

THE OFFICIAL GAZETTE **16TH OCTOBER, 2010**
LEGAL SUPPLEMENT — B

GUYANA

No. 3 of 2010

REGULATIONS

Made Under

ELECTRICITY SECTOR REFORM ACT 1999

(No. 11 of 1999)

**IN EXERCISE OF THE POWERS CONFERRED UPON ME BY SECTION 70 OF
THE ELECTRICITY SECTOR REFORM ACT 1999, I HEREBY MAKE
THE FOLLOWING REGULATIONS:-**

ARRANGEMENT OF REGULATIONS

REGULATION

1. Citation
2. Amendment of regulation 2 (1) of the Principal Regulations.
3. Amendment of regulation 4 of the Principal Regulations.
4. Amendment of regulation 14 of the Principal Regulations.
5. Amendment of regulation 15 of the Principal Regulations.
6. Amendment of regulation 18 (1) of the Principal Regulations.
7. Amendment of regulation 21 of the Principal Regulations.
8. Amendment of regulation 24 (b) of the Principal Regulations.
9. Amendment of regulation 27 of the Principal Regulations.
10. Amendment of regulation 28 of the Principal Regulations.
11. Amendment of regulation 30 of the Principal Regulations.
12. Amendment of regulation 31 of the Principal Regulations.

Citation

1. These Regulations, which amend the Public Electricity Supply Regulations in the Third Schedule to the Electricity Sector Reform Act 1999, may be cited as the Public Electricity Supply (Amendment) Regulations 2010.

Amendment of regulation 2(1) of the Principal Regulations.

2. Regulations 2 (1) of the Principal Regulations is amended –

- (a) in paragraph (a), by inserting immediately after the words “for such supply” the words “including prepaid meters and remote meters.”;
- (b) by substituting for the full stop at the end of paragraph (c) a semicolon;
- (c) by inserting immediately after paragraph (c) the following as paragraphs (d) and (e) –
 - “(d) “pre-paid meter” means any meter that is so configured as to require the consumer to pay in advance for a supply of electricity, through the purchase of a coded card, token, or other device from the public supplier or its agent;
 - (e) “remote meter” means any meter that is connected to the consumer’s installation by a service line and not directly by the conductors within the meter box.”

Amendment of regulation 4 of the Principal Regulations.

3. Regulation 4 of the Principal Regulations is amended –

- (a) in the opening part by substituting for the word “may” the word “shall”;
- (b) in subregulation (1) (b), by inserting immediately after the words “legal title to the premises” the following words –
 - “, including documentation not to be limited to an official title to the premises and may include any documentation that the public supplier concludes to be reliable as to the ownership of the premises”;
- (c) by deleting the word “or” at the end of subregulation (1)(c)(i);

- (d) by substituting for the full stop at the end of subregulation (1)(c)(ii) the following words"; or"
- (e) by inserting immediately after subregulation (1)(c)(ii) the following as subregulation (1)(c)(iii) -
“(iii) such other source as the public supplier concludes to be reliable as to the consumer’s authorisation to occupy such premises;”
- (f) by inserting immediately after subregulation (1)(c) the following as subregulation (1)(d) and (1)(e) -
“(d) in any case in which a consumer requires a supply of electricity for street or security lighting, documentation that such consumer has the required authorisation for such lighting from the competent governmental authority; and
(e) in any case in which a supply of electricity is requested, documentation of the identity of the person applying for such supply”
- (g) by inserting immediately after subregulation (3) the following as subregulation (4) -
“(4) A public supplier shall refuse a supply of electricity where, in its sole discretion, it cannot in good faith conclude that the documentation provided by the consumer establishes the authorisation for which such documentation is required under subregulation (1), or with regard to subregulation (1)(e), establishes the identity of the person requesting the supply of electricity.”

Amendment of
regulation 14
of the
Principal
Regulations.

4. Regulation 14 of the Principal Regulations is amended ---

- (a) by substituting for the subregulation (1) the following as subregulation (1) ---

“(1) A public supplier shall give a supply of electricity through, and measure the supply given by means of, an appropriate meter determined as to the type of meter and installed by the public supplier, and if the consumer refuses or fails to take his supply through the appropriate meter prescribed by the public supplier, the public supplier may refuse to give or may discontinue the supply of electricity.”;

(b) by inserting immediately after the word "Inspector" in subregulation (3), the words "or as established in the regulations or the public supplier's Standard Terms and Conditions";

(c) by substituting for subregulation (7) the following as subregulation (7)

"(7) Notwithstanding any provision of a supply contract, a public supplier may require the replacement, retrofitting or substitution of any meter installed, where its replacement, retrofitting or substitution —

(a) is necessary to secure compliance with the Act, these Regulations, any other regulations under the Act, or a public supplier's Standard Terms and Conditions;

(b) is necessary for the public supplier to be satisfied that the meter is accurately registering all electricity consumption on the consumer's premises;

(c) is authorised under a plan approved by the Minister;

(d) is deemed necessary by the public supplier, in its sole discretion, due to its discovery of the alteration of the register of a meter or the prevention of the meter from duly registering, or of the abstraction or diversion of electricity on the relevant premises, regardless of whether the owner or occupier of such premises has as yet been charged with or convicted of any such unlawful act with regard to such premises;

(e) is made because the consumer has failed to make or increase any security deposit required by the public supplier in accordance with these Regulations or its Standard Terms and Conditions; or

(f) is otherwise reasonable or necessary under the circumstances."

(d) by substituting in subregulation (8) for the words "an officer or servant" the words "a duly authorised officer or servant".

Amendment of regulation 15 of the Principal Regulations.

5. Regulation 15 of the Principal Regulations is amended —
- (a) by substituting for the words “Every public utility in subregulation (1), the words “Except in the case of consumers whose supply of electricity is given through a pre-paid meter, every public utility”;
 - (b) by inserting immediately after subregulation (4) the following as subregulations (4A) and (4B) —
 - “(4A) In any action in which an injunction has been issued by the High Court or the Commercial Court requiring a public supplier to reconnect, or prohibiting it from disconnecting, a supply of electricity in connection with a dispute over a bill rendered by the public supplier for electricity consumed by a person but not properly metered, or otherwise diverted, abstracted, stolen, consumed or used, and not paid for, the person in whose favor such an injunction is issued shall be obligated to pay for any bills of the public supplier rendered subsequent to the issuance of such injunction, and if such person does not pay such subsequent bills, the public supplier may disconnect the supply of electricity to the premises owned or occupied by such person.
 - (4B) A public supplier may adjust a consumer’s account due to an accounting error by the public supplier for the shorter of three months and the date on which the accounting error began.”
 - (c) by inserting immediately after subregulation (5) the following as subregulation (6) —
 - “(6) A public supplier shall provide consumers whose supply of electricity is given through pre-paid meters with a statement of sums paid by the consumer for the supply of electricity, in suppliers Standard Terms and Conditions or, in the absence of any such provision, as directed by the Commission.”

Amendment of regulation 18 (1) of the Principal Regulations.

6. Regulation 18 (1) of the Principal Regulations, amended by substituting for the full stop at the end a colon and by inserting the following proviso as the proviso to subregulation (1).

‘Provided that the provisions of this subregulation shall be without prejudice to the right of a public supplier under these Regulations or its Standard Terms and Conditions to disconnect the supply of

electricity to any premises with regard to which a dispute as to any registering or reading of a meter exists, pending the resolution of such dispute by the Government Electric Inspector.”

Amendment of
regulation 21
of the
Principal
Regulations.

7. Regulation 21 of the Principal Regulations is amended –

(a) by substituting for the words “paragraph 15(4)” the words “paragraphs 15(4) and (4A)”;

(b) by deleting the word “or” at the end of paragraph (b);

(c) by substituting for the full stop at the end of paragraph (c) a semi-colon,

(d) by inserting immediately after paragraph (c) the following as paragraphs (d), (e) and (f) –

“(d) if the public suppliers conclude that the documents provided by a consumer in accordance with regulation 4(1) or 4(3) were fraudulent or that the consumer did not have, or no longer has, the authorisation for any relevant street or security lighting or, subject to regulation 22, the right to occupy the relevant premises.

(e) notwithstanding anything else in these Regulations, if the public supplier has evidence, which in its sole discretion it deems reliable, that –

(i) electricity is being, or has been, abstracted, wasted, diverted, stolen, consumed or otherwise used at any premises of the consumer but not paid for;

(ii) the meter at such premises has been tampered with or its accurate or proper registration has otherwise been altered, or that an unauthorised meter, loop connection or any other device or method which interferes with the accurate or proper registration, calibration or metering of electric current is in place at such premises; or

(iii) an owner or occupant of such premises has, by any means, connected or restored a supply of electricity to the premises without the lawful permission of the public supplier or without paying electricity bills previously rendered by the public supplier,

regardless of whether the owner or occupier of such premises has as yet been charged with or convicted of any such unlawful act with regard to such premises.

- (f) if the consumer fails to pay any amount ordered by the Commission under section 52(4) of the Public Utilities Commission Act, within the time provided for in such order, or while a complaint is pending with the Commission, fails to pay any bill issued by the public supplier that is not the subject of the complaint."

Amendment of regulation 24 of the Principal Regulations.

8. Regulation 24 of the Principal Regulations is amended –

- (a) by inserting immediately after the word "electricity" in paragraph (a), the words "and, in the case of the discontinuance of the supply of electricity under regulation 21(e), the value of the electricity abstracted, wasted, diverted, stolen, consumed, improperly registered, or otherwise used in any manner at such premises, but not paid for, calculated in accordance with regulation 31(3)";
- (b) by deleting the word "and" at the end of paragraph (b)(ii);
- (c) by deleting the word "and" at the end of paragraph (b) (iii) and
- (d) by inserting immediately after paragraph (b) (iii) the following as a paragraph (b) (iv) –

"(iv) in the case of the discontinuance of the supply of electricity under regulation 21(d), the consumer has presented the public supplier with documentation satisfactory to the public supplier, in its sole discretion and as may be relevant to the reason why the supply was discontinued, that such

consumer has obtained the right to occupy the premises or to have any relevant street or security lighting, or that his identity is established and"

Amendment of regulation 27 of the Principal Regulations.

9. Regulation 27 of the Principal Regulations is amended by deleting subregulation (5), (6) and (7).

Amendment of regulation 28 of the Principal Regulations.

10. Regulation 28 of the Principal Regulations is amended –

- (a) by numbering it as subregulation (1); and
- (b) by inserting immediately after subregulation (1) as so re-numbered the following as subregulation (2) –

“(2) In addition to the provisions of subregulation (1) and any other evidence permitted by the Act, these Regulations, or any other law or judicial standard, the evidence that may support an arrest, and the prosecution and conviction, for conduct prohibited under the Act, or under any other written law with regard to any offence involving the use of electricity by any person, shall include any of the following —

- (a) any visual record, made by any means, including eye witness statements, videotape and photographs, of any illegal connection or reconnection to any premises by the Police or by personnel of a public supplier, even where the illegal connection is not still in place when a person upon the relevant premises is confronted by the Police or by the public supplier’s personnel;
- (b) any visual record, made by any means, including eye-witness statements, videotape and photographs, of the utilisation of electricity at premises without any evidence of a legal connection to the public supplier’s electric lines or other works;
- (c) differences in the measurement of electricity consumption between the main lead to the relevant premises and at the premises itself;
- (d) broken or missing meter housing seals; paste or other adhesive on or around meter housing seals; dislodged or unsecured seals; seals that are not those of the public supplier, the Guyana National Bureau of Standards, and/or the meter vendor or supplier; a meter disc that does not rotate when electricity is in use; an unauthorised adjustment of the upper and lower bearings in the meter causing the disc to touch the range or dial plate; screwdriver impressions; expanded screw slits; reset meter dials; the insertion of particles between the cyclometer wheels in a meter that obstruct the rotation (recording) of the meter or damage the meter spindle so as to prevent consistent rotation; internal or external linking of terminals of the meter line and load terminals; any unauthorised connection within the meter that prevents the proper registration of electricity use by the meter; and any other physical indicia that a meter or adjacent equipment or apparatuses have been tampered with; and
- (e) any visual record, made by any means, including eye-witness

statements, videotape and photographs, and any documentary evidence from the public supplier's records that meter, electric line or other electrical apparatus has been removed from one premises and installed at another premises without the authorization of the public supplier; or

- (f) the inability of an owner or occupant of premises to produce a certificate from the Government Electrical Inspector, or any successor to the same, authorising the connection or the reconnection, as the case may be, of a supply of electricity to such premises.”

Amendment of
regulation 30
of the
Principal
Regulations.

11. Regulation 30 of the Principal Regulations is amended by substituting the following as regulation 30 -

“30. In addition to the penalties imposed in the Act and these Regulations, a public supplier may recover from any person the amount of any loss sustained by the public supplier due to such person's damaging, or allowing to be damaged, any electricity meter, electric line or other apparatus or installation belonging to the public supplier, or due to such person's engaging in any of the conduct prohibited under section 60 (1) or (2) of the Act and such person shall be liable to compensate the public supplier for the replacement value of such property of the public supplier.”

Amendment of
regulation 31
of the
Principal
Regulations.

12. Regulation 31 of the Principal Regulations is amended by substituting the following provision as regulation 31 -

“31. (1) The penalties and liabilities imposed in the Act and the regulations are without prejudice to any other right or remedy for the protection of a public supplier or the punishment of the offender, and any penalties for violations of these Regulations, the punishment for which or the recovery of which is not otherwise specially provided for herein, may be imposed or recovered under the Summary Jurisdiction Acts.

(2) Without prejudice to a public supplier's rights under any other provision of the Act, these Regulations, any other law or legal principle, a public supplier may recover, in a civil action, from any person over the age of eighteen years occupying premises at which electricity is or has been abstracted, diverted, stolen, wasted, consumed, improperly registered, or otherwise used but not paid for, the value of any such electricity, calculated in accordance with subparagraph (3) and for such period as may be prescribed by the public supplier's Standard Terms and Conditions or, if not provided for therein, for a back-billing period of twelve months:

Provided that, where there is a supply agreement in effect between the public supplier and a person with regard to residential premises for which electricity is or has been abstracted, diverted, stolen, wasted, consumed, improperly registered or otherwise used but not paid for, and such person was occupying the premises at the time of such abstraction, diversion, theft, waste, consumption, improper registration or other use, such person shall be the sole person liable to be proceeded against in a civil action under this subparagraph;

Provided further that the persons specified in this subparagraph shall be liable to the public supplier in a civil action regardless of whether any such person has been charged with or convicted of an offence under section 60 (1) or (2) of the Act or any other law.

(3) In any civil action based upon subparagraph (2), any other law or legal principle, or in the instances provided for in regulation 24 (a), the value of electricity abstracted, diverted, stolen, wasted, consumed, improperly registered or otherwise used was actually less than the amount provided for in this subparagraph (3) in any way, but not paid for, shall be calculated by, and ordered by the court on the basis of, a public supplier's —

- (i) audit of the appliances and other electric devices in and on the relevant premises, performed by the relevant public supplier;
- (ii) measurement of the differences in electricity consumption between the main lead to the relevant premises and at the premises itself; or
- (iii) calculation based upon any other means provided for in the public supplier's Standard Terms and Conditions;

Provided that a person held liable in a civil action based upon subparagraph (2), shall have a right to prove that the amount of electricity abstracted, diverted, stolen, wasted, consumed, improperly registered or otherwise used was 6 subparagraph (3)."

Made this 3rd day of August, 2010.



Prime Minister.