by the Abu Dhabi Power Corporation; and
- (4) proceeds of sale obtained by the Authority or the Abu Dhabi Power Corporation upon the sale of the assets or shares in those subsidiary companies.

Article (15)

Financial year

- (1) The Financial Year of the Authority shall commence on the 1st January and end on the 31st December of each year;
- (2) Notwithstanding the previous sub-paragraph, the first financial year of the Authority shall commence upon this Law becoming effective and shall end on the 31st December of the same year.

Article (16)

Reporting

The Chairman of the Board of Management of the Authority shall at the end of each financial year, submit reports to the Executive Council of the Emirate of Abu Dhabi in relation to the activities of the Water and Electricity Sector.

Article (17)

Additional powers

Proposing new legislation

- (1) In connection with the performance of its functions and duties under this Law, the Authority shall have the power to propose draft laws for issuance by the relevant authorities.

Constitution

- (2) The Authority shall be free to determine its own constitution concerning its administrative and financial management.

Article (18)

Taxes, duties etc

The Authority, the Abu Dhabi Power Corporation, all companies or entities wholly or partly owned by either of them and companies established pursuant to Article (134) of this Law shall be exempt from all taxes, fees including custom duties in relation to goods,

machinery, equipment and spare parts imported for the purposes of achieving its objectives. Such exemption shall not apply to fees to be collected by the Regulation and Supervision Bureau pursuant to this Law or any licence issued under this Law.

Article (19)

Procurement exemption

The Authority shall not be subject to the public tendering and procurement laws applicable in the Emirate of Abu Dhabi. The Authority is empowered to issue regulations, as it sees fit to regulate its tenders and procurement.

PART THREE

THE COMPANIES

CHAPTER ONE

ESTABLISHMENT OF COMPANIES

Article (20)

Establishment of Government holding company

There is hereby established a company, the Abu Dhabi Power Corporation, for the purpose of carrying out the duties given to it pursuant to this Law and its share capital shall be owned by the Authority.

Article (21)

Establishment of ADPC subsidiaries

There are hereby established the following companies, for the purpose of carrying out the duties given to each of them under this Law, whose share capital shall, upon their establishment, be owned by the Abu Dhabi Power Corporation—

- (1) Abu Dhabi Water and Electricity Company;
- (2) Abu Dhabi Transmission and Despatch Company;
- (3) Al Taweelah Power Company;
- (4) Al Mirfa Power Company;
- (5) Umm Al Nar Power Company;
- (6) Bainounah Power Company;
- (7) Abu Dhabi Distribution Company;
- (8) Al Ain Distribution Company;

- (9) Abu Dhabi Company for Servicing Remote Areas;
- (10) Al Wathba Company for Central Services;
- (11) Industrial Security Company; and
- (12) Central Workshop Company.

CHAPTER TWO

GENERAL PROVISIONS

Article (22)

Ownership of subsidiaries

Until such time the Authority may direct, the Abu Dhabi Power Corporation shall retain ownership of all of the share capital of the companies established pursuant to Article (21) of this Law.

Article (23)

Corporate governance

During Government ownership

- (1) Each entity established or to be established pursuant to sub-paragraph (1) of Article (9) and Articles (20) and (21) of this Law shall, whilst it is wholly owned by the Government, be governed in accordance with such memorandum and articles of association (or such other equivalent documents) as determined by the Authority or pursuant to what those companies decide if they are no longer wholly owned by the Government.

Name changes etc

- (2) Companies established pursuant to sub-paragraph (1) of Article (9) and Articles (20) and (21) of this Law shall adopt the form, term and share capital as shall be determined by the Authority so long as such companies are wholly owned by the Government and it shall be permissible for such companies to change their name in accordance with the procedure contained in their memorandum and articles of association.

Article (24)

Funding

Each entity established or to be established pursuant to sub-paragraph (1) of Article (9) and pursuant to Articles (20) and (21) of this Law shall be funded by the Government whilst they are wholly owned by the Government.

Article (25)

Appointment of directors etc.

The Authority may from time to time, appoint the members of the board of directors of each entity established or to be established pursuant to sub-paragraph (1) of Article (9) and pursuant to Articles (20) and (21) of this Law whilst any such entity is wholly owned by the Government; and persons appointed to act as member of the board of management of the Authority shall not, during the term of such appointment, be capable of appointment as a director of the Abu Dhabi Power Corporation.

Article (26)

Registration of new entities

The Competent Authorities in the Emirate shall do whatever is necessary to register companies established pursuant to this Law.

CHAPTER THREE

SPECIFIC PROVISIONS

DIVISION ONE

³ Part Three - Chapter Two -General Provisions

⁴ Part Three -Chapter Three - Specific Provisions

THE ABU DHABI POWER CORPORATION

Article (27)

Power to establish and dispose of sector entities

The Abu Dhabi Power Corporation shall, in such manner as the Authority may from time to time direct in each case, for the purposes of the restructuring and privatisation of the water and electricity sector in the Emirate or promoting the introduction of privately funded water and electricity projects and shall have the power to—

- (1) dispose of its interest, in whole or in part, in those entities established pursuant to Article (21) of this Law;
- (2) require the disposal by any of the entities referred to in Article (21) of this Law of all or any of its assets; and
- (3) enter into contracts, including contracts for the management of production, transmission, distribution and services companies wholly owned by Government and the operation of the relevant facilities wholly owned by those companies and contracts for the lending or borrowing of money.

Article (28)

Notice of disposal to the Regulation and Supervision Bureau

The Abu Dhabi Power Corporation shall not be permitted to dispose of its interest, in whole or in part, in the Abu Dhabi Transmission and Despatch Company or the Abu Dhabi Company for Servicing Remote Areas until the earlier of—

the expiry of six months from its so informing the Regulation and Supervision Bureau of its intention to make such disposal; or

such shorter period as the Regulation and Supervision Bureau, in consultation with participants in the water and electricity sector, may reasonably determine.

Article (29)

Conditions for disposal of ADWEC

If the Authority requires the Abu Dhabi Power Corporation to dispose of any of its shareholding in, or any of the assets of, the Abu Dhabi Water and Electricity Company, it shall—

first consult with the Regulation and Supervision Bureau for at least six months; and

not do so until all fair and reasonable amendments are made to this Law and the licences held by licensed operators in relation to the relevant disposal and its effect on the water and electricity sector.

DIVISION TWO

THE ABU DHABI WATER AND ELECTRICITY COMPANY

Article (30)

Duty to match capacity to demand

It shall be the duty of the Abu Dhabi Water and Electricity Company to ensure that there is provided sufficient production capacity to ensure that, at all times, all reasonable demand for water and electricity in the Emirate is satisfied.

Article (31)

Power and water procurement duty

The Abu Dhabi Water and Electricity Company shall contract for the purchase of all production capacity from licensed production operators and all water and electricity output in the Emirate.

Article (32)

Capacity planning duty

The Abu Dhabi Water and Electricity Company shall, for the purpose of ensuring the long term security of the supply of water and electricity in the Emirate, determine annually in respect of each year and the next five years, the requirement for the provision of—

- (1) new or additional capacity for water desalination; and
- (2) new or additional electricity generation capacity; and
- (3) new or additional water storage capacity,

in order to perform its obligations in Article (30) of this Law and in any case where such requirement exists, the Abu Dhabi Water and Electricity Company shall contract for the provision of such new or additional production capacity with those persons operating existing production facilities or persons wishing to provide new such facilities.

Article (33)

Duty to procure fuel

Except to the extent agreed otherwise with those persons, the Abu Dhabi Water and Electricity Company shall procure that, for the purposes of ensuring all reasonable demand for water and electricity in the Emirate is satisfied, a supply of fuel is made available to each provider of production capacity in the Emirate.

Article (34)

General procurement duties

Economic purchase

- (1) In contracting for the purchase of—
 - capacity for water desalination or capacity for electricity generation;
 - new or additional production capacity; and
 - fuel,

the Abu Dhabi Water and Electricity Company shall purchase or otherwise acquire such capacity (or as the case may be, fuel) by adopting the economic purchase method and after consideration of its obligations in this Law.

Private sources for new production capacity

- (2) Any requirements for the construction or contracting of new production capacity in the Emirate shall, insofar as is possible, be met by new capacity which is designed, built, financed, owned and operated through the utilisation of private sector funds (whether foreign or domestic).

Article (35)

Competition for new production capacity

Invitation to tender

- (1) Unless the Authority otherwise directs, each person who is to be—
the provider of new or additional production capacity; or
is to be awarded a contract for the provision of existing production capacity,
shall be selected by the Abu Dhabi Water and Electricity Company from among those entities (or their subsidiaries) that submit tenders in response to an invitation to tender for the right to provide production capacity.

Competence of tenderers

- (2) The Abu Dhabi Water and Electricity Company after consultation with the Authority and the Regulation and Supervision Bureau shall prepare any such invitation to tender and issue such invitation to such persons who have, or are likely at or prior to the commencement of the construction of production facilities to have, an appropriate financial position and managerial and technical competence.

Tender criteria

- (3) The Abu Dhabi Water and Electricity Company shall prepare, develop and apply evaluation criteria for the purposes of identifying persons who will be—
the providers of new or additional production capacity; and
awarded contracts for the provision of existing production capacity,
and such criteria will include a methodology for determining the economic advantages of tenders in response to an invitation issued under this Article, but shall otherwise be entitled to accept or reject any such tender as it thinks fit.

Article (36)

Agreements for production capacity

The Abu Dhabi Water and Electricity Company may, for the purposes of performing its duties under this Law enter into such agreements for, or connected with, the provision of production capacity which include provision in each case in such form as the Abu Dhabi Water and Electricity Company sees fit, for—

- (1) the making of payments to—
 - the providers of production capacity in respect of;
 - available production capacity (whether or not such capacity is utilised); and/or
 - delivered electricity and/or water output; and
 - the providers of ancillary services;
- (2) the term of the agreement, which may include provision for that term to be extended by such further term or terms as the agreement may specify; and
- (3) subject to the requirements imposed on the Abu Dhabi Water and Electricity Company by this Law, such other provisions as it thinks necessary or expedient.

Article (37)

Supply to distribution operators

It shall be the duty of the Abu Dhabi Water and Electricity Company to supply to licensed distribution operators sufficient water and electricity to meet all reasonable demand in the Emirate.

Article (38)

Regulated bulk supply tariff

The Abu Dhabi Water and Electricity Company shall charge each licensed distribution operator a bulk supply tariff in respect of supplies of water and electricity made to it. Such tariff shall be calculated in respect of each calendar year on a basis prescribed by the Regulation and Supervision Bureau in the licence granted to the Abu Dhabi Water and Electricity Company.

DIVISION THREE

PROVISIONS REGARDING ABU DHABI

TRANSMISSION AND DESPATCH COMPANY

Article (39)

Transmission duties

It shall be the duty of the Abu Dhabi Transmission and Despatch Company and any other licensed transmission operator to—

Safety systems

- (1) develop, maintain and operate safe, efficient and economical water and electricity transmission systems;

Connection duty

- (2) comply with any reasonable request to connect to such transmission systems—
facilities for water desalination storage and electricity generation; and
systems for water and electricity distribution and supply;

Transmission codes, despatch and settlement

- (3) develop, maintain, review and modify—
 - (a) separate transmission codes for the transmission of water and electricity;

- (b) procedures for the economic and technical despatch of production facilities; and
- (c) a system for the settlement of payments due to and from the providers of—
 - production capacity;
 - delivered water and electricity output; and
 - ancillary services; and

Regulated transmission tariffs

- (4) charge licensed distribution operators in respect of connection to and use of its national transmission systems, a cost-reflective tariff. Such tariff shall be calculated in the manner prescribed by the Regulation and Supervision Bureau in the licence granted to the Abu Dhabi Transmission and Despatch Company or other licensed transmission operator.

Article (40)

Non-discrimination

The Abu Dhabi Transmission and Despatch Company or any other licensed transmission operator shall not unduly create a preference in favour of, or unduly discriminate against, any person or class of persons in the connection of any—

water desalination and electricity generation facilities; or

systems for water and electricity distribution and supply; or

terms on which it undertakes the transmission of water and electricity in such systems.

DIVISION FOUR

PROVISIONS REGARDING ABU DHABI COMPANY FOR SERVICING REMOTE AREAS

Article (41)

General function

The Abu Dhabi Company for Servicing Remote Areas shall be responsible for the provision of water desalination and electricity generation capacity, the transmission, distribution and supply of water and electricity to those persons and premises not connected to the water and electricity transmission and distribution systems.

DIVISION FIVE

PROVISIONS REGARDING

DISTRIBUTION COMPANIES

Article (42)

General duties

It shall be the duty of each distribution company established under Article (21) of this Law and any other licensed distribution operator to—

Safe, etc. systems

- (1) develop, maintain and operate safe, efficient and economical water and electricity distribution systems;

Duty to offer terms

- (2) offer to enter into an agreement with relevant persons for connection to its distribution system, use of such system and to provide a supply of water and electricity; and

Distribution codes

- (3) develop, maintain, review and modify—

distribution codes for the distribution of water and electricity; and

procedures for the economical and efficient distribution and supply of water and electricity.

Article (43)

Fair conduct

A licensed distribution operator shall not unduly create a preference in favour of, or unduly discriminate against, any person or class of persons in the—

connecting of them to its distribution systems; or

connection to its system of any consumers of water and electricity; or

provision of the use of its distribution systems; or

terms on which it undertakes the supply of water and electricity.

PART FOUR
REGULATION AND SUPERVISION

CHAPTER ONE
ESTABLISHMENT OF THE REGULATION AND
SUPERVISION BUREAU

Article (44)

Establishment of the Regulation and Supervision Bureau

There is hereby established a bureau called the Regulation and Supervision Bureau for the Water and Electricity Sector in the Emirate of Abu Dhabi for the purpose of performing the functions and carrying out the duties given to it under this Law.

Article (45)

Regulatory Board Members

Appointment

- (1) The Regulation and Supervision Bureau shall be managed by no less than three and not more than seven Members, provided that at all times there shall be an odd number of Members.
- (2) The Chairman of the Board of Management of the Authority shall appoint by decision persons to act as Members of the Regulation and Supervision Bureau and a chairman, which members shall be persons of appropriate competency and experience.

Term and re-appointment

- (3) The appointment of a person as a Regulation and Supervision Bureau Member shall be for a period of five years that may be renewed.

Article (46)

Tenure of Regulatory Board Members

Resignation

- (1) A Regulation and Supervision Bureau Member may at any time resign his office by giving not less than 30 days reasonable notice to the Chairman of the Board of Management of the Authority.

Deemed resignation

- (2) A Regulation and Supervision Bureau Member shall be deemed to have given the required notice referred to in paragraph (1) of this Article if he fails to attend the meetings of the Regulation and Supervision Bureau for three consecutive months without giving a reason or an acceptable explanation for his absence.

Article (47)

Removal from office

Only the Chairman of the Board of Management of the Authority may, and may only, remove any person from acting as a Regulation and Supervision Bureau Member on the grounds of—

- (1) physical or mental incapacity which prevents that member from carrying out his duties;
- (2) conviction of a criminal offence;
- (3) proved maladministration of that member; or
- (4) proved serious misconduct of that member.

Article (48)

Exclusive powers

The Regulation and Supervision Bureau shall have sole and exclusive authority to regulate the water and electricity sector in the Emirate and shall have full powers to regulate all licensed operators economically and technically in accordance with this Law.

Article (49)

Internal delegation

The Regulation and Supervision Bureau may appoint employees and establish sub-committees as it sees fit for the purposes of carrying out its duties.

Article (50)

Conduct of business

The Regulation and Supervision Bureau shall be obliged to conduct its business in accordance with its constitution, set out in Schedule 1.

Article (51)

Procedure and management

Without prejudice to the provisions of Article (50) of this Law, the Regulation and Supervision Bureau shall, by decision, determine its own procedure and management.

Article (52)

Funding

The Regulation and Supervision Bureau shall have an independent budget to be approved by its members after consultation with the Chairman of the Board of Management of the Authority and shall be funded by the payment of fees by those persons awarded licences pursuant to this Law.

CHAPTER TWO

DUTIES AND FUNCTIONS OF THE REGULATION AND SUPERVISION BUREAU

Article (53)

Primary duties

It shall be the first duty of the Regulation and Supervision Bureau, in exercising its functions under this Law, to ensure, so far as it is practicable for it to do so, the continued availability of potable water for human consumption and electricity for use in hospitals and centres for the disabled, aged and sick.

Article (54)

General duties

The Regulation and Supervision Bureau shall have a duty to exercise its functions under this Law in the manner which it considers best calculated to—

- (1) ensure the security of the supply of water and electricity in the Emirate;
- (2) ensure the connection and supply of water and electricity to all consumers on reasonable demand;
- (3) ensure the availability of health and safety guidance in relation to water and electricity supply to the public;
- (4) publish information relating to standards of performance by licensed operators;
- (5) take account of national and international environmental standards as they affect the water and electricity sector and consult with environmental bodies in the Emirate when necessary or expedient in relation to consumer and industry interests;
- (6) have special regard to the interests of those persons whose lives may be endangered by the lack of potable water and/or electricity and others with special needs in connection with the cost and method of supply of water and electricity and the use of appliances and fittings;
- (7) promote competition in the water and electricity sector;
- (8) ensure the operation and development of a safe, efficient and economic water and electricity sector in the Emirate; and
- (9) protect the interests of consumers of water and electricity as to the terms and conditions and price of supply (whether consumers are domestic, commercial or industrial).

Article (55)

Functions of the Regulation and Supervision Bureau for the Water and Electricity Sector

General functions

The powers of the Regulation and Supervision Bureau shall include—

- (1) reviewing the provision of water and electricity supplies in the Emirate;
- (2) the issue, monitoring, and enforcement of compliance with licences pursuant to this Law;
- (3) the establishment, maintenance, review and amendment as appropriate of technical and performance standards for the water and electricity sector and the monitoring and enforcement of compliance with such technical standards;
- (4) the establishment, maintenance, review and monitoring of safety standards for the water and electricity sector and the monitoring and enforcement of compliance with such safety standards;
- (5) the establishment, maintenance, review, monitoring, and amendment, as appropriate, of customer care standards;
- (6) the regulation of prices charged to consumers of water and electricity and the methods by which they are charged;
- (7) approving, modifying, monitoring and the enforcement of terms and conditions for the supply of water and electricity to domestic consumers;
- (8) approving and proposing modifications to the transmission codes and to the distribution codes; and
- (9) making regulations and orders as provided elsewhere in this Law.

Article (56)

Public register

Maintenance of register

- (1) The Regulation and Supervision Bureau shall maintain a register which shall include—

- (a) every licence and licence exemption issued;
- (b) every modification, revocation or surrender of a licence;
- (c) every requirement imposed, consent or approval given by the Regulation and Supervision Bureau under the terms of any licence;
- (d) every preliminary or final order and revocation of such order; and
- (e) every derogation from performance of a condition of a licence issued by the Regulation and Supervision Bureau.

Excluding information from the register

- (2) In entering information into the register the Regulation and Supervision Bureau shall have regard for the need, in so far as is possible and consistent with the public interest, to exclude information which may in its opinion unduly prejudice a person or class of persons.

Article (57)

Other matters

Public inspection

- (1) The register shall be open for inspection by members of the public at such times on such days as may be determined by order by the Regulation and Supervision Bureau.

Copies and extracts

- (2) Any person may, on payment of such fee as may be specified in an order of the Regulation and Supervision Bureau require the Regulation and Supervision Bureau to supply him with a copy or an extract, certified by it as a true copy or extract, of or from any part of the register.

Article (58)

Reporting

Annual report

- (1) The Regulation and Supervision Bureau shall as soon as possible after the end of each calendar year make to the Chairman of the Board of Management of the Authority a report—
 - (a) of its activities during that year;
 - (b) of developments during that year in respect of matters which fall within the scope of the Regulation and Supervision Bureau's functions;
 - (c) of matters investigated under Article (61) of this Law; and
 - (d) as to the matters referred to in sub-paragraph (3) of Article (76) of this Law.

Copies of the report

- (2) The Regulation and Supervision Bureau shall make a copy of each such report available to any person who may request such, upon payment of such fees as the Regulation and Supervision Bureau shall determine.

Article (59)

Licensing criteria

The Regulation and Supervision Bureau shall establish (and keep under review) specified objective criteria for the purposes of ensuring that all prospective licensed operators are fit and proper persons to be issued with a licence or exemption and shall make a copy of the criteria, applying from time to time, available to any interested person who may request such.

CHAPTER THREE

ADDITIONAL POWERS AND DUTIES OF THE REGULATION AND SUPERVISION BUREAU

Article (60)

Inspectors

Purpose of appointment

- (1) The Regulation and Supervision Bureau may appoint qualified persons whose duties shall include duties to—
- (a) inspect and test, periodically and in special instances, plant and equipment belonging to persons authorised by licence to conduct a regulated activity;
 - (b) examine, periodically and in special instances, the desalination of water, the transportation and supply of water, the generation, transmission, distribution and supply of electricity by licenced operators;
 - (c) inspect and test, where required, such plant and equipment at consumer's premises; and
 - (d) perform such other functions as the Regulation and Supervision Bureau may determine.

Access to premises

- (2) Those persons conducting a regulated activity shall be required to afford those persons appointed under paragraph (1) of this Article unrestricted access to all plant, equipment and premises used for the purposes of the regulated activity.

Article (61)

Investigation - duty to investigate

It shall be the duty of the Regulation and Supervision Bureau to investigate any matter which appears to be an enforcement matter and which is the subject of a representation to it (other than where frivolous) by a person having an interest in the matter. An enforcement matter is any matter in respect of which any of the functions of the Regulation and Supervision Bureau under Chapter 3 of Part 6 of this Law are or may be exercisable.

Article (62)

Powers to make regulation

The Regulation and Supervision Bureau may, in consultation with the Authority, make such regulations as it sees fit for the purposes set out in Articles (63) and (68) of this Law.

Article (63)

Supply regulations

Regulations made pursuant to Article (62) of this Law may be made for the following purposes, namely to—

- (1) secure regular and efficient supplies of water and electricity;
- (2) protect the general public from danger related to electrical and water works and installations;
- (3) eliminate or reduce the risk of personal injury;
- (4) require licensees to take all prescribed steps to secure compliance with quality standards;
- (5) ensure that water in mains pipelines is not contaminated and is of potable quality;
- (6) ensure that any water in trunk mains pipelines connected to mains pipelines is not contaminated;
- (7) prevent the waste and over-consumption of any water after it has left the pipelines of a licensed operator to be supplied to premises;
- (8) ensure that the water and electricity fittings installed and used by persons to whom water and electricity are to be supplied are safe; and
- (9) promote the conservation of water and the efficient use of water and electricity.

Article (64)

Contents of supply regulations - general

Without prejudice to the generality of Article (63) of this Law, regulations made under that Article may require licensed operators to—

- (1) take prescribed steps to monitor and record quality of water at the time of supply;
- (2) take prescribed steps to monitor and record details of water to be supplied at source;

- (3) ensure that water is not supplied to premises until the quality of the water has been established;
- (4) keep records of which consumers are supplied from which sources of water; and
- (5) comply with analysis of samples requirements.

Article (65)

Contents of supply regulations - specific

Regulations made under Article (62) of this Law may—

- (1) prohibit transmission or supply in specified circumstances;
- (2) require notification of accidents, failures of supply and/or transmission or distribution facilities;
- (3) require plans, maps etc to be kept and made available for inspection and copying;
- (4) relieve the Abu Dhabi Water and Electricity Company and classes of licensed operators specified in the regulations from obligations to supply water and electricity in specified circumstances;
- (5) require compliance with notices served by the Regulation and Supervision Bureau which—
 - are intended to prevent or end a breach of regulations made under Chapter Three of Part Four of this Law; or
 - eliminate/reduce risk of personal injury or property damage or interference with property;
- (6) provide for deemed compliance with technical standards and requirements;
- (7) provide for exemptions from the requirements of regulations made under Chapter Three of Part Four of this Law;
- (8) restrict or require the use of certain, products, substances or processes or forbid unapproved substances, products and processes;
- (9) require substances, products and processes to comply with standards or other requirements established by the regulations;

- (10) provide for certain persons/organisations to give approvals required by the regulations and for such approvals to be subject to conditions or modification and revocation;
- (11) require the provision of information to prescribed persons;
- (12) require the publication of water quality information;
- (13) forbid the use or installation of fittings which have not been approved;
- (14) require electricity or water fittings to be of a prescribed size, nature, strength or workmanship;
- (15) impose requirements as to installation, arrangement, connection, testing, disconnection, alteration and repair;
- (16) impose requirements regarding earthing of electrical installations, electrical voltage and frequency; and
- (17) enable the Regulation and Supervision Bureau to authorise any departures from the regulations as may be required and to make those departures subject to conditions.

Article (66)

Failure to comply with regulations

Failure of any person to comply with regulations made under this Article (62) of this Law shall be contrary to this Law.

Article (67)

Regulations disputes

The court with the appropriate jurisdiction shall hear disputes relating to regulations made under Article (62) of this Law.

Article (68)

Streetworks and access regulations

Purpose of regulations

- (1) Regulations made pursuant to Article (62) of this Law may be made for the following further purposes, namely to enable a licensed transmission operator, a licensed distribution operator or any other licensed operator to the extent that its licence so provides to—
 - (a) carry out streetworks; and
 - (b) enter into or onto premises belonging to, or occupied by, any person for the purposes of carrying out streetworks;

Application of streetworks and access regulations

- (2) for the purposes of this Article such regulations shall be binding on such persons, to such an extent and in such manner as may be set out in such regulations.

Article (69)

Contents of streetworks regulations

Without prejudice to the generality of Article (68) of this Law regulations made under Article (62) of this Law may require a licensed transmission operator, a licensed distribution operator and any other licensed operator to the extent that its licence so provides to—

- (1) take prescribed steps prior to carrying out of streetworks;
- (2) take prescribed steps prior to entering into or onto premises not belonging to the licensed operator;
- (3) ensure the safety of all persons during the carrying out of streetworks;
- (4) ensure the reinstatement of all land and/or buildings following the completion of streetworks and where required by any persons having an interest in land and/or buildings the subject of streetworks, repair any damage;
- (5) ensure a proper and accurate record is maintained of all streetworks carried out;
- (6) take prescribed steps for the carrying out of emergency streetworks; and
- (7) ensure streetworks are carried out with the minimum of interference with production facilities belonging to other licensed operators or the owners and/or operators of telecommunication equipment or facilities.

Article (70)

Failure to comply with streetworks regulations

Failure of any person to comply with streetworks regulations shall be contrary to this Law.

PART FIVE

REGULATED ACTIVITIES

Article (71)

Meaning of ‘regulated activities’

‘Regulated activity’ means one of the following activities—

- (1) the desalination of water;
- (2) the generation of electricity;
- (3) the combined generation of electricity and desalination of water;
- (4) the performance of the duties of the Abu Dhabi Water and Electricity Company;
- (5) the transmission of water by trunk mains pipeline;
- (6) the distribution of water by mains pipeline;
- (7) the supply of water to premises;
- (8) the storage of water;
- (9) the delivery of water to trunk mains pipelines or mains pipelines where the water so delivered is not produced by a licensed operator;
- (10) the transmission of electricity;
- (11) the distribution of electricity; and
- (12) the supply of electricity to premises.

Article (72)

Offence to engage in designated activity unless licensed or exempt

No person may conduct a regulated activity unless—

- (1) he is authorised to conduct that regulated activity by a licence; or

- (2) he is exempted, under Article (79) of this Law from the requirement to be so authorised.

Article (73)

Ancillary water storage

The storage of water by persons authorised by licence, or exempted from the requirement to be so licensed, to conduct the desalination, transmission or distribution of water, shall not be a regulated activity where the storage of water is ancillary to the activity which is the subject of the relevant licence or exemption.

Article (74)

Exemptions - issue

Except to the extent that the Regulation and Supervision Bureau may from time to time in regulations after consultation with the Authority and licensed operators specify, persons participating in electricity generation, water desalination or water storage in the Emirate shall not sell—

- (1) production capacity; or
- (2) water or electricity output,

to any person other than the Abu Dhabi Water and Electricity Company.

Article (75)

Conditions for exemptions

No regulations shall be made under Article (74) of this Law except for the purpose of exempting from the requirements of that Article—

- (1) persons whose production capacity is used solely for the self supply of water or electricity; or
- (2) persons whose production capacity is so limited in size as to make it impracticable for them to be subject to the requirements of Article (74) of this Law.

Article (76)

Introduction of by-pass sales

Without prejudice to the provisions of Article (78) at any time following satisfaction of the following conditions, the Authority, may by order, and after not less than six months' consultation with all licensed operators and the Regulation and Supervision Bureau, permit the sale of water and electricity by providers of production capacity to eligible customers (but not a licensed transmission operator or a licensed distribution operator) to the extent and subject to the terms specified in such order—

- (1) the first independently funded water desalination and power generation project in the Emirate shall have commenced commercial operation; and
- (2) a majority of the shares in each of the generation and desalination companies established pursuant to Article (21) of this Law having production facilities with more than five years further expected economic operation shall be owned by persons other than the Abu Dhabi Power Corporation or other Government entity; and
- (3) a report of the Regulation and Supervision Bureau states that the water and electricity markets in the Emirate are sufficiently stable for it to be in the public interest that the sale of water and electricity by providers of production capacity directly to eligible customers be permitted to the extent specified in such a report. The report should also include what needs to be amended of this Law and the licences issued under it before introducing the by-pass sales.

Article (77)

Industry consultation

The Authority shall consult with all licensed operators as to the method and timing of the introduction of by-pass sales.

Article (78)

Conditions for introduction of by-pass sales

Any order made pursuant to this Article (76) of this Law shall—

not apply except to the extent that the Regulation and Supervision Bureau has in a report under Article (76) (3) stated that it would be in the public interest to do so; and

have no effect prior to the making of such fair and reasonable modifications to this Law and any licences issued pursuant to this Law as may have been recommended by the Regulation and Supervision Bureau in its report.

Article (79)

Power to grant licence exemptions

The Regulation and Supervision Bureau may, after consultation with the Authority, by order issue an exemption to a person conducting a regulated activity from the requirement to be authorised to do so by licence. Such an exemption may be made following application by any person or at the instigation of the Regulation and Supervision Bureau.

Article (80)

Exemptions

Refusal and issue of exemptions subject to conditions

- (1) If a person makes an application to the Regulation and Supervision Bureau for the issue of an exemption from the requirement to be authorised by a licence, the Regulation and Supervision Bureau may, after consultation with the Authority issue or refuse to issue the exemption, wholly or to such extent as is specified in the exemption. To the extent that any exemption is issued, such exemption may be subject to compliance with such conditions, and have effect for such period, as may be specified in the exemption.

Applications for exemptions

- (2) An application for an exemption must be made in writing and the applicant shall provide the Regulation and Supervision Bureau with such information as it may consider necessary for the purposes of determining whether to issue or refuse to issue an exemption.

Revocation of exemptions

- (3) If any condition of an exemption is not complied with the Regulation and Supervision Bureau may direct that the licence exemption is revoked.

Notice of proposed exemptions to interested parties

- (4) Before issuing an exemption, the Regulation and Supervision Bureau shall give notice that it proposes to issue an exemption, state in such notice the reasons for issuing the exemption and specify a period (being not less than 28 days) within which representations or objections may be made in respect of the proposed exemption and the Regulation and Supervision Bureau shall be required to consider any such representations or objections.

Form of notice

- (5) A notice pursuant to the previous sub-paragraph (4) of this Article shall be in such form as the Regulation and Supervision Bureau thinks fit for the purposes of bringing its attention to those persons likely to be affected by the issuing of an exemption.

Article (81)

Villages and Islands exemption

The Regulation and Supervision Bureau may, by order, exempt the Abu Dhabi Company for Servicing Remote Areas from the provisions of Article (74) of this Law upon such terms and conditions and for such period as the Regulation and Supervision Bureau may determine.

PART SIX

LICENSING

CHAPTER ONE

APPLICATION AND ISSUE OF A LICENCE

Article (82)

Application and issue of a licence

The Regulation and Supervision Bureau may, in accordance with any guidance given to it from time to time by the Authority, issue to any person a licence authorising the person to conduct a regulated activity.

Article (83)

Form of application

An application for a licence shall—

be in the manner the Regulation and Supervision Bureau may from time to time prescribe;

be accompanied by the fee as may be so prescribed by the Regulation and Supervision Bureau; and

be published in such manner as the Regulation and Supervision Bureau thinks fit.

Article (84)

Notice of proposal to issue licence

Before the issue of a licence, the Regulation and Supervision Bureau shall give notice stating its proposal to issue the licence, stating the reasons why it proposes to issue the licence and specifying a period (being not less than 28 days) within which

representations or objections may be made in respect of the proposed issue and the Regulation and Supervision Bureau shall be required to consider any such representations or objections.

Article (85)

Form of notice

A notice under Article (84) of this Law shall be in such form as the Regulation and Supervision Bureau thinks fit for the purposes of bringing its attention to those persons likely to be affected by the issue of a licence.

Article (86)

Base criteria

The Regulation and Supervision Bureau shall not issue a licence to any person under Article (82) of this Law unless it is satisfied that the prospective licensee has an appropriate financial position and technical and managerial competence.

Article (87)

Licence to be written, specify term etc

A licence shall be in writing and, unless previously revoked or surrendered in accordance with its terms, shall continue in force for the period specified in the licence and a licence shall not be capable of being surrendered without the consent of the Regulation and Supervision Bureau.

Article (88)

Other licences etc

Obtaining a licence from the Regulation and Supervision Bureau shall not operate to relieve a person seeking a licence to conduct a regulated activity from any obligation to obtain any other licences, consents, permissions or waivers that may be required from persons other than the Regulation and Supervision Bureau for purposes connected with the conduct of its business.

Article (89)

Conditions of licences

Licences may contain conditions, including as to fees

- (1) A licence issued under Article (82) of this Law may include conditions which appear requisite to the Regulation and Supervision Bureau including conditions requiring payment to the Regulation and Supervision Bureau of a fee on the issue of a licence or during the term of a licence, or both, of amounts determined under the licence.

Condition requiring execution of agreements

- (2) Conditions included by virtue of the previous paragraph of this Article may—

require the licenced operator to enter into agreement with any person for the purposes specified in the licence condition; and

include provision for determining the terms on which such agreements are to be entered into.

Article (90)

Other, general conditions

Conditions included by virtue of Article (89) of this Law may include requirements—

- (1) as to the revocation of the licence;
- (2) to comply with any requirements from time to time imposed by a qualified person with respect to such matters as are specified in the licence or are of a description so specified;
- (3) except in so far as a qualified person consents to his doing or not doing them, not to do or to do such things as are specified in the licence or are of a description so specified;
- (4) to refer for determination by a qualified person such questions arising under the licence as are specified in the licence or are of a description so specified;
- (5) to refer for approval by a qualified person such things falling to be done under the licence as are specified in the licence or are of a description so specified;
- (6) to furnish to a qualified person such documents or other information as he may require for the purpose of exercising any functions conferred or imposed on him under or by virtue of the licence;

- (7) to furnish to the Regulation and Supervision Bureau such documents or other information as it may require for the purpose of exercising the functions assigned to it under this Law; and
- (8) restricting the ownership by the Licensee or any of its affiliates of an interest in the business of any licensed operator.

Article (91)

Conditions of power and water procurement licence

Without prejudice to the generality of Article (89) of this Law, a licence issued to the Abu Dhabi Water and Electricity Company shall include a condition—

- (1) requiring the Company to engage in the economic purchase of production capacity, water and electricity output and fuel and all other goods and services;
- (2) prohibiting the Company from engaging, in regulated activities other than the business of a power and water and fuel procurer;
- (3) prescribing how the Company shall perform the duties assigned to it in this Law;
- (4) providing for the calculation, from time to time, of the bulk supply tariff referred to in Article (38) of this Law; and
- (5) requiring the maintenance of separate accounts in respect of distinct parts of the licensed operator's undertaking and prohibiting cross subsidy between those parts.

Article (92)

Conditions of generation, desalination and storage licences

Without prejudice to the generality of Article (89) of this Law, a licence issued to any person authorising the conduct of an electricity generation or a water desalination or storage business shall include conditions—

- (1) restricting, from time to time, the share of the total market for such regulated activity in which the licensed operator or its affiliates and related undertakings may be engaged or interested;
- (2) requiring it to submit its production facilities to central despatch by a licensed transmission operator;

- (3) restricting the authorisation conferred by the licence to specified production facilities and/or to a specified production capacity therefor;
- (4) requiring it to offer terms for the provision of ancillary services;
- (5) requiring it to maintain and operate safe, efficient and economical water desalination and electricity generation facilities in accordance with the contract or contracts which it may enter into from time to time with the Abu Dhabi Water and Electricity Company; and
- (6) requiring it to comply with any transmission code and any distribution code insofar as any of them are applicable to it.

Article (93)

Conditions of transmission/despatch licences

Without prejudice to the generality of Article (89) of this Law, licences issued to any person authorising the conduct of a transmission and despatch business shall include conditions—

- (1) requiring the licensed transmission operator to engage in the economic purchase of goods and services;
- (2) prohibiting the licensed transmission operator from engaging in designated activities other than the business of a transmission and/or despatch operator;
- (3) prescribing how the licensed transmission operator shall perform the functions assigned to it in this Law;
- (4) requiring the maintenance of separate accounts in respect of distinct parts of the licensed transmission operator undertaking and prohibiting cross subsidy between those parts;
- (5) providing for the calculation from time to time of the tariff referred to in Article (39) of this Law;
- (6) requiring the licensed transmission operator to implement and maintain a settlements system; and
- (7) requiring the licensed transmission operator to offer terms for connection to, and use of, the licensee's transmission system.

Article (94)

Conditions of distribution and supply licences

Without prejudice to the provisions of Article (89) of this Law, a licence authorising the conduct of a distribution and supply business shall include conditions—

- (1) requiring the licensed distribution operator to engage in the economic purchase of water, electricity and other goods and services;
- (2) prohibiting the licensed distribution operator from engaging in designated activities other than the distribution and supply of water and electricity;
- (3) relating to the establishment of tariffs which the licensed distribution operator may charge consumers of water and electricity and their calculation from time to time;
- (4) requiring the licensed distribution operator to maintain separate accounts in respect of distinct parts of its business and prohibiting cross subsidy between those parts;
- (5) requiring the licensed distribution operator to offer terms to persons requiring a supply of water or electricity;
- (6) requiring the licensed distribution operator to publish codes of practice in relation to the payment of bills by consumers, the disconnection of consumers, the provision of services to the elderly and disabled, the efficient use of water and electricity by consumers and the handling of complaints; and
- (7) requiring the preparation and maintenance of a distribution code.

Article (95)

Self-modifying provisions etc

Conditions included in a licence may provide for the conditions to cease to have effect or to be modified at such times, in such manner and in such circumstances as may be specified or determined under the conditions.

Article (96)

Consistency of regulation etc

In carrying out its functions in this Law the Regulation and Supervision Bureau shall—

Consistency

- (1) act in as consistent a manner as practicable;

Minimum regulatory burden

- (2) impose on licensed operators the minimum restrictions which are consistent with the proper performance of its functions;

Take into account licensee's financial position

- (3) take into account the need for licensees to finance and plan their businesses with a reasonable degree of assurance;

Licensing consistency

- (4) ensure that, unless its duties under this Law require otherwise, licences granted to different persons in relation to each type of regulated activity are in substantially the same form; and

Reasons

- (5) wherever practicable to do so, give in writing its decisions together with the reasons for reaching such decisions.

Article (97)

Derogations

The Regulation and Supervision Bureau may, from time to time, to the extent that its duties under this Law require, issue to licensed operators—

Specific derogations

derogations for periods and on terms specified in the derogation, from the performance of particular licence conditions, to the extent specified in the derogation; and

General derogations

general derogations in favour of some, all or classes of licensed operator specified in the derogations from the performance, for periods and on terms

specified in the derogation, of particular licence conditions, to the extent specified in the derogation,

Revocation of derogations

and the Regulation and Supervision Bureau may from time to time revoke, modify or extend any derogation or general derogation granted by it pursuant to this Article.

CHAPTER TWO

MODIFICATION OF LICENCES

Article (98)

Power to modify licences

Subject to the provisions of Articles (99) to (105) of this Law, the Regulation and Supervision Bureau may modify the conditions of a particular licence.

Article (99)

Notice of proposal to modify

Where the Regulation and Supervision Bureau proposes to modify the conditions of a licence, it shall give notice—

- (1) stating that it proposes to make the modification and setting out its effect;
- (2) stating the reasons why it proposes to make the modification; and
- (3) specifying the period (which shall not be less than 28 days) within which representations or objections in respect of the proposed modification may be made,

and the Regulation and Supervision Bureau shall consider any representations or objections made.

Article (100)

Form of notice and notice recipient

A notice under Article (99) of this Law shall be published in such manner as the Regulation and Supervision Bureau thinks fit and shall be sent to the licensed operator and the Authority.

Article (101)

Modification only by agreement or following arbitration

The Regulation and Supervision Bureau shall not make any modification unless—

- (1) the licensed operator agrees to the modification; or
- (2) if the licensed operator does not agree to the modification pursuant to sub-paragraph (1) of this Article, arbitrators to whom the matter is referred by the Regulation and Supervision Bureau pursuant to Article (130) of this Law shall determine that the modification should be made.

Article (102)

Time for effectiveness of agreed modification

Where a modification is made under sub-paragraph (1) of Article (101) of this Law, the licence condition as modified shall have effect from such time as the Regulation and Supervision Bureau directs (being not less than 42 days from the date of the notice under Article (99) of the Law).

Article (103)

Time for effectiveness of arbitrated modifications

Where modification is made under sub-paragraph (2) of Article (101) of this Law, the licence condition as modified shall have effect from such time as is determined by the arbitrators.

Article (104)

Publication of modifications

Following modification of a licence condition, the Regulation and Supervision Bureau shall publish the modification in such manner as it thinks fit.

Article (105)

Criteria for arbitrator

Arbitrators to whom a licence modification is referred under sub-paragraph (2) of Article (101) of this Law shall determine—

- (1) whether or not the relevant modification should be made to the relevant licence; and
- (2) if it should, when the modification shall come into effect

and in doing so, the arbitrators shall make their determination by applying the following criteria,

the duties of the Regulation and Supervision Bureau under this Law; and

the extent to which the Regulation and Supervision Bureau has acted in accordance with its powers specified in this Law.

CHAPTER THREE

ENFORCEMENT OF LICENCES

Article (106)

Duty to enforce by final order

Subject to Article (107) of this Law, where the Regulation and Supervision Bureau is satisfied that a licensed operator is contravening or is likely to contravene any condition of its licence, the Regulation and Supervision Bureau shall as soon as practicable by a final order make such provision as appears to the Regulation and Supervision Bureau to be requisite so as to secure compliance with that condition.

Article (107)

Power to make preliminary order

Subject to Article (110) of this Law, where it appears to the Regulation and Supervision Bureau that—

a licensed operator is contravening, or is likely to contravene any condition of its licence; and

it is requisite that a preliminary order only be made,

the Regulation and Supervision Bureau shall by a preliminary order make such provision as appears to it to be requisite so as to ensure compliance with that condition.

Article (108)

Criteria for preliminary order

In determining whether it is requisite that a preliminary order be made, the Regulation and Supervision Bureau shall take all relevant considerations into account, in particular, the likelihood and extent of any loss or damage which any person is likely to sustain as a result of any contravention of the relevant licence condition.

Article (109)

Confirmation of preliminary order as a final order

Having made a preliminary order, the Regulation and Supervision Bureau shall confirm it, with modifications if these appear to be expedient or necessary, as a final order, if the licensed operator is contravening or is likely to contravene any licence condition and the provisions of the order are requisite to secure compliance with that licence condition.

Article (110)

No order to be made

The Regulation and Supervision Bureau shall not make or confirm a preliminary order, or make a final order if—

- (1) it would be inconsistent with the Regulation and Supervision Bureau's general duties in this Law;
- (2) the licensed operator is taking all such steps as appear to the Regulation and Supervision Bureau to be appropriate to secure or facilitate compliance with the licence condition or conditions; or
- (3) the contravention of the licence condition is, in the opinion of the Regulation and Supervision Bureau, of a trivial nature.

Article (111)

Notice following investigation

Where the criteria in Article (110) are fulfilled, the Regulation and Supervision Bureau shall—

- (1) serve a notice on the licensed operator to that effect; and
- (2) take reasonable steps, including publishing a notice in an appropriate manner, to bring the terms of the notice to the attention of persons likely to be affected by it.

Article (112)

Terms of orders

A preliminary order or final order shall—

- (1) require the licensed operator to do or not to do the things specified in the order; and
- (2) take effect at, and remain in force for, the time specified in the order.

Article (113)

Revocation of orders

The Regulation and Supervision Bureau may revoke a preliminary or final order at any time.

Article (114)

Power to fine

A final order may include a requirement on the licence holder to pay a fine of such amount, being not less than Dirhams 50,000, as the Regulation and Supervision Bureau determines to be appropriate.

Article (115)

Enforcement procedure

Before confirming a preliminary order or making a final order, the Regulation and Supervision Bureau shall give notice to the relevant licensed operator that the Regulation and Supervision Bureau proposes to confirm or make an order and—

- (1) the effect of the order;
- (2) the licence condition in respect of which the order is being made or confirmed;
- (3) the acts and/or omissions which in the opinion of the Regulation and Supervision Bureau constitute or constitutes contravention of the relevant licence conditions;
- (4) any other relevant and material facts; and
- (5) the period (which shall not be less than 28 days (or such shorter period as the Regulation and Supervision Bureau may determine where the acts or omissions referred to at (3) above endanger life or limb)) within which the licensed operator may make representations or objections in respect of the order to be made to the Regulation and Supervision Bureau.

Article (116)

Consideration of representations

Any representations or objections made by the licensed operator under sub-paragraph 6 of Article (115) of this Law shall be duly considered by the Regulation and Supervision Bureau.

Article (117)

Publication

In confirming or making an order the Regulation and Supervision Bureau shall publish the order in an appropriate manner so as to bring its purpose to the attention of persons likely to be affected by it and shall serve a copy of the order on the relevant licensed operator.

Article (118)

Notice etc. of modified orders

The Regulation and Supervision Bureau shall not modify any preliminary order or final order made other than—

- (1) with the agreement of the licensed operator; or
- (2) having served on the licensed operator a notice confirming the modifications and allowing the licensed operator a period of at least 28 days to make representations thereon to the Regulation and Supervision Bureau and having then properly considered any representations which are made to the Regulation and Supervision Bureau by or on behalf of the licensed operator.

Article (119)

Notice of orders

On making or confirming a preliminary order or making a final order or revoking a preliminary order or final order the Regulation and Supervision Bureau shall—

- (1) serve a copy of the order or revocation notice (as the case may be) on the licensed operator; and
- (2) publish the order or revocation notice (as the case may be) in an appropriate manner so as to bring its purpose to the attention of persons likely to be affected by it.

Article (120)

Validity and effect of orders

Preliminary and final orders shall be valid and effective upon being made by the Regulation and Supervision Bureau and it shall be the duty of licensed operators to comply with them.

Article (121)

Arbitration of orders etc.

Grounds for challenge etc

- (1) If a licensed operator affected by a preliminary order or final order made or confirmed believes that—

such an order was not made in accordance with the procedure specified in the terms of this Article; or

such order was not within the powers of the Regulation and Supervision Bureau,

then the licensed operator may refer the matter to arbitration in accordance with Article (130) of this Law. Any reference made to the arbitrators under this paragraph shall not affect the licensed operator's obligation to comply with the terms of the order, pending the outcome of the reference.

Arbitrator's sole means of challenge

- (2) Except as provided for in the previous sub-paragraph, the validity of a preliminary order or final order shall not be questioned by the licensed operator by any legal proceedings.

Arbitrator's powers

- (3) On receiving a reference under sub-paragraph (1) of this Article, the arbitrators may reject the challenge or accept it. If they accept the challenge they may—
- (a) quash the relevant order or any parts thereof;
 - (b) where the order imposes a monetary penalty, substitute a monetary penalty of a lower amount as the arbitrators consider to be appropriate in the circumstances of the case.

Article (122)

Duty to comply publicly enforceable

The obligation to comply with any final order shall be a duty owed to any person who may be affected by contravention of the order, and any breach of that duty shall be actionable by any such person.

Article (123)

Licensee's defence to proceedings

In any proceedings brought against the licensed operator under Article (122) of this Law, it shall be a defence for the licensed operator to prove that it took all reasonable steps to avoid contravention of the relevant order and any proceedings brought under Article (122) shall not be affected by any reference to arbitration pursuant to Article (121).

Article (124)

Orders enforceable by court

A preliminary order or final order shall be considered an enforcement document, as defined in the applicable civil procedures laws in the Emirate and compliance with any preliminary order or final order shall be enforceable by civil proceedings in the court with jurisdiction brought by the Regulation and Supervision Bureau.

Article (125)

Powers of the Regulation and Supervision Bureau to requirement information etc

Notice requiring information

- (1) Where it appears to the Regulation and Supervision Bureau that a licensed operator may be contravening, or may have contravened this Law or a licence condition, the Regulation and Supervision Bureau may for the purposes of the exercise of its functions under this Law by notice—
 - (a) require any person to produce, at any time and place required in the notice, to the Regulation and Supervision Bureau, any documents

which are specified or described in the notice and in that person's possession or control; and

- (b) require any person to furnish to the Regulation and Supervision Bureau any information as may be specified in the notice, and specify the time and manner in which such information is to be provided.

Proceedings to enforce information requirement

- (2) If a person is in default in complying with a notice the Regulation and Supervision Bureau may seek such order of the court as the court may make for the purpose of ensuring compliance, the costs of which shall be borne by the person in default.

CHAPTER FOUR

TRANSFER OF LICENCES AND ASSET PROTECTION

Article (126)

Licence not transferable unless licence provides

A licence may not be transferred unless it contains a condition permitting transfer, which condition may require conditions to be complied with before the licence may be transferred and provided that, the prior written consent of the Regulation and Supervision Bureau is obtained, which consent may be subject to such conditions as the Regulation and Supervision Bureau thinks fit to impose. Any transfer contrary to this Article shall be void.

Article (127)

No transfer without consent

Without the consent of the Regulation and Supervision Bureau, a licensed operator shall not transfer or agree to transfer, or create, or agree to create, any security over any relevant assets and liabilities or create or agree to create, or extinguish or agree to extinguish, any interest in relevant assets and liabilities.

Article (128)

No release of liabilities on transfer

Where the relevant assets and liabilities of the licensed operator are in the form of liabilities, the licensed operator shall be prohibited from entering into any agreement under which such liabilities are discharged, released or transferred to another person without the prior consent of the Regulation and Supervision Bureau.

Article (129)

Void transactions

Any transaction entered into in contravention of Article (127) or (128) of this Law shall be void.

CHAPTER FIVE

ARBITRATION OF REGULATORY DECISIONS

Article (130)

Determination by arbitration

Any dispute arising between a person conducting a regulated activity and the Regulation and Supervision Bureau as to any decision made by the Regulation and Supervision Bureau shall be determined by arbitration in accordance with Schedule 2 to this Law.

PART SEVEN

INDEPENDENT WATER AND POWER PROJECTS

Article (131)

Private sector participation

Subject to the provisions of Article (35) of this Law, domestic or foreign private sector entities may participate in the finance, design, construction, ownership, operation and maintenance of—

- (a) production facilities;
- (b) facilities for the transmission and/or distribution and/ or storage of water and electricity;
- (c) facilities for the supply of water;
- (d) the business of any licensed operator.

Article (132)

Support of the Abu Dhabi Water and Electricity Authority

The Authority may, to the extent necessary to achieve the objectives of paragraph (2) of Article (34) of this Law, in relation to independent water and electricity generation projects, if required, provide support for the payment obligations of the Abu Dhabi Water and Electricity Company under any agreement entered into pursuant to Article (36) of this Law or in respect of the obligations of any licensed distribution operator, on such terms as it sees fit.

Article (133)

Regulation and Supervision Bureau consents etc

Notwithstanding the provisions of Articles (127), (128) and (129) of this Law, the Regulation and Supervision Bureau may, to the extent necessary to achieve the objectives in Article (34) of this Law and subject to any requirements it deems appropriate, consent to the creation and maintenance of security interests in the relevant assets, required for the financing of independent water and power projects.

Article (134)

Project companies' shareholders

Independent companies owning production facilities may be established by one or more shareholders.

PART EIGHT

OFFENCES

Article (135)

Types of offence

Without prejudice to any other stricter punishment in the Law, a person shall be punished with imprisonment of not less than three months and/or a fine of not less than Dirham 50,000 if he—

Article 72

- (1) contravenes the provisions of Article (72) of this Law;

Article 14 - false misleading statements

- (2) in giving any information or making an application for a licence makes a statement which he knows to be false in a material manner, or to be calculated to mislead;

Article 16 - information failures etc

- (3) without reasonable excuse, fails to provide information, or do anything, required of him under Article (125) of this Law;

Documentary offences

- (4) intentionally alters, destroys or otherwise suppresses a document or information required of him under Article (125) of this Law; or

Competition offences

- (5) conducts any activity alone or with others, the effect of which, in the reasonable opinion of the Regulation and Supervision Bureau, is intended to have or would likely have the effect of restricting, distorting or otherwise preventing competition in connection with the conduct of any regulated activity or being prejudicial to the interests of the consumers of water or electricity and in any such case the conduct of that activity is contrary to the public interest.

Article (136)

Actions

Any action under this part of this law shall be commenced against the legal representative of the relevant company.

PART NINE

**RE-ORGANISATION OF THE
WATER AND ELECTRICITY SECTOR**

CHAPTER ONE

TRANSFER SCHEME

Article (137)

Transfer scheme - power of Authority

The Authority is hereby authorised to make a transfer scheme (a “transfer scheme”) for the division of all of the assets and liabilities of WED and the transfer of such assets and liabilities to the Authority or any entity established or to be established in accordance with this Law.

Article (138)

Transfer on transfer date

On the relevant transfer date all of the assets and liabilities of WED shall become, assets and liabilities of the Authority or the relevant successor entity as allocated pursuant to the transfer scheme.

Article (139)

Power to make rules

The Authority shall have the power to make such rules as it sees fit in connection with the transfer scheme including, without limitation, in relation to the accounting rules applicable to the successor entities and the transfer of employees of WED to the transferees named in the transfer scheme.

Article (140)

Third parties bound by transfer scheme

A transaction of any description which is effected pursuant to a transfer scheme or relates to a transfer of assets or liabilities contemplated in a transfer scheme between any successor entity which is wholly owned by the Government, shall be binding on all persons, notwithstanding that it would have required the consent or concurrence of any other person.

Article (141)

Variation of transfer scheme

The Authority may vary the terms of a transfer scheme so long as the effect of such variation only affects the Authority or any successor entity which is wholly owned by the Government.

Article (142)

Property rights

The Authority shall be authorised to create leases and any other land rights in respect of any land owned or utilised by WED.

Article (143)

WED ceasing to exist

WED shall cease to exist on such date after the transfer scheme having been completed as the Authority may determine.

CHAPTER TWO

SUCCESSOR ENTITIES

Article (144)

Government shareholdings and acquisition of securities

In consideration of the vesting in a successor entity of any assets and liabilities of WED, that successor entity shall issue such securities of that successor entity to the Abu Dhabi Power Corporation or such other person or persons as the Authority may direct.

Article (145)

Restriction on issue of securities

The Authority shall not be entitled to give a direction under Article (144) of this Law in relation to a successor entity at a time when that successor entity has ceased to be wholly owned by the Government.

Article (146)

Limits on Government shareholding

Establishment of limit

- (1) The Authority may, at such times as it considers expedient, fix a limit ("share limit") in relation to the shares that may be held in a particular successor entity by the Government.

Change of limit

- (2) The Authority may fix a new share limit for the Government shareholding in a successor entity in place of the one previously in force under paragraph (1) of this Article but any new share limit must be lower than the one it replaces.

Article (147)

Cross-ownership

Successor entities

- (1) Unless otherwise determined by the Authority, no successor entity may own any shares or other interest in another successor entity.

Exception

- (2) The provisions of the previous paragraph of this Article shall not apply to any successor entity which is wholly owned by the Government.

CHAPTER THREE

PRIVATE SECTOR PARTICIPATION

Article (148)

Local and foreign participation

Local and/or foreign private sector entities may—

Share ownership

purchase and own shares in any entity, established by the Authority or entity owned by the Abu Dhabi Power Corporation; and

Business participation

participate in the management of the business and affairs of any successor entity or of any entities owned by the Authority or entities owned by the Abu Dhabi Power Corporation.

CHAPTER FOUR

EMPLOYEES

Article (149)

Employees

Subject to any rules issued pursuant to Article (150) of this Law, the benefits and rights applicable to employees who are employed by WED, and who are transferred to the Authority, a successor entity or otherwise pursuant to the transfer scheme shall be governed by the Law or Laws which were applicable to them prior to the effective date of this Law, without prejudice to any acquired rights of those employees.

Article (150)

Rules relating to employees in the water and electricity sector

The Authority shall have the power to make such rules as it sees fit in connection with the benefits and rights applicable to employees in any water and electricity sector entity which is wholly owned by the Government without prejudice to any acquired rights of those employees.

CHAPTER FIVE

GENERAL AND TRANSITIONAL PROVISIONS

Article (151)

Conduct of regulated activities - WED units

Notwithstanding the provisions of Articles (71) to (97) of this Law, the units of WED which were carrying out regulated activities prior to this law becoming effective shall be authorised to carry out any regulated activity until such time after the transfer scheme is completed as the Authority may determine.

Article (152)

Conduct of regulated activities - other persons

Notwithstanding the provisions of Articles (71) to (97) of this Law, any person (other than the units of WED referred to in Article (151) of this Law who, as at the effective date of this Law, already performs or thereafter commences a regulated activity, shall be authorised to continue to do so until such time as the transfer scheme is completed.

PART TEN
FINAL PROVISIONS

Article (153)

Repeals etc

Anything that contravenes this Law shall be null and void.

Article (154)

Effective date

This law shall become effective on the date of issue and shall be published in the Official Gazette.

KHALIFA BIN ZAYED AL NAHYAN
DEPUTY RULER OF ABU DHABI

Issued by us in Abu Dhabi on

1 March 1998
3 Dhul-qa'da 1418 H

SCHEDULE 1

CONSTITUTION OF THE REGULATION AND SUPERVISION BUREAU FOR THE WATER AND ELECTRICITY SECTOR

Article (1)

The Regulation and Supervision Bureau shall be comprised of such Regulation and Supervision Bureau Members as appointed in accordance with the Law, (of whom one shall also be the Chairman of the Regulation and Supervision Bureau (the "Chairman")).

Article (2)

- (1) The Regulation and Supervision Bureau may delegate any of its functions to the Chairman or to any other Regulation and Supervision Bureau Member appointed pursuant to Article (7) of the Law or to any committee set up by it; or
- (2) The Regulation and Supervision Bureau may also, with the approval of the Chairman of the Board of Management of the Authority delegate any of its functions, to any other body separate to the Regulation and Supervision Bureau.

Article (3)

The Regulation and Supervision Bureau may by a separate decision regulate its management and its procedure subject to the following:

- (1) the Regulation and Supervision Bureau Members shall meet whenever convened by the Chairman, and in any event shall meet at least four times each calendar year;
- (2) without prejudice to the discretion of the Chairman to call a meeting whenever he thinks fit, he shall call a meeting when required to do so by two or more Regulation and Supervision Bureau Members;
- (3) unless agreed by all Regulation and Supervision Bureau Members not less than fourteen days notice in writing shall be given to all Regulation and

Supervision Bureau Members of all meetings of the Regulation and Supervision Bureau;

- (4) the quorum of Regulation and Supervision Bureau Members' meetings shall be no less than the majority of the Regulation and Supervision Bureau members ;
- (5) if within half an hour of the time appointed for a meeting of the Regulation and Supervision Bureau a quorum is not present the meeting shall stand adjourned for at least seven days;
- (6) questions arising at a meeting shall be decided upon by a majority of votes, and in the case of an equality of votes, the Chairman;
- (7) minutes shall be kept of every meeting of the Regulation and Supervision Bureau; and
- (8) the validity of any proceedings of the Regulation and Supervision Bureau shall not be affected by vacancies among Regulation and Supervision Bureau Members or any defects in the appointment of Regulation and Supervision Bureau Members.

Article (4)

No Regulation and Supervision Bureau Member shall acquire any interest in property belonging to the Regulation and Supervision Bureau or be interested in any contract entered into by the Regulation and Supervision Bureau, nor shall any Regulation and Supervision Bureau Board Member retain or acquire any interest in real or personal property associated with the water and electricity sector or receive any remuneration, allowance, pension or gratuity from a participant in the water and electricity sector in the Emirate.

Article (5)

Anything authorised or required by or under this Law to be done by the Regulation and Supervision Bureau may be done by any member of staff of the Regulation and Supervision Bureau who is authorised generally or specifically in that behalf by the Regulation and Supervision Bureau.

Article (6)

It shall be the duty of the Regulation and Supervision Bureau to keep proper accounts and records and to send copies of such accounts and records to the Authority after each financial period. All such accounts shall be examined and certified by a person authorised to act as an auditor in the United Arab Emirates.

Article (7)

Each Regulation and Supervision Bureau Member shall be appointed on terms consistent with the Law and as set out in his letter of appointment.

Article (8)

Any Regulation and Supervision Bureau Member is disqualified from taking up government office with the Authority or any of the companies owned by the Authority.

Article (9)

The Regulation and Supervision Bureau shall enjoy no status, immunity or privilege of the State.

Article (10)

The property of the Regulation and Supervision Bureau shall not be regarded as property of the Authority.

SCHEDULE 2

WATER AND ELECTRICITY REGULATORY ARBITRATION CODE

Article (1)

Definitions

For the purpose of this Schedule 2, the following words shall have the meaning ascribed to each one of them unless the context otherwise provides—

- "claimant"**: a person who refers a dispute to arbitration pursuant to Article (2) of this Schedule;
- "court"**: means the court with the appropriate jurisdiction;
- "parties"**: the parties to a regulatory dispute;
- "pleadings"**: the written admissions and demands of the parties;
- "Relevant Authority"**: the Chairman of the Board of Management of the Authority; and
- "respondent"**: the party to a regulatory dispute not being the claimant.

Article (2)

Disputes to be settled by Arbitration

This Schedule shall apply to any dispute referred to arbitration pursuant to Article 130 of the Law.

Article (3)

Commencement of Arbitration and Appointment of Arbitrator

Notice of Arbitration

- (1) A person wishing to refer a regulatory dispute to arbitration under Article (130) of the Law shall serve a written notice of arbitration on the Relevant Authority and shall serve a copy of the notice of arbitration on the other party to the dispute. In either case, the notice shall summarise the basis of the claim.

Appointment

- (2) Subject to the agreement of the parties to a dispute, there shall be appointed three arbitrators, one of whom shall be appointed by each of the Regulation and Supervision Bureau and the person conducting the regulated activity (in each case within 21 days of the notice referred to in paragraph 1 of this Article). The third arbitrator shall be appointed by the two arbitrators appointed by the parties to the regulatory dispute within 42 days of the notice referred to in paragraph 1 of this Article. In the event that the third arbitrator is not appointed within the period specified, such arbitrator shall be appointed by the Relevant Authority.

Change of Arbitrator

- (3) (a) If any arbitrator acting or appointed to act under these rules resigns, withdraws, dies or refuses to act, the Relevant Authority shall, upon application by a party to the dispute, on proof satisfactory to the Relevant Authority, declare the office of arbitrator vacant.
- (b) If any arbitrator or any party to the arbitration considers that any arbitrator is unable by reason of mental or physical infirmity to perform the duties of his office or is disqualified for any reason from performing the duties of his office, or has delayed unreasonably in the conduct of the arbitration or in the making of any award, the Relevant Authority may, at the request of the arbitrators or any party to the dispute, having heard the arbitrator and the parties if they or any of them wish to be heard, declare the office of that arbitrator vacant.
- (c) Where the office of an arbitrator shall have been declared to be vacant a replacement arbitrator shall be appointed by the party who originally appointed that arbitrator.

Article (4)

Procedure

General

- (1) The arbitrators shall conduct the arbitration in such manner as they consider most suitable for the fair resolution of the dispute. In reaching their decision the arbitrators shall have due consideration to what is fair and reasonable in the circumstances and the duties of the Regulation and Supervision Bureau in this Law. The parties may agree that an arbitration shall be conducted on the basis of written representations only. In such a case, nothing shall prevent the arbitrators from requiring one or more oral hearings if they consider it appropriate for the just and expeditious determination

of the proceedings. The arbitrators shall have the power at any time to make or amend the procedure to be followed by the parties in the arbitration. Unless the arbitrators rule otherwise, the following timetable and procedure shall apply—

- (a) within 14 days of the notice of appointment of the last of the arbitrators, the claimant shall serve on the arbitrators and the other party a written statement of its claim. The statement of claim shall specify all relevant facts and matters and contentions of Law on which the claimant relies (or admits or denies) and the relief and remedies sought;
- (b) within 14 days of service by the claimant of the statement of its claim, the other party shall serve on the arbitrators and the claimant a written statement of its defence. The statement of defence shall specify the defence and all relevant facts and matters and contentions of Law (if any, naming the principal authorities) on which the respondent relies (or admits or denies). The statement of defence may set out any counterclaim which the respondent wishes to make;
- (c) the statements served pursuant to paragraphs (a) and (b) above shall be accompanied by copies of any documents referred to in them or upon which the party serving the statement wishes to rely. That party shall, if so requested, make the originals of such documents available for inspection by the arbitrators or the other party;
- (d) after service by the respondent of its statement of defence, the arbitrators may allow the parties a period (the "adjustment period") within which to adjust the written pleadings so that each material averment of the parties shall be answered (whether by admission, denial, explanation or otherwise) and thereafter the claimant shall reproduce the pleadings, as adjusted, into a single document and send two copies to each of the arbitrators and the other party;
- (e) the arbitrators may permit the parties a short extension to exchange final pleadings;
- (f) within 14 days after the pleadings have been so finalised, each party shall serve upon the arbitrators and the other party signed statements of any factual witnesses upon whose evidence it wishes to rely, together with any copies of documents referred to in them not already in the possession of the other party. That party shall, if requested to do so, make the originals of such documents available for inspection by the arbitrators or the other party;
- (g) if they consider it appropriate for the just and expeditious determination of the proceedings, the arbitrators shall be entitled to appoint one or more advisers or experts on any matter (including matters of Law) to report to him on any issue. The costs of any such person shall be subject to the provisions of Article 6 of this Schedule. Where the arbitrators receive a report from any such person,

- they shall disclose the report to the parties and afford them such opportunity to comment on it as they consider appropriate; and
- (h) within 7 days after the pleadings have been finalised the arbitrators shall agree with the parties a hearing date and the estimated length of the hearing. The hearing date shall be no later than 28 days after the finalisation of the pleadings.

Production of Documents

(2) In relation to the production of documents—

- (a) the arbitrators may, on the application of a party, require the production of such specific identified documents as are within the possession, custody or control of the other party or any third party which the arbitrators consider relevant; the parties to the proceedings shall be given the opportunity to inspect and to comment upon any document so produced;
- (b) if any document is not supplied to the arbitrators and the other party within such time as the arbitrators shall prescribe, the arbitrators may—
 - (i) proceed with the arbitration on the basis of the documents already before them;
 - (ii) apply to the court for an order to produce the documents; or
 - (iii) strike out the part of the claim or defence to which the document relates,

and in making their award the arbitrators shall be entitled to make such allowance as they may think fit for the failure to supply the document;

- (c) no party shall be obliged to produce any document which would be privileged from production in any proceedings in an action in the courts;
- (d) an application by a party to the arbitrators pursuant to paragraph (a) above shall be made not later than 21 days before the date fixed for the hearing; a party in receipt of a request from the arbitrators to produce a document shall comply with such a request within 7 days; and
- (e) at least 5 days before the hearing each party shall serve on the other and on the arbitrators its written submissions.

Hearings

(3) At the hearing—

- (a) there shall be no oral opening submissions, but the arbitrators may ask the parties questions arising out of their written submissions or pleadings;
- (b) subject to the next following sub-paragraph (e)(iv), the testimony of a witness may be presented in written form, as a signed statement;
- (c) any party may apply to the arbitrators for an order that any witness whose written statement or affidavit is to be relied upon by a party should attend for oral examination at a hearing;
- (d) the arbitrators shall make such order unless, having heard the parties, they are satisfied that such oral examination is not likely to assist them in making their award;
- (e) if a witness is ordered to attend and fails to do so, the arbitrators may—
 - (i) place such weight on the written statement or affidavit as they think fit;
 - (ii) exclude it altogether; or
 - (iii) apply to the court for an order for the citation or attendance of witnesses;
 - (iv) there shall be no examination-in-chief of factual or expert witnesses who give oral evidence. The parties may cross-examine witnesses on oath or affirmation to the extent permitted by the arbitrators.
- (f) the parties may make oral closing submissions, not exceeding 20 minutes each;
- (g) the parties may be legally represented;
- (h) the arbitrators shall be entitled to receive such evidence as they shall consider relevant, whether or not such evidence would have been admissible in a court of Law; and
- (i) the arbitrators shall deliver to the parties a reasoned award within 14 days of the end of the hearing.

Proposed Amendments

- (4) Immediately after their appointment, the arbitrators shall require each party to inform them of any amendments to the procedure or the time limits set out in Article 4 of the Schedule which they consider appropriate. Each party shall promptly send any proposed amendments to the arbitrators and the other party. Before responding, the arbitrators may require the parties to meet them.

- (5) (a) The arbitrators shall have power to strike out part or all of any claim or defence made in the proceedings on any one or more of the following grounds—
- (i) wilful breach of these rules;
 - (ii) deliberate non-compliance by a party with any order of the arbitrators;
or
 - (iii) inordinate or inexcusable delay on the part of any party, where such act or omission has, in the opinion of the arbitrators, given rise to a substantial risk that a fair determination of the dispute will not be possible, or which is such as to cause or to have caused serious prejudice to the other party.
- (b) The arbitrators shall have power to strike out part or all of any claim or defence made in the proceedings if they are satisfied that the claim or defence or any part of it is scandalous, frivolous or vexatious.
- (c) If either party fails to serve a pleading within the period allowed under these rules or by order of the arbitrators, and fails to remedy his default within 14 days after despatch to him by the arbitrators or any other party to the dispute of notice of that default, the arbitrators shall be entitled to rule that he shall be treated as having abandoned his claim or defence (as the case may be) and, having made such a ruling, the arbitrators shall be entitled to proceed with the reference on an ex parte basis.
- (d) Any party who becomes aware that any provision or requirement of this Schedule has not been complied with and who fails to state an objection to that failure within 30 days shall be deemed to have waived the right to object.

Article (5)

Awards

- (1) Awards shall be issued by total agreement or majority vote and any disagreement by any of the arbitrators must be attached to the award.
- (2) Without prejudice to the provisions of any agreement between the parties to the dispute, awards of the arbitrators shall be final and binding on the parties and will be subject to no further appeal, judicial or otherwise.

- (3) In addition to their other powers under these rules, the arbitrators may make such orders in their award as they consider necessary to resolve the dispute, including orders that—
- (a) the licensee should pay money to the Regulation and Supervision Bureau, whether that amount is specified in the arbitrator's order or calculated in accordance with such procedure as they shall specify;
 - (b) one party should take or not take specified action;
 - (c) the meaning of a licence or a party's obligations under that licence are as stated in the award; or
 - (d) any principal sum they may order one party to pay to another shall carry interest at such rate and over such period as they shall determine (provided such shall be in accordance with the Laws of the State and the Emirate).
- (4) (a) the arbitrators shall send a copy of their award to each of the parties to the dispute and the Relevant Authority; and
- (b) the award shall include a summary of the dispute and documents exchanged.

Article (6)

Awards as to costs

Whether or not the arbitration reaches the stage of a final award, the arbitrators may order (by way of interim award) any party to pay some or a specified proportion of any party's costs incurred in the arbitration, the arbitrators' fees and any costs of their appointment.

Article (7)

Secrecy

- (1) Unless otherwise agreed between the parties or authorised by the arbitrators, all documents produced or disclosed in the course of an arbitration (including any award) shall be treated as confidential by the arbitrators, the Relevant Authority, and each of the parties to the dispute.
- (2) The parties shall require those persons under their responsibility to maintain, during the arbitration process and thereafter, the confidentiality of the arbitration procedures disclosed to them.
- (3) Unless otherwise agreed by all parties, or permitted by the arbitrators such documents shall only be used—

- (a) for the purposes of the arbitration; or
 - (b) for enforcing the arbitration award.
- (4) Arbitration awards must be kept confidential, a copy of every award of the arbitrators pursuant to this Schedule 2 may only be disclosed to the parties, the Relevant Authority and the court for enforcement purposes.
 - (5) The Relevant Authority shall be entitled to direct that an award or any part of it shall be kept confidential, to the extent stated and subject to such conditions (if any) as shall be specified in the direction, and may hear representations from the parties in relation to this matter.
 - (6) Whatever is required by the courts relating to arbitration shall be exempt from the rules relating to confidentiality.

Article (8)

Communications

Communications for the purposes of the arbitration shall be in writing and any telephone communications shall be confirmed in writing wherever possible. Unless the contrary is proved, faxes sent before 17.00 hours (United Arab Emirates time) shall be deemed received on the day of sending and letters sent by express post shall be deemed received two working days after posting.

Article (9)

Liability

Neither the Relevant Authority or any arbitrator shall be liable to any party for any act or omission (including negligence) in connection with any arbitration under this schedule unless the act or omission is established to have been in bad faith.

Article (10)

Jurisdiction

Arbitrations shall take place in the city of Abu Dhabi and be subject to the Laws of the United Arab Emirates and the Emirate of Abu Dhabi.