

THE OFFICE OF UTILITIES REGULATION ACT

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THE OFFICE OF UTILITIES REGULATION ACT

Acts
13 of 1995,
14 of 2000,
L.N.
53/2014,
27 of 2015.

[25th April, 1995.]

1. This Act may be cited as the Office of Utilities Regulation Act. Short title.

2.—(1) In this Act— Interpretation.

“Deputy Director-General” means a Deputy Director-General of the Office;

“Director-General” means the Director-General of the Office;

“enabling instrument” in relation to specified organization, means— 14/2000
S. 2(b).

(a) any enactment other than this Act;

(b) any permit or other instrument in writing issued pursuant to a statutory power, by which the organization is authorized to provide a prescribed utility service;

“licence” means a licence issued pursuant to section 4B and “licensee” shall be construed accordingly; 14/2000
S. 2(c).

“prescribed utility service” means a utility service specified in the First Schedule; First
Schedule.
14/2000
S. 2(c).

“responsible Minister” means, as respects any prescribed utility service, the Minister having portfolio responsibility for that service; 14/2000
S. 2(c).

“specified organization” means an organization or body of persons which immediately before October 11, 2000 was providing a prescribed utility service pursuant to an enabling instrument; 14/2000
S. 2(c).

OFFICE OF UTILITIES REGULATION

“the Office” means the Office of Utilities Regulation established under section 3.

First
Schedule

(2) The Minister may, by order subject to negative resolution, amend the First Schedule.

Application of
this Act.
14/2000
S. 3.

2A. Notwithstanding anything to the contrary in any enabling instrument this Act shall apply to—

(a) specified organizations; and

(b) licensees,

for the purpose of regulating the prescribed utility services provided by such specified organizations or licensees.

Office of
Utilities
Regulation.

3.—(1) There is hereby established for the purposes of this Act, a body to be known as the Office of Utilities Regulation which shall be a body corporate to which section 28 of the Interpretation Act shall apply.

Second
Schedule.

(2) The provisions of the Second Schedule shall have effect as to the constitution of the Office and otherwise in relation thereto.

Functions of
the Office.
14/2000
S. 4.

4.—(1) Subject to the provisions of this Act, the functions of the Office shall be to—

(a) regulate the provision of prescribed utility services by licensees or specified organizations;

(b) receive and process applications for a licence to provide a prescribed utility service and make such recommendations to the Minister in relation to the application as the Office considers necessary or desirable;

(c) conduct such research as it thinks necessary or desirable for the purposes of the performance of its functions under this Act;

- (d) advise the responsible Minister on such matters relating to the prescribed utility service as it thinks fit or as may be requested by that Minister; and
- (e) subject to section 8A, carry out, on its own initiative or at the request of any person, such investigations in relation to the provision of prescribed utility services as will enable it to determine whether the interests of consumers are adequately protected.

(2) The Office may, where it considers necessary, give directions to any licensee or specified organization with a view to ensuring that—

- (a) the needs of the consumers of the services provided by the licensee or specified organization are met; and
- (b) the prescribed utility service operates efficiently and in a manner designed to—
 - (i) protect the health and well being of users of the service and such elements of the public as would normally be expected to be affected by its operation; and
 - (ii) protect and preserve the environment; and
 - (iii) afford to its consumers economical and reliable service.

(3) In the performance of its functions under this Act the Office shall undertake such measures as it considers necessary or desirable to—

- (a) encourage competition in the provision of prescribed utility services;
- (b) protect the interests of consumers in relation to the supply of a prescribed utility service;
- (c) encourage the development and use of indigenous resources;
- (d) promote and encourage the development of modern and efficient utility services; and
- (e) enquire into the nature and extent of the prescribed utility services provided by a licensee or specified organization.

27/2015
S. 2(a).

(4) Subject to subsection (4A), the Office shall have power to determine, in accordance with the provisions of this Act, the rates or fares which may be charged in respect of the provisions of a prescribed utility service.

27/2015
S. 2(b).

(4A) The rates determined by the Office in respect of prescribed utility services for the generation, transmission, distribution and supply of electricity shall—

- (a) be in accordance with—
 - (i) the provisions of this Act and any regulations made under this Act;
 - (ii) the Electricity Act and any regulations made under that Act;
 - (iii) all policy directions issued by Cabinet with respect thereto; and

- (iv) the tariff provisions set out in all licences and enabling instruments with respect thereto;

and in determining the appropriate rate of return on investment required to satisfy the interests of persons investing in Jamaica, the opinion of the Bank of Jamaica shall be obtained by way of guidance, which opinion shall take into account relevant market benchmarks and provide an assessment of the appropriate country risk premium; and

(b) take into account—

- (i) the interest of consumers in respect of matters, including the cost, safety and quality of the services;
- (ii) Jamaica's economic development;
- (iii) the best use of indigenous resources;
- (iv) the possibility of including specific tariffs to encourage the regularization of and payment for, electricity usage by consumers who are unable to pay for the full cost of the services provided; and
- (v) the possibility of including specific tariffs for special economic zones, and wholesale rates for large consumers, to enhance their competitiveness and Jamaica's economic development.

(5) The Office may, by order published in the *Gazette*—

OFFICE OF UTILITIES REGULATION

- (a) prescribe the unit of measurement and the type of measuring device to be used by a licensee or specified organization in relation to prescribed utility services;
- (b) prescribe standards for the measurements of quantity, quality or other conditions relating to prescribed utility services;
- (c) provide for the inspection and testing of any prescribed utility services or of any equipment or measuring device used in connection therewith;
- (d) prescribe minimum standards of quality and accuracy in relation to any equipment used or any commodity supplied by a licensee or specified organization in connection with the relevant prescribed utility service;
- (e) prescribe the system of accounts to be kept by a licensee or specified organization as respects prescribed utility services;
- (f) make such provisions as the Office considers necessary to ensure the safety of the public as respects prescribed utility services; and
- (g) impose fees (to be known as regulatory service fees) to be paid by licensees or specified organizations at the rates specified in the order.

(6) The Office shall—

- (a) before making an order under subsection (5), notify each licensee or specified organization for the time being concerned or which, in the opinion of the Office, is likely to be affected by the order and afford each licensee or organization, as the case may be, an opportunity to be heard; and

- (b) ensure that the order, if made, is consistent with the licence or the enabling instrument applicable to the licensee or specified organization referred to in paragraph (a).

(7) The Office shall give reasons for any decision taken by it pursuant to subsection (4) or (5), to any person affected or likely to be affected by that decision. 27/2015 S. 2(c).

(8) The Cabinet may issue to the Office general policy directions in respect of any prescribed utility service, and the Office shall adhere to those directions in the performance of its functions under this Act. 27/2015 S. 2(d).

4A. No organization or body of persons shall provide a prescribed utility service without first being issued with a licence granted by the Minister to provide such service. Licensing requirements. 14/2000 S. 4.

4B.—(1) An application for a licence to provide a prescribed utility service shall be made in the prescribed form to the Office and shall be accompanied by such non-refundable fee as may be prescribed. Application for a licence. 14/2000 S. 4.

(2) The Office may, where necessary, require that the applicant provide such additional information as the Office considers necessary for the purpose of considering the application.

(3) In deciding whether to recommend to the Minister that an application be granted or to refuse a licence, the Office shall satisfy itself that the prescribed utility service which is the subject of an application for a licence—

- (a) will meet the needs of the community to which the application relates; and

- (b) will be operated efficiently, and for that purpose the Office shall have regard to the matters referred to in subsection (4).

(4) For the purposes of subsection (3), the Office shall have regard to—

- (a) whether the manner of operation is designed to protect the health and well-being of users of the service and such elements of the public as would normally be expected to be affected by its operation;
- (b) the need to protect and preserve the environment;
- (c) whether the consumers will be afforded an economical and reliable service;
- (d) whether the service will be provided on terms which will allow to the applicant and to any other persons financing the operation of the utility service, a reasonable return on capital invested in providing the service; and
- (e) such other factors as the Office considers relevant.

(5) Where an applicant for a licence to provide utility services is refused, the responsible Minister—

- (a) shall direct the Office to notify the applicant accordingly and shall afford to the applicant an opportunity to show cause why the licence should be granted; and
- (b) may, having regard to the cause shown, grant the application subject to such terms and conditions as he thinks necessary.

5.—(1) Except in so far as may be necessary for the due performance of its functions under this Act, every officer and employee of the Office shall preserve and aid in preserving secrecy with regard to all matters relating to the affairs of any licensee or specified organization or of any customer of any such licensee or specified organization, that may come to his knowledge in the course of his duties.

Secrecy.
14/2000
S. 5.

(2) Any officer or employee who—

- (a) communicates any matter referred to in subsection (1) to any person other than the Office or an officer of the Office authorized in that behalf by the Registrar; or
- (b) allows any unauthorized person to have access to any books, papers or other records relating to any licensee or specified organization, or to any customer of any such licensee or specified organization,

shall be guilty of an offence and shall be liable on conviction thereof to a fine not exceeding five hundred thousand dollars or to imprisonment with or without hard labour for a term not exceeding three years.

6. The funds of the Office shall consist of—

- (a) sums received by the Office as licence fees and regulatory service fees in accordance with this Act;
- (b) *[Deleted by Act 14 of 2000.]*
- (c) all other sums or property which may in any manner become payable or made available to the Office in respect of any matter incidental to its functions.

Funds.
14/2000
S. 6(a).

7. *[Repealed by Act 14 of 2000.]*

8.—(1) The Office may, upon its own motion or upon complaint by any person, hold an enquiry into the opera-

Power to hold
an enquiry.

14/2000
S. 8.

tions of the provision of any prescribed utility services by a licensee or specified organization.

Third
Schedule.

(2) The provisions of the Third Schedule shall apply to every enquiry conducted by the Office pursuant to this section.

Discretion to
undertake or
continue
investigation.
14/2000
S. 9.

8A.—(1) The Office may, determine whether to undertake or continue an investigation under this Act and in particular, but without prejudice to the generality of the foregoing, may refuse to undertake or continue any investigation if it is of the opinion that—

- (a) the subject-matter of the complaint is trivial;
- (b) the complaint is frivolous or vexatious or not made in good faith;
- (c) the complainant has deferred for too long the making of his complaint to the Office;
- (d) the complainant does not have a sufficient interest in the subject-matter of the complaint; or
- (e) having regard to all the circumstances of the case, no investigation or further investigation is necessary.

(2) Where the Office decides not to undertake or continue the investigation of a complaint, it shall inform the complainant of its decision and give reasons therefor.

Power to
require
measure to
be taken
14/2000
S. (10).

9.—(1) Where it appears to the Office that a licensee or specified organization, as the case may be, is not fulfilling its obligations under its licence or enabling instrument, as the case may be, the Office may, by memorandum in writing to the licensee or specified organization, require the licensee or specified organization, within the time specified in that memorandum, to take such remedial measures as may be so specified.

14/2000
S. 10(b)(i).

(2) Any licensee or specified organization which fails to comply with the requirements of a memorandum issued by the Office under this section shall be guilty of an offence and liable on summary conviction before a Resident Magistrate to a fine not exceeding two million dollars:

14/2000
S. 10(b)(ii).

Provided that the court by which any licensee or specified organization is convicted of an offence may fix a reasonable period from the date of conviction for compliance by the licensee or specified organization with the requirements of the memorandum and where a court has fixed such a period, and the fine shall not be payable if the Court is satisfied that the requirements have been duly complied with prior to the expiration of that period.

27/2015
S. 3.

10.—(1) The Office may require a licensee or specified organization to furnish such information or submit such returns at such intervals as the Office may require in relation to the operations of that licensee or specified organization.

Power to
require
returns.
14/2000
S. 11(a)(i)(ii).

(2) A licensee or specified organization which fails to comply with subsection (1) shall be guilty of an offence and liable on summary conviction before a Resident Magistrate to a fine not exceeding two million dollars.

14/2000
S. 11(b)(i).
14/2000
S. 11(b)(ii).

11.—(1) Subject to subsection (3), the Office may, either of its own motion or upon application made by a licensee or specified organization (whether pursuant to subsection (1) of section 12 or not) or by any person, by order published in the *Gazette* prescribe the rates or fares to be charged by a licensee or specified organization in respect of its prescribed utility services.

Power to
fix rates.
14/2000
S. 12(a)(i).
14/2000
S. 12(a)(ii).

(2) For the purposes of this section, the Office may conduct such negotiations as it considers desirable with a licensee or specified organization, industrial, commercial or consumer interest, representatives of the Government and such other persons or organizations as the Office thinks fit.

14/2000
S. 12(b).

(3) The provisions of subsections (1) and (2) shall not apply in any case where an enabling instrument specifies the manner in which rates may be fixed by a licensee or specified organization.

14/2000
S. 12(b).

12.—(1) Subject to subsection (2), an application may be made to the Office by a licensee or specified organization by way of a proposed tariff specifying the rates or fares which the licensee or specified organization proposes should be charged

Application
by approved
organization
to fix rates.
14/2000.
S. 13(a)(i)(ii).

in respect of its prescribed utility services and the date (not being earlier than the expiration of thirty days after the making of the application) on which it is proposed that such rates should come into force (hereinafter referred to as the specified date).

14/2000
S. 13(b).

(2) As respects a specified organization referred to in section 13 an application made under subsection (1) of this section shall take into account the provisions of section 13.

(3) Where an application by way of a proposed tariff is made under subsection (1) notice of such application and, if so required by the Office, a copy of such tariff, shall be published in the *Gazette* and in such other manner as the Office may require.

(4) A notice under subsection (3) shall specify the time (not being less than fourteen days after the publication of the notice in the *Gazette*) within which objections may be made to the Office in respect of the proposed tariff to which the notice relates.

(5) Subject to the provisions of this Act, the Office may, after the expiration of the time specified in the notice under subsection (3), make an order either—

- (a) confirming the proposed tariff without modifications or with such modifications as may be specified in the order; or
- (b) rejecting the proposed tariff.

(6) If, after publication of notice of an application in accordance with subsection (3), no order under subsection (5) has been made prior to the specified date, the proposed tariff shall come into force on the specified date.

(7) An order confirming a proposed tariff shall not bring into operation any rates or fares on a date prior to the date of such order.

Limit on rates.
14/2000
S. 14(a).

13.—(1) Where the enabling instrument of a specified organization contains provisions in relation to the returns or profits to be received by such organization or by any person

who invests in such organization, in respect of the operations of the organization, any rates or fares prescribed under this Act by the Office shall, subject to subsection (2), be so fixed as to ensure compliance with such provisions.

(2) Where a project which relates to the prescribed utility services of a specified organization is assisted by loan funds furnished by a financial institution on terms approved by the responsible Minister any rates or fares prescribed or approved by the Office under section 11 or 12 shall be such as to ensure that, while the legal obligation to the financial institution remains outstanding, the specified organization shall receive such minimum return on its rate base as the responsible Minister may prescribe.

14/2000
S. 14(b)(i).

14/2000
S. 14(b)(ii).

(3) For the purpose of determining the rate base of a specified organization the Office may assess in accordance with the enabling instrument of that organization the value of the whole or any part of the property of that organization.

(4) In this section "rate base" in relation to a specified organization means its rate base as determined by the Office in accordance with the principles set out in the enabling instrument of that specified organization.

14/2000
S. 14(d)(i).

14/2000
S. 14(d)(ii).

14.—(1) Notwithstanding any other provisions to the contrary in this Act a licensee or specified organization may enter into a special contract providing for the imposition of rates or fares other than those prescribed or approved by the Office under section 11 or 12.

Special
contracts.
14/2000
S. 15.

(2) Every such special contract shall come into force upon being filed with the Office and shall, unless otherwise sooner terminated, remain in force unless and until it is disapproved by the Office by notice served on the parties to the contract.

15. Where provisions of the Lands Clauses Act which do not include the enactments therein with respect to the purchase and taking of lands otherwise than by agreement are incorporated with the enabling instrument of a specified organization, those

Acquisition
of land, other-
wise than by
agreement.
14/2000
S. 16.

14/2000
S. 16.

enactments shall nevertheless apply to the purchase and taking of land by the specified organization on any occasion on which the Office by notice published in the *Gazette* declares that the purchase and taking of such land are necessary for the purposes of the utility undertaking of the specified organization.

27/2015
S. 4.
14/2000
S. 16.

Regulations.
14/2000
S. 17(a)(i).

14/2000
S. 17(a)(ii).
14/2000
S. 17(a)(iii).

16.—(1) The Office with the approval of the Minister may make regulations prescribing anything which may be or is required to be prescribed under this Act or imposing on a licensee or specified organization obligations in relation to the supply of information to the Office and members of the public of the rates or fares payable in respect of its prescribed utility services.

27/2015
S. 5.

(1A) Without prejudice to the generality of subsection (1), the Office may make regulations prescribing the procedure for, and analytical tools to be used in, determining, in accordance with section 4(4A), the tariffs applicable to prescribed utility services for the generation, transmission, distribution, supply, despatch and use of electricity.

14/2000
S. 17(b).

(2) Regulations made under subsection (1) may provide for the imposition of penalties on summary conviction in a Resident Magistrate's Court not exceeding a fine of two hundred thousand dollars or imprisonment for a term not exceeding six months or both such fine and imprisonment.

Offences.
14/2000
S. 18.

17. Any licensee or specified organization which fails to comply with the requirements of any order made pursuant to section 4(5) shall be guilty of an offence and shall be liable on summary conviction in a Resident Magistrate's Court to a penalty not exceeding four hundred thousand dollars.

Transi-
tional.

18. From and after the 25th day of April, 1995, unless the context otherwise requires, any reference in an enabling instrument to—

- (a) the Public Utility Commission Act, shall be construed as a reference to this Act;
- (b) the Public Utility Commission, shall be construed as a reference to the Office constituted under this Act.

FIRST SCHEDULE

(Section 2) Act 14/2000
S. 19*Prescribed Utility Services*

1. The provision of telecommunication services.
2. The provision of sewerage services. L.N.
53/2014.
3. The generation, transmission, distribution and supply of electricity. L.N.
53/2014.
4. The supply or distribution of water. L.N.
53/2014.

SECOND SCHEDULE

(Sections 3 and 7)

1. The Office shall consist of the persons appointed in accordance with paragraph 1 of the Fourth Schedule. Constitution
of the Office.
27/2015
S. 6(a).
- 2.—(1) Subject to the provisions of this Schedule, a Director-General shall be appointed by the Governor-General on the recommendation of the Prime Minister from among persons who are qualified as having had experience of and shown capacity in, matters relating to industry, finance, economics, engineering, accountancy, commerce or law. Appointment
of Director-
General.
27/2015
S. 6(b)(i).
- (2) The appointment of a Director-General shall be for a period of not less than three years nor more than seven years and the person so appointed shall be eligible for reappointment. 27/2015
S. 6(b)(i).
- (3) The Governor-General may, at any time, revoke the appointment of the Director-General if he is satisfied, on the recommendation of the Prime Minister, that— 27/2015
S. 6(b)(ii).
- (a) the Director-General is guilty of inefficiency, incompetence, misconduct or malfeasance; or
- (b) the Director-General has—
 - (i) a physical or mental infirmity that renders the Director-General incapable of satisfactorily performing the functions of the office of Director-General;
 - (ii) failed to carry out any of the functions of the office of Director-General or is otherwise guilty of neglect of duty; or
 - (iii) engaged in, or is engaging in, any activity that can reasonably be considered to be incompatible with the functions of the office of Director-General.

SECOND SCHEDULE, *cont'd.*

Functions of
the Director-
General.
27/2015
S. 6(c).

2A. The Director-General shall—

- (a) be responsible to the Office for the general management and administration of the Office; and
- (b) carry out such functions as are assigned to the Director-General under this Act or any other enactment, and such other functions as may be delegated to the Director-General by the Office.

Appointment
of Deputy
Directors-
General.
27/2015
S. 6(d)(i).

3.—(1) Subject to the provisions of this Schedule, one or more Deputy Directors-General may be appointed by the Prime Minister on the recommendation of the Minister, who shall make the recommendation after consultation with the Office.

(2) The appointment of a Deputy Director-General shall be for a period of not less than three nor more than seven years and each person so appointed shall be eligible for reappointment.

27/2015
S. 6(d)(ii).

(3) The Prime Minister may, at any time, revoke the appointment of a Deputy Director-General if the Prime Minister is satisfied, after consultation with the Minister and the Office, that—

- (a) the Deputy Director-General is guilty of inefficiency, incompetence, misconduct or malfeasance; or
- (b) the Deputy Director-General has—
 - (i) a physical or mental infirmity that renders the Deputy Director-General incapable of satisfactorily performing the functions of the office of Deputy Director-General;
 - (ii) failed to carry out any of the functions of the office of Deputy Director-General or any responsibility assigned to him under this Act or is otherwise guilty of neglect of duty; or
 - (iii) engaged in, or is engaging in, any activity that can reasonably be considered to be incompatible with the functions of the Deputy Directors-General.

Functions of
Deputy
Director-
General.
27/2015
S. 6(e).

3A. A Deputy Director-General shall carry out such functions as are assigned to that Deputy Director-General under this Act and such other functions as may be delegated to Deputy Directors-General by the Office.

SECOND SCHEDULE, *cont'd.*

- 3B.** The Office shall assign to each Deputy Director-General responsibility for one or more of the items specified in the First Schedule.
- 4.—(1)** A person shall not be qualified for appointment as Director-General or a Deputy Director-General who—
- (a) is the holder of any office of emolument under the Crown in Jamaica;
 - (b) holds or is interested in any stock, share, bond, debenture or other security of, or is otherwise interested in, any specified organization or any other company which is in competition with, or provides similar services to those supplied by a specified organization.
- (2) The office of Director-General or Deputy Director-General, as the case may be, shall become vacant if any circumstances arise that, if he were not appointed as such, would cause him to be disqualified for appointment by virtue of sub-paragraph (1).
- 5.** Any person qualified for appointment as Director-General or Deputy Director-General may be appointed to act temporarily in the place of the Director-General or Deputy Director-General in the case of the absence or inability to act of the incumbent.
- 6.—(1)** The Director-General may at any time resign his office by instrument in writing addressed to the Governor-General and such resignation shall take effect as from the date of the receipt of such instrument by the Governor-General.
- (2) Any Deputy Director-General may at any time resign his office by instrument in writing addressed to the Prime Minister and transmitted through the Director-General; and the resignation shall have effect from the date of receipt of such instrument by the Prime Minister.
- 7.** The names of any persons appointed as Director-General or Deputy Director-General of the Office shall be published in the *Gazette*.
- 8.—(1)** The seal of the Office shall be authenticated by the signature of the Director-General and shall be judicially noticed.
- (2) All documents, other than those required by law to be under seal, made by, and all decisions of, the Office may be signified under the hand of the Director-General or any Deputy Director-General authorized to act in that behalf by the Director-General.

Special
assignment
27/2015
S. 6(e).
First
Schedule.

Disqualifica-
tion for
appointment
as Director-
General or
Deputy
Director-
General.
27/2015
S. 6(j)(i),(ii).

Temporary
appoint-
ment.

Resigna-
tions.

Publication of
appointments.

Seal.

27/2015
S. 6(g).

SECOND SCHEDULE, *cont'd.*

(3) The Office may sue and be sued in its corporate name and may for all purposes be described by that name.

Procedure
and
meetings.

9.—(1) The Office shall meet at such times as may be necessary or expedient for the transaction of business and such meetings shall be held at such places and times and on such days as the Office shall determine.

27/2015
S. 6(h)(i).

(2) The Chairperson of the Office may at any time call a special meeting of the Office and shall call a special meeting to be held within seven days of a written request for that purpose addressed to him by any member of the Office.

27/2015
S. 6(h)(ii).

(3) The chairperson of the Office or, in the absence or inability to act of the chairperson, the deputy chairperson, shall preside at the meetings of the Office.

27/2015
S. 6(h)(ii).

(3A) The quorum for meetings of the Office shall be four, and decisions shall be made by a majority of votes, with the person presiding at the meeting (as specified in sub-paragraph (3)) having both an original and a casting vote in any case where the votes are equal.

(4) Subject to the provisions of this Act the Office may regulate its own proceedings.

(5) The validity of any proceedings of the Office shall not be affected by any vacancy amongst the members thereof or by any defect in the appointment of a member thereof.

Remuneration
of members.

10. The Office shall pay to the Director-General and the Deputy Directors-General such remuneration (whether by way of salaries or travelling or other allowances) as the Minister may determine with the prior approval of the Cabinet.

Power to
appoint
officers,
agents.

11.—(1) The Office shall appoint and employ at such remuneration and on such terms and conditions as it thinks fit a secretary and such other officers and servants as it thinks necessary for the proper carrying out of the provisions of this Act:

Provided that unless the Minister gives prior approval—

- (a) no salary in excess of the prescribed rate per annum shall be assigned to any post;
- (b) no appointment shall be made to any post to which a salary in excess of the prescribed rate is assigned;
- (c) no provision shall be made for the payment of any pension, gratuity or other like benefit to, or in respect of the service of, any officer or servant

SECOND SCHEDULE, *cont'd.*

(2) In sub-paragraph (1), the prescribed rate means a rate of one hundred thousand dollars or such higher rate as the Minister may, by order, prescribe.

12.—(1) The Office shall—

Accounts
and audit.

- (a) prepare an annual budget;
- (b) keep proper accounts and other records in relation to the business of the office; and
- (c) prepare annually a statement of accounts in a form satisfactory to the Minister, being a form which shall conform with the best commercial standards.

(2) The annual budget shall be subject to the approval of the Minister who may, if he thinks fit, appoint an independent auditor to examine its provisions and furnish to the Minister an assessment of the extent to which it represents a fair and reasonable projection of the income and expenditure requirements of the Office.

(3) The accounts of the Office shall be audited by an auditor or auditors appointed annually by the Office and approved by the Minister.

(4) Within four months after the end of each financial year or within such further time as may in special circumstances be allowed by the Minister, the Office shall send the statement of its accounts referred to in sub-paragraph (1) to the Minister, together with a copy of any report made by the auditor on that statement or on the accounts of the Office.

(5) The auditor's fees and any expenses of the audit shall be paid by the Office.

(6) The Auditor-General shall be entitled, on the direction of the Minister, at all reasonable times to examine the accounts and other records in relation to the business of the Office.

13.—(1) The Office shall, within three months after the end of each financial year or within such further time as may in special circumstances be allowed by the Minister, cause to be made and transmitted to the Minister a report dealing generally with the activities of the Office during that financial year.

Annual
report.

(2) The Minister shall cause a copy of the report together with the annual statement of accounts and the auditor's report thereon and on the accounts to be laid on the Table of the House of Representatives and of the Senate.

OFFICE OF UTILITIES REGULATION

SECOND SCHEDULE, *cont'd.*

(3) Copies of the Office's report together with the annual statement of accounts and the auditor's report on that statement and on the accounts of the Office shall be published in such manner as the Minister may direct and shall be made available to the public by the Office at a reasonable price.

Protection
of members.

14.—(1) No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Office in respect of any act done *bona fide* in pursuance or execution or intended execution of this Act.

(2) Where any member of the Office is exempt from liability by reason only of the provisions of this paragraph, the Office shall be liable to the extent that it would be if the said member was a servant or agent of the Office.

THIRD SCHEDULE

(Section 8)

Power of
Office to issue
summons and
obtain
information.

1.—(1) Subject to the provisions of this Act, the Office shall have power, for the purpose of the performance of its functions under this Act—

- (a) by summons signed by the Director-General or by the secretary of the Office to summon and enforce the attendance of witnesses and parties concerned, and to compel the production of books, plans and documents by the same means and, so far as may be, in the same manner as provided in the Witnesses' Expenses Act in the case of any legal proceedings before a Court;
- (b) to examine witnesses and parties concerned on oath, which oath the Director-General or secretary of the Office is hereby empowered to administer.

(2) Any person—

- (a) without sufficient cause fails or refuses to attend before the Office in obedience to a summons under this paragraph or fails or refuses to produce any paper, book, record or document which he was required by such summons to produce; or
- (b) being a witness, leaves the Office without the permission of the Office; or
- (c) being a witness, refuses without sufficient cause to answer any question put to him by or with the permission of the Office; or
- (d) wilfully obstructs or interrupts the proceedings of the Office,

THIRD SCHEDULE, *cont'd.*

shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding ten thousand dollars or in default of payment thereof to imprisonment with or without hard labour for a period not exceeding six months.

2. An interested party may be represented before the Office by an attorney-at-law and may call such witnesses as he may think necessary.

Representa-
tion.

3. Where the Office proposes to hold an enquiry, it shall cause to be published in the *Gazette* and at intervals of not less than three days in two issues of a daily newspaper printed and circulating in Jamaica, notice of such intention stating the purpose for which the enquiry is to be held and that representations with respect to the subject-matter of the enquiry may be lodged with the Office within fifteen clear days after the last of the publications required by this paragraph and otherwise in the manner specified in the notice.

Notice of
enquiry.

4. As soon as may be but not more than ninety days after the conclusion of an enquiry the Office shall cause to be served on any licensee or specified organization affected and on any person who was a party to the proceedings at the enquiry a copy of the findings of the Office and of any order made by the Office on such enquiry as well as, in the case of an order prescribing or approving rates, a detailed statement of the reasons considered by the Office to justify its decision.

Notification
of findings.
14/2000
S, 20.

FOURTH SCHEDULE

(Second Schedule, 27/2015
paragraph 1(1)) S. 7.

The Office

1.—(1) The Office shall consist of six appointed members and one *ex officio* member.

Membership.

(2) Subject to paragraphs (4) and (5), the appointed members shall be appointed as follows—

- (a) four members appointed by the Governor-General, on the recommendation of the Prime Minister, made after consultation with the Leader of the Opposition;

OFFICE OF UTILITIES REGULATION

FOURTH SCHEDULE, *cont'd.*

- (b) one member appointed by the Governor-General, on the recommendation of the Private Sector Organization of Jamaica (or such other body representing the private sector as the Governor-General is satisfied, on the recommendation of the Prime Minister, made after consultation with the Leader of the Opposition, has succeeded to the functions of the Private Sector Organization of Jamaica); and
- (c) one member appointed by the Governor-General, on the recommendation of a body appearing to the Governor-General to represent the interests of consumers.

(3) The Director-General shall be the *ex officio* member of the Office.

(4) The persons recommended for appointment under sub-paragraph (2) shall be recommended from among persons who are qualified as having had experience of, and shown capacity in, matters relating to industry, finance, economics, engineering, accountancy, commerce or law.

(5) A person shall not be qualified for appointment as a member of the Office if it appears to the Governor-General that the person, if appointed, would have a conflict of interest.

(6) The Governor-General shall, on the recommendation of the Prime Minister after consultation with the Leader of the Opposition, appoint one of the appointed members of the Office to be the chairperson of the Office and another of the appointed members of the Office to be the deputy chairperson.

(7) In the case of the absence or inability to act of the chairperson of the Office, the deputy chairperson of the Office shall perform the functions of the chairperson during the period of such absence or inability to act.

Tenure.

2.—(1) Subject to sub-paragraph (2) and paragraph 3, the appointment of an appointed member of the Office shall be for a period of five years, and the appointed member shall be eligible for reappointment.

(2) The Governor-General may, at any time, revoke the appointment of any appointed member of the Office if the Governor-General is satisfied, on the recommendation of the appropriate person specified in sub-paragraph (3), that—

- (a) the member is guilty of inefficiency, incompetence, misconduct or malfeasance; or
- (b) the member has—

FOURTH SCHEDULE, *cont'd.*

- (i) a physical or mental infirmity that renders him incapable of satisfactorily performing the functions of the member;
- (ii) failed to carry out any of the functions required of a member of the Office or is otherwise guilty of neglect of duty;
- (iii) engaged in, or is engaging in, any activity that can reasonably be considered to be incompatible with the member's functions as a member of the Office; or
- (iv) by virtue of paragraph 1(5), ceased to be qualified to be a member of the Office.

(3) For the purposes of sub-paragraph (2), the appropriate person is—

- (a) in the case of a member appointed under paragraph 1(2)(a), the Prime Minister after consultation with the Leader of the Opposition;
- (b) in the case of a member appointed under paragraph 1(2)(b) or (c), the person that recommended the member's appointment.

3.—(1) An appointed member of the Office may, at any time, resign as a member by instrument in writing addressed to the Governor-General and copied to— Resignation.

- (a) in the case of a member appointed under paragraph 1(2)(a), the Prime Minister; and
- (b) in the case of a member appointed under paragraph 1(2)(b) or (c), the entity that recommended the person's appointment.

(2) The resignation under sub-paragraph (1) shall have effect from the date of receipt of such instrument by the Governor-General.

4. Any person qualified for appointment as an appointed member of the Office may, subject to complying with paragraph 1(2), be appointed by the Governor-General to act temporarily in the place of an appointed member of the Office, in the case of the absence or inability to act of such appointed member. Temporary appointments.

5. The names of the appointed members of the Office, including any person appointed to act temporarily in the place of an appointed member appointed under paragraph 4, shall be published in the *Gazette*. Publication of appointments.

6. The Office shall pay to the appointed members of the Office such remuneration (whether by way of honoraria or fees), and such allowances, as the Minister with responsibility for the public service may determine. Remuneration.