

ශ්‍රී ලංකා ප්‍රජාතාන්ත්‍රික සමාජවාදී ජනරජයේ ගැසට් පත්‍රය

අති විශේෂ

The Gazette of the Democratic Socialist Republic of Sri Lanka

EXTRAORDINARY

අංක 1960/44 - 2016 මාර්තු මස 31 වැනි බ්‍රහස්පතින්දා - 2016.03.31

No. 1960/44 - THURSDAY, MARCH 31, 2016

(Published by Authority)

PART I : SECTION (I) — GENERAL

Government Notifications

PUBLIC UTILITIES COMMISSION OF SRI LANKA

Exemption Order

UNDER SECTION 9A OF THE SRI LANKA ELECTRICITY ACT, No. 20 OF 2009 (AMENDED)

1. *Grant of the Exemption*

The Public Utilities Commission of Sri Lanka (hereinafter referred to as the “Commission”) in exercise of the powers conferred by Section 9A of the Sri Lanka Electricity Act No. 20 of 2009 (hereinafter referred to as the “Act”) hereby exempt any person or category of persons (hereinafter referred to as the “Exempted Person”) from the requirement of obtaining license to:

For the limited purpose of generate or distribute and supply of electricity where such person or category of persons engages in community based, non-commercial micro hydro electricity generating project with capacity of less than 100 kW, the number of persons among whom the electricity generated is to be distributed is less than 200, isolated from the national grid, and subjected to the conditions contained in this Order.

2. *Approvals*

The Exempted Person or category of persons shall obtain all the approvals required under applicable Laws, Regulations and Rules necessary to carry out the generation of electricity, including and not limited to the provisions of the Sri Lanka Electricity Act, No. 20 of 2009 (Amended).

3. *Term of the Exemption*

The Exemption hereby granted shall come into force on 07.08.2013 and, unless revoked or withdrawn subject to the provisions of Revocation and Withdrawal of the Exemption in the Exemption Order below, shall continue in full force and effect for a period of five (05) years from 07.08.2013.



4. *Revocation and Withdrawal of the Exemption*

This Exemption may be revoked or withdrawn at the discretion of the Commission in accordance with Section 9A of the Act.

Chairman,
Public Utilities Commission of Sri Lanka.

CONDITIONS OF THE EXEMPTION

Condition 1: Interpretation and construction

1. Unless the contrary intention appears:

- (a) words and expressions used in the Conditions or the Schedules shall be construed as if they were in an enactment and the Interpretation Acts applied to them ; and
- (b) references to an enactment shall include primary and subordinate legislation and, in both cases, any modification or re-enactment thereof after the date when this Exemption comes into force.

2. Any word or expression defined in the Act for the purposes of any provision of the Act shall, unless the contrary intention appears, have the same meaning when used in the Conditions or in the Schedules.

3. In the Conditions and in the Schedules, unless otherwise specified or the context otherwise requires:

“Approved” means approved by the Commission and “Approval” shall have a corresponding meaning;

“Licensee” a person holding a valid licence under the Section 13 of the Sri Lanka Electricity Act, No: 20 of 2009.

“Electricity Undertaking” means any person engaged in the generation, transmission, distribution and supply of electricity;

“Modification” includes addition, omission, amendment and substitution, and cognate expressions shall be construed accordingly;

“PUCSL Act” means the Public Utilities Commission of Sri Lanka Act, No.35 of 2002;

“Transmission Licensee” means the holder of a licence to transmit electricity under section 13(1) (c) (i) (b) of the Act;

“Distribution Licensee” means the holder of a licence to distribute and supply or distribute electricity under Section 13(1) (c) (i) (c) of the Act;

“Generation Licence” means a licence granted under Section 13 (1) (c) (i) (a) of the Act

“Generation Plant” means any plant, equipment, apparatus or appliance used for or for purpose connected with the generation of electricity;

4. Unless otherwise specified:

- (a) any reference to a numbered Condition or to a numbered Schedule is respectively a reference to the Condition or the Schedule bearing that number in this Exemption Order;
- (b) any reference to a numbered clause is a reference to the clause bearing that number in the Schedule in which the reference occurs;
- (c) any reference to a numbered paragraph is a reference to the paragraph bearing that number in the Condition or clause in which the reference occurs; and

without prejudice to any provision which restricts such variation, supplement or replacement any reference to any agreement, Exemption Order (other than this Exemption Order), code or other instrument shall include a reference to such agreement, Exemption Order, code or other instrument as varied, supplemented or replaced from time to time.

- 5. The heading or title of any Part, Condition, Schedule or paragraph shall not affect the construction thereof.
- 6. Where any obligation of the Exemption Order is expressed to require performance within a specified time limit, that obligation shall continue to be binding and enforceable after that time limit if the Exempted Person fails to perform that obligation within that time limit (but without prejudice to all rights and remedies available against the Exempted Person by reason of the Exempted Person's failure to perform within the time limit).
- 7. If there is any inconsistency between this Exemption Order and the Act, the Act shall prevail to the extent of any such inconsistency. Conditions set out in the Act shall form an integral part of the Exemption Order in addition to Conditions set out herein.

Condition 2: Provision of Information to the Commission

- 1. The Exempted Person shall furnish to the Commission, in such manner and at such times as the Commission may require, such Information and shall procure and furnish to it such reports as the Commission may consider necessary in the light of the Conditions or as it may require for the purpose of performing the functions assigned or transferred to it by or under the Act or the PUCSL Act.
- 2. The power of the Commission to call for Information under paragraph 1 is without prejudice to the power of the Commission to call for Information under or pursuant to any other Condition of this Exemption Order or under or pursuant to the Act, the PUCSL Act or any other enactment.
- 3. In this Condition:

“Information” shall include any books, documents, records, accounts, estimates, returns or reports (whether or not prepared specifically at the request of the Commission) of any description and in any format specified by the Commission.

Condition 3: Decisions, Orders, Directions and Determinations of the Commission

- 1. The Exempted Person shall comply with any decisions, orders, directions and determinations made by the Commission pursuant to the Exemption Order.
- 2. The reasonable costs associated with compliance with such decisions, orders, directions and determinations shall be the responsibility of the Exempted Person.

3. In order to comply with any order or direction made by the Commission the Exempted Person shall allow the Commission, any other authority or person specified in the order of the Commission such access to or control of its property as the Commission requires.

Condition 4: Compliance with technical and operational codes

1. At the request of the Commission the Exempted Person shall, in consultation with any Electricity Undertaking the Commission consider appropriate, develop and implement, such technical and operational codes as the Commission may, direct from time to time.
2. Any technical and operational codes developed pursuant to paragraph 1 shall be submitted to the Commission for Approval before they may be implemented.
3. The Exempted Person may propose modifications to a code that is in force at the relevant time by notifying the Commission of its proposal in accordance with the code modification process set out in the relevant code.
4. The Exempted Person shall give or send a copy of all approved technical and operational codes (and any revisions thereto) developed and implemented by the Exempted Person pursuant to this Condition to:
 - (a) the Commission; and
 - (b) any person requesting the same.
5. The Exempted Person may make a charge for any copy of any code given or sent pursuant to paragraph 4(b) of an amount which shall not exceed any amount specified for the time being for the purposes of this Condition in directions issued from time to time by the Commission. The Exempted Person shall comply with the provisions of any Approved technical and operational codes which are specified therein as applicable to it.
6. The Commission may, following consultation in relevant circumstances with any Electricity Undertakings the Commission shall consider appropriate, issue directions relieving the Exempted Person of its obligation under paragraph 6 in respect of such part or parts of any Approved technical and operational codes to such extent as may be specified in those directions and subject to such terms and conditions as the Commission may determine.

The Exempted Person shall comply with the existing technical and operational codes in respect of all activities, until such time Commission approved technical and operational codes are available.

Condition 5: Environment

1. The Exempted Person shall comply with all applicable Environmental Laws in Sri Lanka, subject to any exemptions or grace periods which may be granted to the Exempted Person
2. For the purposes of this Exempted Person, "Environmental Laws" means those laws which are, from time to time, in force whose purpose is the protection of the environment, including the protection of human health, flora, fauna and the eco-systems on which they depend and, for the avoidance of doubt, shall include, but shall not be limited to, the National Environment Act, No. 47 of 1980 and all relevant legislation relating to the assessment of environmental impacts and the protection of air, land and water.

Condition 6: Health and safety

1. The Exempted Person shall take all reasonable steps to protect persons, plant, property and equipment from injury and damage that may be caused by the Exempted Person when carrying out the generation or distribution activity.

Condition 7: Dispute resolution

1. The Exempted Person may in respect of a dispute in accordance with the rules made by the Commission under the PUCSL Act refer the dispute to the Commission for resolution in accordance with such rules or, where directed to do so by the Commission refer the dispute to court or arbitration body in accordance with the Arbitration Act, No.11 of 1995.

Condition 8: Electricity Generating Plants

1. The plants shall be electrically isolated from any other power plants licensed or exempted.
2. The plants shall not be electrically connected with the electrical network of other electrical distribution systems licensed or exempted.

Condition 9: Non-discrimination in the provision of connection to the Exempted Person's Distribution System

1. In the carrying out of works for the purpose of connection to the Exempted Person's Distribution System or in providing for the retention of a connection to the Exempted Person's Distribution System, the Exempted Person shall not unduly discriminate between any persons or class or classes of persons.

Condition 10: Prohibition of discrimination in supply

1. The Exempted Person shall not, in supplying or offering Terms for the supply of electricity to consumers:
 - (a) show undue preference to any person or class of persons;
 - (b) exercise undue discrimination between any persons or classes of persons; or
 - (c) set terms which are unduly onerous.
2. For the purposes of this Condition, Terms are unduly onerous if the revenue from the supply of electricity to consumers on those Terms significantly exceeds the costs of that supply.
3. For the purposes of this Condition, the Commission shall determine any question as to whether any Terms are unduly onerous, having due regard to whether such Terms incorporate charges which do not reasonably cover the costs incurred in consequence of supplying the consumers in question.
4. In this Condition:

“Terms” means all the terms on which a supply of electricity is offered or provided, including terms as to price, which significantly affect the evaluation of that supply.

04-645