

# SABAH RENEWABLE ENERGY ENACTMENT 2024

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## STATE OF SABAH

I assent,

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TUN DATUK SERI PANGLIMA (DR) HAJI JUHAR  
BIN DATUK HAJI MAHIRUDDIN,  
*Yang di-Pertua Negeri.*

3RD JANUARY, 2024.

### **No. 18 of 2023**

An Enactment to provide for the establishment and implementation of a special tariff system to catalyse the generation of renewable energy and to provide for related matters.

ENACTED by the Legislature of the State of Sabah as follows:

#### PART I PRELIMINARY

#### **Short title and commencement**

**1.** (1) This Enactment may be cited as the Sabah Renewable Energy Enactment 2024.

(2) This Enactment comes into operation on 3 January 2024.

**Interpretation**

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

“appointed auditor” means any auditor appointed by the Commission under section 30;

“authorized officer” means any public officer or officer of the Commission authorized in writing by the Minister under section 39;

“Commission” means the Energy Commission of Sabah established under the Energy Commission of Sabah Enactment 2023 [*No. 11 of 2022*];

“degression rate” means the rate of the annual progressive reduction of the feed-in tariff as specified in the fifth column of the Schedule;

“displaced cost” means the average cost of generating and supplying one kilowatt-hour of electricity from resources other than the renewable resources through the supply line up to the point of interconnection with the renewable energy installation;

“distribute” means to operate, maintain and distribute electricity through the electricity distribution network;

“distribution licensee” means the holder of a licence to distribute issued by the Commission under section 8 of the Electricity Supply Enactment 2024;

“effective period”, in relation to a feed-in approval holder, means the period commencing from the feed-in tariff commencement date as specified in the fourth column of the Schedule;

“electricity” has the meaning assigned to it in section 2 of the Electricity Supply Enactment 2024;

“electricity distribution network” means a system or part of a system at nominal voltage of thirty-three kilovolts or below of electric lines or cables, of substations and of associated equipment and buildings for transporting electricity to any person regardless of whether a generating plant is connected to such system;

“eligible producer” means a person who is eligible to apply to participate

in the feed-in tariff system under section 6;

“feed-in approval” means an approval granted under section 9;

“feed-in approval holder” means a person who holds a feed-in approval;

“feed-in tariff system” means the system established under section 5;

“feed-in tariff” means the special tariff payable to feed-in approval holders in consideration for renewable energy generated and sold to a distribution licensee as specified in the third column of the Schedule;

“feed-in tariff commencement date”, in relation to a feed-in approval holder, means the date on which the renewable energy installation first generates renewable energy for commercial sale pursuant to the renewable energy power purchase agreement which has become effective in accordance with section 14;

“Fund” means the Renewable Energy Fund established under section 25;

“Government” means the Government of the State of Sabah;

“grid parity”, in relation to a particular renewable energy installation, means the time at which the feed-in tariff rate applicable to that renewable energy installation is equal to or cheaper than the displaced cost;

“Minister” means the Minister charged with the responsibility for matters relating to the supply of electricity;

“Minister of Finance” means the Minister charged with the responsibility for finance;

“public safety” has the meaning assigned to it in section 2 of the Electricity Supply Enactment 2024;

“private safety” has the meaning assigned to it in section 2 of the Electricity Supply Enactment 2024;

“renewable energy” means electricity generated or produced from renewable resources;

“renewable energy installation” means an installation which generates

renewable energy and includes any technical facility of that installation which converts mechanical, chemical, thermal or electromagnetic energy directly into electricity;

“renewable energy power purchase agreement” means the renewable energy power purchase agreement between a distribution licensee and a feed-in approval holder under section 14;

“renewable resources” means the recurring and non-depleting indigenous resources or technology as set out in the first column of the Schedule;

“supply line” has the meaning assigned to it in section 2 of the Electricity Supply Enactment 2024; and

“sustainable energy” means energy which, in its generation, provision and use, is such that it meets the needs of the present without compromising the ability of future generations to meet their needs, and includes renewable energy.

## PART II

### FUNCTIONS AND POWERS OF THE COMMISSION

#### **Functions of the Commission**

3. The Commission shall have the following functions:
  - (a) to advise the Minister and relevant Government Entities on all matters relating to sustainable energy, including recommendations on policies, laws and actions to be applied to promote sustainable energy;
  - (b) to promote and implement the state policy objectives for renewable energy;
  - (c) to promote, stimulate, facilitate and develop sustainable energy;
  - (d) to implement, manage, monitor and review the feed-in tariff system,



including to carry out investigations, collect, record and maintain data, information and statistics concerning the feed-in tariff system and to provide such data, information and statistics to the Minister as he may from time to time require;

- (e) to promote private sector investment in the sustainable energy sector, including to recommend to the relevant Government Entities incentives in relation to taxes, customs and excise duties and other fiscal incentives applicable to such investment;
- (f) to carry out or arrange for the conduct of researches, assessments, studies and advisory services, collate, analyse and publish information, statistics and factors influencing or relevant to the development of sustainable energy, and to disseminate such relevant information, statistics and factors to Government Entities, the public and investors or potential investors investing in sustainable energy;
- (g) to conduct, promote and support, in such manner as the Commission deems fit, research and innovation activities relating to sustainable energy;
- (h) to conduct, promote and support, in such manner as the Commission deems fit, training or other programmes relating to the development of human resources and capacity building in the sustainable energy sector;
- (i) to implement measures to promote public participation and to improve public awareness on matters relating to sustainable energy;
- (j) to act as a focal point to assist the Minister on —
  - (i) matters relating to sustainable energy; and
  - (ii) climate change matters relating to energy; and
- (k) to carry out any other function that are supplemental, incidental, or consequential to any of the functions specified in this section.

**Powers of the Commission**

4. The Commission shall have the following powers:

- (a) to carry on all activities which appears to the Commission to be requisite, advantageous or convenient for or in connection with the performance of its functions;
- (b) to co-operate or act in association with any Government Entity, any company or corporation, or any body or person, whether local or foreign;
- (c) to directly or indirectly approach, liaise with, and disseminate relevant information to, any investor or potential investor or any financier or potential financier, whether local or foreign, in order to promote investment and the development of financing initiatives in the sustainable energy sector in Sabah;
- (d) to appoint such agents, experts or consultants as it may deem fit for the purpose of performing its functions;
- (e) to impose fees, costs or any other charges as it deems fit for services rendered by it;
- (f) to formulate and implement human resource development and funding and co-operation programmes for the proper and effective performance of its functions; and
- (g) to do anything incidental to any of its functions and powers.

**PART III****FEED-IN TARIFF SYSTEM****Establishment of feed-in tariff system**

5. (1) There is hereby established a feed-in tariff system to provide for —

- (a) the connection to supply line connection points for the distribution

of renewable energy generated by renewable energy installations which are owned by feed-in approval holders;

- (b) the priority of purchase and distribution by distribution licensees for renewable energy generated and sold by feed-in approval holders; and
- (c) the feed-in tariff to be paid by distribution licensees to feed-in approval holders for such renewable energy.

(2) The feed-in tariff system shall be administered and implemented by the Commission in accordance with the provisions of this Enactment.

(3) In carrying out its functions and obligations under this Enactment, the Commission shall give due consideration to —

- (a) the objective of this Enactment;
- (b) the renewable energy policies of the Government;
- (c) the amount of moneys available in the Fund from time to time;
- (d) the need for sustainability and diversity in renewable resources; and
- (e) the need for fair competition and transparency in the implementation of the feed-in tariff system.

### **Eligibility for participation in feed-in-tariff system**

6. A person shall be eligible to apply for a feed-in approval allowing the person to participate in the feed-in tariff system if —

- (a) the person proposes to generate renewable energy from a renewable energy installation having an installed capacity of not more than thirty megawatts or such higher installed capacity as may be approved by the Minister; and
- (b) the person meets such other criteria as may be prescribed by the Commission from time to time.

**Application for feed-in approval**

7. (1) An eligible producer may apply to the Commission for a feed-in approval under section 9 by submitting a written application to the Commission in such manner and accompanied by such fees as may be prescribed by the Commission.

(2) An application under this section may be withdrawn at any time before it is granted or refused.

(3) The Commission may allow an application under subsection (1) to be furnished by an electronic medium or by way of an electronic transmission.

(4) For the purposes of subsection (3), the conditions and specifications under which an application is to be submitted shall be as determined by the Commission.

**Additional information or documents**

8. (1) The Commission may, at any time after the receipt of an application for a feed-in approval under section 7, request the eligible producer to give to the Commission, within the period specified in the request, additional information or documents relating to the application.

(2) If any additional information or document required under subsection (1) is not provided by the eligible producer within the period specified in the request or any extended time granted by the Commission, the application shall be deemed to have been withdrawn and shall not be further proceeded with, but without affecting the right of the eligible producer to make a fresh application.

**Grant or refusal of feed-in approval**

9. (1) The Commission may, after considering an application for a feed-in approval under section 7 and the additional information or documents provided under section 8, approve or refuse the application.

(2) The Commission shall communicate its decision under subsection (1) to the eligible producer and the relevant distribution licensee by written notice as soon as practicable.

(3) The written notice by the Commission under subsection (2) shall specify—

- (a) in the case where the application is approved, the fact of such approval and the conditions imposed under section 10; and
- (b) in the case where the application is refused, the fact of such refusal and the reason for the refusal.

(4) The grant of a feed-in approval under this section shall be personal to the feed-in approval holder and the feed-in approval shall not be assigned or transferred to any other person except with the prior written approval of the Commission.

### **Conditions of feed-in approval**

**10.** (1) If the Commission decides to grant a feed-in approval under section 9, the Commission —

- (a) shall impose all the standard conditions of a feed-in approval as may be prescribed; and
- (b) may impose such special conditions as it thinks fit.

(2) A feed-in approval holder shall comply with —

- (a) the prescribed standard conditions of the feed-in approval; and
- (b) any special conditions of the feed-in approval,

imposed by the Commission under subsection (1).

(3) A feed-in approval holder who fails to comply with any condition of a feed-in approval under subsection (2) commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both.

**Power to impose additional conditions and to vary or revoke conditions**

**11.** (1) The Commission may, at any time —

- (a) impose any additional conditions on a feed-in approval; or
- (b) vary or revoke any conditions imposed on a feed-in approval.

(2) Before the Commission makes a decision under subsection (1), the Commission shall give the feed-in approval holder —

- (a) a written notice of the Commission's intention together with a draft copy of the imposition, variation or revocation of conditions; and
- (b) an opportunity to make written submissions within a period specified in the written notice which shall not be less than thirty days.

(3) After the expiry of the period specified in the notice, the Commission shall, after considering any written submission made by the feed-in approval holder, decide whether to impose the additional conditions, to vary or revoke any existing conditions or to take no further action.

(4) The Commission shall give the feed-in approval holder a written notice of the Commission's decision under subsection (3) as soon as practicable and the decision shall take effect on a date to be specified in the written notice.

**Revocation of feed-in approval**

**12.** (1) The Commission may revoke a feed-in approval if —

- (a) the feed-in approval holder has failed to comply with any provisions of this Enactment, the Electricity Supply Enactment 2024 or any subsidiary legislation made under this Enactment or the Electricity Supply Enactment 2024;
- (b) the feed-in approval holder has failed to comply with any of the conditions of the feed-in approval;

- (c) the feed-in approval holder had improperly or illegally obtained the feed-in approval;
- (d) the feed-in approval holder has been convicted of an offence under this Enactment, the Electricity Supply Enactment 2024 or any subsidiary legislation made under this Enactment or the Electricity Supply Enactment 2024;
- (e) a receiver, receiver and manager, provisional liquidator or like official has been appointed over the whole or substantial part of the feed-in approval holder's assets and such appointment is not revoked or annulled within a period of sixty days from the date of such appointment; or
- (f) there has been a change of circumstances such that the feed-in approval holder would no longer be entitled to be granted a feed-in approval under this Enactment.

(2) Before the Commission makes a decision under subsection (1), the Commission shall give the feed-in approval holder —

- (a) a written notice of the Commission's intention to revoke the feed-in approval; and
- (b) an opportunity to make written submissions within a period specified in the written notice which shall not be less than thirty days.

(3) After the expiry of the period specified in the written notice, the Commission shall, after considering any written submission made by the feed-in approval holder, decide whether or not to revoke the feed-in approval.

(4) The Commission shall give the feed-in approval holder written notice of the Commission's decision under subsection (3) as soon as practicable.

(5) The feed-in approval holder shall not be entitled to any form of compensation from the Government, the Minister or the Commission if the feed-in approval is revoked in accordance with subsection (3).

(6) The revocation of a feed-in approval under subsection (3) shall take

effect —

- (a) on a date specified by the Commission in the written notice given under subsection (4); or
- (b) if no date is specified in the written notice given under subsection (4), on the expiry of thirty days from the date on which the notice is served on the feed-in approval holder.

(7) If the revocation of a feed-in approval has taken effect, the feed-in approval holder shall immediately cease to be entitled to participate in the feed-in tariff system and to receive feed-in tariff payments.

### **Appeal**

**13.** (1) Any person who is aggrieved by the decision of the Commission in refusing an application for a feed-in approval under section 9, in imposing any additional conditions or in varying or revoking any conditions imposed on a feed-in approval under section 11 or in revoking a feed-in approval under section 12 may, within thirty days of the decision being notified to him, appeal to the Minister in the prescribed manner.

(2) The Minister may, after considering the appeal under subsection (1), confirm, reverse or vary the decision of the Commission.

(3) The decision of the Minister under subsection (2) shall be final and binding.

## PART IV

### CONNECTION, PURCHASE AND DISTRIBUTION OF RENEWABLE ENERGY

#### **Renewable energy power purchase agreement**

**14.** (1) Upon receipt of the written notice under subsection 9(2) that an application from a feed-in approval holder has been approved, the distribution



licensee shall, within such period as may be prescribed by the Commission, enter into a renewable energy power purchase agreement with the feed-in approval holder.

(2) Notwithstanding subsection (1), the distribution licensee shall not be obliged to enter into the renewable energy power purchase agreement with the feed-in approval holder if —

- (a) the feed-in approval holder refuses to enter into the agreement; or
- (b) the Commission is of the opinion that —
  - (i) there has been a change of circumstances such that the feed-in approval holder would no longer be entitled to be granted a feed-in approval under this Enactment; or
  - (ii) it is just and reasonable for the distribution licensee not to enter into the agreement.

(3) The renewable energy power purchase agreement shall be in the form as may be prescribed by the Commission and any deviation from such form shall require the prior written approval of the Commission.

(4) The Commission may prescribe different forms of renewable energy power purchase agreements having regard to the renewable resource to be used and the capacity of the proposed renewable energy installation.

(5) The feed-in approval holder shall, within such period as may be prescribed by the Commission, submit a certified copy of the executed renewable energy power purchase agreement to the Commission for registration.

(6) The Commission shall register any renewable energy power purchase agreement submitted to it under subsection (5) if the Commission is satisfied that such renewable energy power purchase agreement is consistent with the provisions of this Enactment and its subsidiary legislation.

(7) The renewable energy power purchase agreement shall only be effective and enforceable upon its registration with the Commission in accordance

with this section.

(8) The Commission shall maintain a register of all renewable energy power purchase agreements registered under this section.

(9) A distribution licensee who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding one million ringgit.

### **Connection to supply line**

**15.** (1) Where the renewable energy power purchase agreement has been concluded under section 14, a feed-in approval holder may apply to a distribution licensee for connection of his or its renewable energy installation to a supply line connection point in such manner as may be prescribed by the Commission.

(2) Upon receiving the application under subsection (1), the distribution licensee shall connect the renewable energy installation to a supply line connection point within such period as may be prescribed by the Commission.

(3) The location of the applicable supply line connection point shall be determined by the distribution licensee, without prejudice to section 17.

(4) A distribution licensee who contravenes subsection (2) commits an offence and shall, on conviction, be liable to a fine not exceeding one million ringgit.

### **Priority of purchase and distribution**

**16.** (1) Where a renewable energy installation has been connected to a supply line connection point under subsection 15(2), a distribution licensee shall, as priority over the electricity generated from resources other than renewable resources, purchase and distribute through the supply line the entire available quantity of renewable energy generated by a renewable energy installation owned by a feed-in approval holder unless exempted under subsection (2).

(2) The Commission may exempt a distribution licensee from compliance with subsection (1) for such periods and under such circumstances as the Commission thinks fit having regard to public safety and private safety.

(3) A distribution licensee who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding one million ringgit.

### **Technical and operational requirements**

**17.** The Commission may make rules governing technical and operational requirements to be complied with by distribution licensees and feed-in approval holders in the implementation of this Part, including —

- (a) the respective duties and responsibilities of distribution licensees and feed-in approval holders in respect of such requirements;
- (b) the time periods within which such requirements are to be complied with;
- (c) the apportionment of costs incurred in relation to such requirements; and
- (d) the procedures and manner in which plans, specifications and other documents are to be submitted.

## **PART V**

### **FEED-IN TARIFF**

#### **Payment and duration of feed-in tariff**

**18.** (1) Subject to paragraph 23(3)(a), a feed-in approval holder shall, during the effective period, be paid the feed-in tariff by the distribution licensee with whom the feed-in approval holder has entered into a renewable energy power purchase agreement for renewable energy generated by his or its renewable energy installation based on the applicable feed-in tariff rate as adjusted under section 20.

(2) The Minister may make regulations setting out the criteria to be met by a renewable energy installation for the purposes of ascertaining the eligibility of a feed-in approval holder to receive a particular feed-in tariff rate.

### **Degression of feed-in tariff**

**19.** (1) Subject to subsection (3), the feed-in tariff rate shall be reduced progressively each year based on the applicable degression rate commencing on 1 January every year after the date of coming into operation of this Enactment.

(2) The annual degression rates shall be subject to review in accordance with section 20.

(3) No further reduction shall be made to a feed-in tariff rate applicable to a feed-in approval holder after the feed-in tariff commencement date in respect of that feed-in approval holder.

### **Review and adjustment of degression rates**

**20.** (1) The Commission shall review the degression rates in respect of any category of renewable energy installation at least once every three years after the date this Enactment comes into operation for the purposes of improving the overall performance of the feed-in tariff system to better achieve the objective of this Enactment.

(2) In carrying out the review under subsection (1), the Commission shall have regard to —

- (a) the matters set out in subsection 5(3);
- (b) the ability of the feed-in approval holders to recover their initial investment on their renewable energy installations and receive satisfactory returns within a reasonable time;
- (c) the prevailing costs of equipping, constructing, operating and maintaining renewable energy installations utilizing each

particular renewable resource;

- (d) the efficiency of renewable energy installations utilizing each particular renewable resource based on prevailing technology; and
- (e) any other factor deemed relevant by the Commission.

(3) Upon completion of the review under subsection (1), the Commission shall submit a report of the review to the Minister with or without recommendations for adjustments to the degression rates.

(4) The Minister may, after considering the recommendations for adjustment to the degression rates made by the Commission under subsection (3), approve or refuse such recommendations.

(5) If the Minister approves the recommendation made by the Commission under subsection (4), he shall as soon as practicable, revise the degression rates.

(6) The revised degression rates shall not apply to feed-in approval holders existing before the revised degression rates come into effect.

### **Recovery of moneys from Renewable Energy Fund**

**21.** A distribution licensee shall be entitled to recover from the Fund, a sum equivalent to the difference between —

- (a) the amount of feed-in tariffs paid by the distribution licensee to feed-in approval holders in accordance with section 18; and
- (b) the cost which the distribution licensee would have otherwise had to incur to generate the same amount of electricity generated by such feed-in approval holders based on prevailing displaced cost,

in accordance with such procedures and methods of calculation as may be prescribed by the Commission.

**Administrative fees**

22. Administrative fees, to be charged on the Fund, may be paid —

- (a) to a distribution licensee, for administering the payment of the feed-in tariffs to feed-in approval holders under section 18; and
- (b) to the Commission, for implementing and administering the feed-in tariff system under this Enactment,

based on the rates as may be determined by the Minister by order published in the *Gazette*.

**Grid parity**

23. (1) The Commission shall determine whether a particular renewable energy installation has achieved grid parity.

(2) Upon the determination by the Commission that a particular renewable energy installation has achieved grid parity, the Commission shall notify the relevant feed-in approval holder and distribution licensee of such achievement.

(3) Notwithstanding anything under this Enactment, upon notification of the determination of grid parity under subsection (2) —

- (a) a feed-in approval holder who owns such renewable energy installation shall not be entitled to be paid the feed-in tariff and shall instead be paid by the distribution licensee a tariff that is based on the prevailing displaced cost for the remaining duration of the effective period; and
- (b) a distribution licensee shall not be entitled to recover from the Fund the sum referred to in section 21 and be paid administrative fees under paragraph 22(a) in respect of any renewable energy installation.

**Dishonest use of resources to generate electricity**

24. (1) Any person who in any manner dishonestly generates electricity from a renewable energy installation by using resources other than the renewable resource specified in the feed-in approval applicable to that renewable energy installation in order to receive the payment or higher payment of feed-in tariffs from the distribution licensee commits an offence and shall, on conviction, be liable to a fine not exceeding one million ringgit or to imprisonment for a term not exceeding five years or to both.

(2) A written statement by an officer of the Commission or any person authorized by the Commission specifying —

- (a) the amount of loss to the Fund resulting from the payment or higher payment of feed-in tariff under subsection (1); and
- (b) the person liable for such amount of loss,

shall be *prima facie* evidence of the amount of loss to the Fund and the person liable for such amount of loss.

(3) The Commission shall require the person referred to in subsection (1) to pay to the Commission the amount of loss to the Fund resulting from the payment or higher payment of feed-in tariffs to that person under subsection (1).

(4) The amount stated in the written statement under subsection (2) which is not paid shall be treated as a civil debt due to the Commission by such person and shall be recoverable by civil action in court.

PART VI

THE RENEWABLE ENERGY FUND

**The Renewable Energy Fund**

25. (1) A fund to be known as the “Renewable Energy Fund” is established and shall be administered and controlled by the Commission.

- (2) The Fund shall consist of —
- (a) such sums as may be provided by the Government or Federal Government for the purposes of the Fund from time to time;
  - (b) such sums paid to the Commission under subsections 24(4), 26(1) and 26(5);
  - (c) all moneys derived as income from investments made from the Fund, including interest; and
  - (d) all other moneys lawfully received by the Commission on behalf of the Fund.

### **Allocation from electricity tariffs**

**26.** (1) Subject to subsection (6), a distribution licensee shall, if required by the Minister by order published in the *Gazette*, allocate and pay into the Fund, in such manner and at such rates as may be set out in the order, a portion of the tariffs levied by the distribution licensee under subsection 39(1) of the Electricity Supply Enactment 2024.

(2) A distribution licensee who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding one million ringgit.

(3) A written statement by an officer of the Commission or any person authorized by the Commission specifying —

- (a) the unpaid portion of the tariffs under subsection (1) due to the Fund; and
- (b) the distribution licensee liable for the unpaid portion of the tariffs,

shall be *prima facie* evidence of the unpaid portion of the tariffs due to the Fund and the distribution licensee liable for the unpaid portion of the tariffs.

(4) The Commission shall require the distribution licensee to pay the unpaid portion of the tariffs due to the Fund under subsection (1) to the Commission.



(5) The amount stated in the written statement under subsection (3) which is not paid shall be treated as a civil debt due to the Commission by such person and shall be recoverable by civil action in court.

(6) Upon the recommendation of the Commission, the Minister may by order published in the *Gazette* revoke the requirement made under subsection (1) if he is satisfied that there are sufficient moneys in the Fund to meet the purposes of this Enactment.

### **Expenditure to be charged on Renewable Energy Fund**

27. The Fund shall be expended for the purposes of —

- (a) sections 21 and 22; and
- (b) generally paying any expenses for carrying into effect the provisions of this Enactment.

### **Investment**

28. (1) The moneys from the Fund shall, in so far as they are not required or not immediately required to be expended by the Commission under this Enactment, be invested in such manner as the Minister may approve with the concurrence of the Minister of Finance.

(2) The Commission shall open and maintain an account or accounts to hold moneys in the Fund with such bank or banks in Malaysia as it thinks fit, after consulting the Minister and the Minister of Finance, and every such account shall be operated in such manner as may be authorized by the Commission.

### **Accounts**

29. (1) The Commission shall cause proper accounts of the Fund and proper reports of its activities in respect of the Fund to be kept and shall, as soon as practicable after the end of the financial year, cause to be prepared for that financial year —

- (a) a statement of accounts which shall include a balance sheet and an account of the contributions and expenditure; and
- (b) a statement of its activities in respect of the Fund.

(2) The Commission shall, as soon as possible, send a copy of the statement of accounts certified by the auditors and a copy of the auditors' report to the Minister who shall cause them to be laid before the Legislature Assembly.

## PART VII

### INFORMATION GATHERING POWERS

#### **Performance audit**

**30.** (1) The Commission may, at any time, carry out or appoint an auditor to carry out an audit on the operations of —

- (a) any distribution licensee to evaluate its compliance with this Enactment and its subsidiary legislation; and
- (b) any feed-in approval holder to evaluate his or its compliance with this Enactment, its subsidiary legislation and the conditions of the feed-in approval.

(2) The Commission shall give not less than twenty four hours' prior written notice of an audit under subsection (1) to the relevant distribution licensee or feed-in approval holder.

#### **Provision of information**

**31.** (1) Notwithstanding any other written law, if the Commission has reasonable grounds to believe that any person —

- (a) has any information or any document that is relevant to the performance of the Commission's functions and powers under this Enactment or its subsidiary legislation; or

- (b) is capable of giving any evidence which the Commission has reasonable grounds to believe is relevant to the performance of the Commission's functions and powers under this Enactment or its subsidiary legislation,

the Commission may, by written notice, direct that person —

- (A) to give any such information to an authorized officer in the manner and form and within the period as specified in the notice or such extended period as the Commission may grant;
- (B) to produce any such documents, whether in physical form or in electronic media, to an authorized officer in the manner and within the period as specified in the notice or such extended period as the Commission may grant;
- (C) to make copies of any such documents and to produce those copies to an authorized officer in the manner and within the period as specified in the notice or such extended period as the Commission may grant;
- (D) if the person is an individual, to appear, at a private hearing, before an authorized officer at a time and place specified in the notice to give any evidence, either orally or in writing, and produce any documents, whether in physical form or in electronic media, in the manner and within the period as specified in the notice or such extended period as the Commission may grant;
- (E) if the person is a body corporate or a public body, to cause a competent officer of the body corporate or the public body to appear, at a private hearing, before an authorized officer at a time and place specified in the notice to give any evidence, either orally or in writing, and produce any documents, whether in physical form or in electronic media, in the manner and within the period as specified in the notice or such extended period as the Commission may grant; or
- (F) if the person is a partnership, to cause an individual who is a

partner in the partnership or an employee of the partnership to appear, at a private hearing, before an authorized officer at a time and place specified in the notice to give any evidence, either orally or in writing, and produce any documents, whether in physical form or in electronic media, in the manner and within the period as specified in the notice or such extended period as the Commission may grant.

(2) Any person required to provide information or documents under subsection (1) shall ensure that the information or documents provided are true, accurate and complete and such person should provide a representation to that effect, including a representation that he is not aware of any other information or document which would make the information or document provided untrue or misleading.

### **Proof of compliance**

**32.** A person shall, if at any time called upon in writing by the Commission to do so, provide to the Commission or its authorized officer all documents and information as the person may have relating to his compliance with any of the provisions of this Enactment or its subsidiary legislation, as the Commission may generally, or in relation to any particular case, require.

### **The Commission may retain documents**

**33.** (1) The Commission may take and retain for as long as is necessary possession of a document provided by any person under this Part.

(2) The person who provides the document is entitled to be supplied, as soon as practicable, with a copy certified by the Commission to be a true copy of the document.

(3) Notwithstanding any other written law, the certified copy of the document shall be received by all courts and tribunals as evidence as if it were the original document.

(4) Until a certified copy of the document is supplied, the Commission shall, at such times and places as the Commission deems appropriate, permit the person who provides the document or a person authorized by the person to inspect and make copies of or take extracts from the original document.

(5) If the Commission is satisfied that the retaining of the documents is no longer necessary, the Commission may return the documents to the person who provides the documents under subsection (1) as soon as practicable.

### **Access to records**

**34.** (1) A person shall, if at any time requested by the Commission by notice in writing, allow the Commission, its authorized officer or appointed auditor access to his or its records for the purposes of carrying out any of the Commission's functions or powers under this Enactment or its subsidiary legislation.

(2) A person who fails to comply with the written notice under subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding two hundred thousand ringgit.

### **Record of information**

**35.** (1) The Commission shall maintain a record of all information or documents received pursuant to the direction given under subsection 31(1).

(2) A record maintained under subsection (1) may be made available to the public.

### **Publication of information**

**36.** (1) The Commission may publish any information received by it in the course of exercising its functions and powers under this Part.

(2) The Commission shall consider the commercial interest of the parties to whom the information relates before publishing such information.

(3) The Commission shall not publish any information or any part of any information disclosed to it if the publication —

- (a) is likely to prejudice the fair trial of a person; or
- (b) would involve the unreasonable disclosure of personal information about any individual, including a deceased person,

but the Commission may publish an extract relating to such information provided that the particulars in the extract shall not be arranged in any way which would compromise or prejudice the person providing such information.

### **Offence for non-compliance**

**37.** A person who fails to comply with a direction of the Commission in accordance with this Part commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding six months or to both.

### **Offence for unauthorized modification of information in the Commission's custody**

**38.** (1) A person who does any act which he knows will cause unauthorized modification of any information, statistic or other data, whether in electronic form or otherwise, in the possession, custody or control of the Commission, commits an offence and shall, on conviction, be liable to a fine not exceeding three hundred thousand ringgit.

(2) A person who, with the intention of causing injury as defined in the Penal Code [*Act 574*], does any act which he knows will cause unauthorized modification of any information, statistic or other data, whether in electronic form or otherwise, in the possession, custody or control of the Commission, commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both.

(3) For the purposes of this section —

- (a) it is immaterial that the act in question is not directed at —
  - (i) any particular information, statistic or data;
  - (ii) any information, statistic or data of any kind; or
  - (iii) any information, statistic or data held in any particular location;
- (b) it is immaterial whether an unauthorized modification is, or is intended to be, permanent or merely temporary; and
- (c) a modification of any information, statistic or data takes place if —
  - (i) such information, statistic or data is altered or erased;
  - (ii) any new information, statistic or data is introduced or added to such information, statistic or data; or
  - (iii) any event occurs which impairs the ability of the Commission to have access to such information, statistic or data, and includes any act that contributes towards causing such a modification.

## PART VIII ENFORCEMENT

### **Authorized officer**

**39.** (1) The Minister may, in writing, authorize any public officer or officer of the Commission to exercise the powers of enforcement under this Enactment or its subsidiary legislation.

(2) Any person authorized under subsection (1) shall be deemed to be a public servant within the meaning of the Penal Code [*Act 574*].

### **Authority card**

**40.** (1) The Commission shall issue to each authorized officer an authority

card which shall be signed by the Chief Executive Officer of the Commission.

(2) Whenever the authorized officer exercises any of the powers of enforcement under this Enactment, he shall produce on demand to the person against whom the power is being exercised the authority card issued to him under subsection (1).

### **Power of investigation**

**41.** (1) An authorized officer may investigate the activities of a feed-in approval holder, distribution licensee or other person in relation to the commission of an offence under this Enactment or its subsidiary legislation.

(2) In any case relating to the commission of an offence under this Enactment or its subsidiary legislation, any authorized officer carrying out an investigation may exercise all or any of the powers in relation to police investigation, except the power to arrest without warrant, given by the Criminal Procedure Code [*Act 593*].

### **Search and seizure with warrant**

**42.** (1) If it appears to a Magistrate, upon written information on oath from the authorized officer and after such inquiry as he considers necessary, that there is reasonable cause to believe that an offence under this Enactment or its subsidiary legislation is being or has been committed on any premises, so that any evidence or thing which is necessary to the conduct of an investigation into an offence may be found in any premises, the Magistrate may issue a warrant authorizing any authorized officer named in the warrant to enter the premises at any reasonable time by day or by night, with or without assistance and if need be by force and there to search for and seize any such evidence or thing, provided that nothing shall authorize any court other than the High Court to grant a warrant to search for a postal article, telegram or other document in the custody of the postal or telegraph authorities.

(2) Without affecting the generality of subsection (1), the warrant issued by the Magistrate may authorize the search and seizure of —



- (a) copies of any books, account or other documents, including computerized data, which contain or are reasonably suspected to contain information as to any offence so suspected to have been committed; or
- (b) any other document, equipment, instrument or thing that is reasonably believed to furnish evidence of the commission of the offence.

(3) An authorized officer conducting a search under subsection (1) may, for the purpose of investigating into the offence, search any person who is in or on the premises.

(4) An authorized officer making a search of a person under subsection (3) or section 43 may seize, or take possession of, and place in safe custody all things other than the necessary clothing, found upon the person, and any other things, for which there is reason to believe were the instruments or other evidence of the offence, and they may be detained until the discharge or acquittal of the person.

(5) No person shall be searched except by another person of the same gender, and such search shall be conducted with strict regard to decency.

(6) If, by the reason of its nature, size or amount, it is not practicable to remove any book, account, document, computerized data, signboard, card, letter, pamphlet, leaflet, notice, equipment, instrument or thing seized under this section, the seizing officer shall by any means seal such book, account, document, computerized data, signboard, card, letter, pamphlet, leaflet, notice, equipment, instrument or thing in the premises or container in which it is found.

(7) A person who, without lawful authority, breaks, tampers with or damages the seal referred to in subsection (6) or removes any book, account, document, computerized data, signboard, card, letter, pamphlet, leaflet, notice, equipment, instrument or thing under seal or attempts to do so commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding six months or to both.

**Search and seizure without warrant**

43. If an authorized officer is satisfied upon information received that he has reasonable cause to believe that by reason of delay in obtaining a search warrant under section 42 the investigation would be adversely affected or evidence of the commission of an offence is likely to be tampered with, removed, damaged or destroyed, the authorized officer may enter the premises and exercise in, upon and in respect of the premises all the powers referred to in section 42 in as full and ample a manner as if he were authorized to do so by a warrant issued under that section.

**Access to computerized data**

44. (1) An authorized officer conducting a search under section 42 or 43 shall be given access to computerized data whether stored in a computer or otherwise.

(2) For the purposes of this section, “access” —

- (a) includes being provided with the necessary password, encryption code, decryption code, software or hardware and any other means required to enable comprehension of computerized data; and
- (b) has the meaning assigned to it by subsections 2(2) and (5) of the Computer Crimes Act 1997 [*Act 563*].

**Warrant admissible notwithstanding defects**

45. A search warrant issued under this Enactment shall be valid and enforceable notwithstanding any defect, mistake or omission therein or in the application for such warrant and any equipment, instrument, material, book, record, account, document or thing seized under such warrant shall be admissible in evidence in any proceedings under this Enactment or its subsidiary legislation.

**List of things seized**

46. (1) Except as provided in subsection (2), where any equipment,

instrument, material, book, record, account, document or thing is seized under this Part, the seizing officer shall as soon as practicable prepare a list of the things seized and of the places in which they are respectively found and deliver a copy of the list signed by him to the occupier of the premises which has been searched, or to his agent or servant, at the premises.

(2) Where the premises are unoccupied, the seizing officer shall whenever possible post a list of the things seized conspicuously on the premises.

### **Release of things seized**

47. (1) If any equipment, instrument, material, book, record, account, document or thing has been seized under this Enactment, the authorized officer who effected the seizure, may at any time after that release the equipment, instrument, material, book, record, account, document or thing to the person as he determines to be lawfully entitled to the equipment, instrument, material, book, record, account, document or thing if he is satisfied that the equipment, instrument, material, book, record, account, document or thing is not otherwise required for the purpose of any proceedings under this Enactment or its subsidiary legislation, or for the purpose of any prosecution under any other written law, and in such event neither the officer effecting the seizure, nor the Government, the Commission or any person acting on behalf of the Government or the Commission shall be liable to any proceedings by any person if the seizure and the release of the equipment, instrument, material, book, record, account, document or thing had been effected in good faith.

(2) A record in writing shall be made by the authorized officer effecting the release of any equipment, instrument, material, book, record, account, document or thing under subsection (1) specifying in detail the circumstances of and the reason for the release.

### **Power to require attendance of person acquainted with case**

48. (1) An authorized officer making an investigation under this Enactment or its subsidiary legislation may by order in writing require the attendance before himself of any person who appears to the authorized officer to be

acquainted with the facts and circumstances of the case, and such person shall attend as so required.

(2) If any person refuses to attend as so required the authorized officer may report such refusal to a Magistrate who shall issue a summons to secure the attendance of such person as may be required by the order made under subsection (1).

### **Examination of person acquainted with case**

**49.** (1) An authorized officer making an investigation under this Enactment or its subsidiary legislation may examine orally any person supposed to be acquainted with the facts and circumstances of the case.

(2) The person examined under subsection (1) shall be legally bound to answer all questions relating to such case put to him by the authorized officer, but such person may refuse to answer any question the answer to which would have a tendency to expose him to a criminal charge or penalty or forfeiture.

(3) A person making a statement under this section shall be legally bound to state the truth, whether or not such statement is made wholly or partly in answer to the questions.

(4) An authorized officer examining a person under subsection (1) shall first inform the person of the provisions of subsections (2) and (3).

(5) A statement made by any person under this section shall, whenever possible, be reduced into writing and signed by the person making it or affixed with his thumbprint, as the case may be —

- (a) after it has been read to him in the language in which he made it; and
- (b) after he has been given an opportunity to make any correction he may wish.

### **Admissibility of statements in evidence**

**50.** (1) Except as provided in this section, no statement made by any person

to an authorized officer in the course of an investigation made under this Enactment shall be used in evidence.

(2) When any witness is called for the prosecution or for the defence, other than the accused, the court shall, on the request of the accused or the prosecutor, refer to any statement made by that witness to an authorized officer in the course of an investigation under this Enactment and may then, if the court thinks fit in the interest of justice, direct the accused to be furnished with a copy of it and the statement may be used to impeach the credit of the witness in the manner provided by the Evidence Act 1950 [*Act 56*].

(3) Where the accused had made a statement during the course of an investigation, such statement may be admitted in evidence in support of his defence during the course of the trial.

(4) Nothing in this section shall be deemed to apply to any statement made in the course of an identification parade or falling within section 27 or paragraphs 32(1)(a), (i) and (j) of the Evidence Act 1950.

(5) When any person is charged with any offence in relation to —

(a) the making; or

(b) the contents,

of any statement made by him to an authorized officer in the course of an investigation made under this Enactment or its subsidiary legislation, that statement may be used as evidence in the prosecution's case.

### **Authorized officer to complete investigation and hand over to police**

**51.** Upon the completion of his investigation into an offence under this Enactment or its subsidiary legislation, an authorized officer shall immediately give all information relating to the commission of the offence to an officer in charge of a police station and a police officer may arrest a person who may have committed an offence under this Enactment or its subsidiary legislation.

**Cost of holding equipment, etc., seized**

**52.** Where any equipment, instrument, material, book, record, account, document or thing seized under this Enactment or its subsidiary legislation is held in the custody of the Government or the Commission pending completion of any proceedings in respect of an offence under this Enactment or its subsidiary legislation, the cost of holding such thing in custody shall, in the event of any person being found to have committed an offence, be a debt due to the Government by such person and shall be recoverable accordingly.

**No cost or damages arising from seizure to be recoverable**

**53.** No person shall, in any proceedings before any court in respect of any equipment, instrument, material, book, record, account, document or thing seized in the exercise or the purported exercise of any power conferred under this Enactment, be entitled to the costs of such proceedings or to any damages or other relief unless such seizure was made without reasonable cause.

**Obstruction**

**54.** Any person who —

- (a) refuses any authorized officer access to any premises which the authorized officer is entitled to have under this Enactment or in the execution of any duty imposed or power conferred by this Enactment;
- (b) assaults, obstructs, hinders or delays any authorized officer in effecting any entry which the authorized office is entitled to effect under this Enactment or in the execution of any duty imposed or power conferred by this Enactment; or
- (c) refuses to give any authorized officer any information relating to an offence or suspected offence under this Enactment or its subsidiary legislation or any other information which may reasonably be required of him and which he has in his knowledge or power to give,

commits an offence and shall, on conviction, be liable to a fine not exceeding two hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

### **Additional powers**

**55.** An authorized officer shall, for the purposes of the execution of this Enactment or its subsidiary legislation, have power to do all or any of the following:

- (a) to require the production of records, accounts, computerized data and documents kept by a feed-in approval holder or other person and to inspect, examine and to download from them, make copies of them or take extracts from them;
- (b) to require the production of any identification document from any person in relation to any case or offence under this Enactment or its subsidiary legislation;
- (c) to make such inquiry as may be necessary to ascertain whether the provisions of this Enactment or its subsidiary legislation have been complied with.

### **Compounding of offences**

**56.** (1) The Minister may, by regulations, prescribe any offence under this Enactment or its subsidiary legislation to be a compoundable offence.

(2) The Commission may compound any offence committed by any person under this Enactment or its subsidiary legislation and prescribed to be a compoundable offence by making a written offer to the person suspected to have committed the offence to compound the offence upon payment to the Commission an amount of money not exceeding fifty per centum of the maximum fine for that offence within such time as may be specified in the written offer.

(3) An offer under subsection (2) may be made at any time after the offence has been committed but before any prosecution for it has been instituted, and

if the amount specified in the offer is not paid within the time specified in the offer, or such extended time as the Commission may grant, prosecution for the offence may be instituted at any time after that against the person to whom the offer was made.

(4) Where an offence has been compounded under subsection (2), no prosecution shall be instituted in respect of the offence against the person to whom the offer to compound was made, and any equipment, instrument, material, book, record, account, document or thing seized under this Enactment or its subsidiary legislation in connection with the offence may be released by the Commission, subject to such terms and conditions as it thinks fit to impose in accordance with the conditions of the compound.

(5) All sums of money received by the Commission under this section shall be paid into the State Consolidated Fund.

### **Prosecution**

**57.** No prosecution shall be instituted for any offence under this Enactment or its subsidiary legislation except by or with the consent in writing of the Public Prosecutor.

### **Offences by body corporate**

**58.** (1) If a body corporate commits an offence under this Enactment or its subsidiary legislation, a person who at the time of the commission of the offence was a director, chief executive officer, chief operating officer, manager, secretary or other similar officer of the body corporate or was purporting to act in any such capacity or was in any manner or to any extent responsible for the management of any of the affairs of the body corporate or was assisting in such management —

- (a) may be charged severally or jointly in the same proceedings with the body corporate; and
- (b) if the body corporate is found guilty of the offence, shall be deemed to be guilty of that offence unless, having regard to the



nature of his functions in that capacity and to all circumstances, he proves —

- (i) that the offence was committed without his knowledge, consent or connivance; and
- (ii) that he had taken all reasonable precautions and exercised due diligence to prevent the commission of the offence.

(2) Whenever any agent or employee in the course of his employment does or omits to do any act the doing or the omission to do of which by his principal or employer would be an offence against this Enactment, such agent or employee shall be guilty of that offence, and subsection (3) shall apply to his principal or employer.

(3) If any person would be liable under this Enactment or its subsidiary legislation to any punishment or penalty for his act, omission, neglect or default, he shall be liable to the same punishment or penalty for every such act, omission, neglect or default of any employee or agent of his, or of the employee of the agent, if the act, omission, neglect or default was committed —

- (a) by that person's employee in the course of his employment;
- (b) by the agent when acting on behalf of that person; or
- (c) by the employee of the agent in the course of his employment by the agent or otherwise on behalf of the agent acting on behalf of that person.

## PART IX

### GENERAL

#### **Report on implementation and performance of feed-in tariff system**

**59.** (1) The Commission shall monitor all significant matters relating to the implementation and performance of the feed-in tariff system and submit a report thereof to the Minister after the end of each financial year of the Commission.

(2) In performing its functions under subsection (1), the Commission shall

have regard to such indicators as the Commission considers appropriate.

(3) The report to be submitted by the Commission under subsection (1) shall include the following matters:

- (a) the implementation and administration of this Enactment and its subsidiary legislation;
- (b) the applicable feed-in tariff and degression rates;
- (c) the Fund;
- (d) any non-compliance by any person with the provisions of this Enactment and its subsidiary legislation;
- (e) the grant or revocation of any feed-in approval;
- (f) any deficiencies in the scope or implementation of this Enactment and its subsidiary legislation; and
- (g) other matters the Commission thinks necessary.

(4) The Commission shall publish the report in a manner it deems appropriate as soon as practicable following the date on which the Commission submits the report to the Minister.

### **Compliance with all other laws**

**60.** For the avoidance of doubt, the grant of a feed-in approval by the Commission shall not exempt a feed-in approval holder from the obligation to comply with all other applicable laws, including the Electricity Supply Enactment 2024 and its subsidiary legislation.

### **Directions by the Commission**

**61.** (1) The Commission may from time to time issue directions in writing to any person about the compliance or non-compliance of any conditions of the feed-in approval, including the remedying of a breach of a feed-in approval condition or the provisions of this Enactment or its subsidiary legislation.

(2) Prior to making a direction under subsection (1), the Commission shall issue a notice in writing to the person specifying the nature of the required compliance.

(3) The person shall be granted an opportunity to be heard or may submit a written submission on the reasons for his or its conduct or activity within a reasonable time period specified in the notice.

(4) After the expiry of the notice specified in subsection (3), the Commission shall take into consideration any reasons provided by the person before making a decision in relation to the relevant conduct or activity of the person.

(5) After due consideration of any reasons provided by the person, the Commission may, by written notice, issue a direction under subsection (1) as soon as practicable requiring the person to take a specified action directed towards ensuring that the person does not contravene or does not continue to contravene any of the conditions of the feed-in approval or any of the provisions of this Enactment or its subsidiary legislation.

(6) The person shall comply with the direction issued by the Commission under subsection (5).

(7) A direction made by the Commission under this Part shall be registered as soon as practicable.

(8) The direction shall be effective from the date of registration or such later date as the Commission may specify in the direction.

(9) The direction shall expire on such date as the Commission may specify in the written notice or if no date is specified, the direction shall be in force until the direction is revoked.

(10) The Commission may vary or revoke a direction and the procedures set out in subsections (2), (3), (4), (5), (7), (8) and (9) shall apply *mutatis mutandis* in respect of any variation or revocation of a direction.

(11) The Commission shall maintain a register of all directions issued by the Commission under this section, including any variation or revocation of a direction.

(12) A person who fails to comply with a direction of the Commission under this section commits an offence and shall, on conviction, be liable to a fine not exceeding two hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

### **Register**

**62.** A person may, on payment of any fee specified by the Commission —

- (a) inspect the registers maintained under this Enactment; and
- (b) make a copy of, or take extracts from, the registers.

### **Power of Minister to make regulations**

**63.** The Minister may make regulations for all or any of the following purposes:

- (a) to prescribe the criteria to be met in order for a particular resource of energy to be regarded as a renewable resource for the purposes of this Enactment;
- (b) to prescribe all matters relating to the application of feed-in approvals, including the eligibility criteria of the applicant, the manner of application and duration, forms and standard conditions of the feed-in approval;
- (c) to prescribe the form and substance of renewable energy power purchase agreements under section 14;
- (d) to prescribe the criteria to be met by a renewable energy installation for ascertaining the eligibility of a feed-in approval holder to receive a particular feed-in tariff rate for the purposes of section 18;
- (e) to prescribe the procedures of recovery of moneys from the Fund and methods of calculation of the amounts payable to a distribution licensee under section 21;
- (f) to prescribe the manner of appeal under section 13;

- (g) to prescribe any matter relating to the Fund;
- (h) to prescribe fees which may be prescribed under this Enactment;
- (i) to prescribe the offences which may be compounded and the forms to be used and the method and procedure for compounding the offences for the purposes of section 56; and
- (j) to prescribe all other matters as are necessary or expedient to be prescribed for giving effect to, or for the better carrying out of, the provisions of this Enactment.

### **Penalties for subsidiary legislation**

**64.** The regulations made under section 63 or any other subsidiary legislation made under this Enactment may provide for any act or omission in contravention of the regulations or other subsidiary legislation to be an offence and may provide for penalties of a fine not exceeding three hundred thousand ringgit or imprisonment for a term not exceeding three years or to both.

### **Power of Minister to amend Schedule**

**65.** The Minister may, by order published in the *Gazette*, amend the Schedule.

## **PART X**

### **SAVINGS AND TRANSITIONAL**

#### **Savings and transitional**

**66.** (1) For the purpose of this section, “Act” means the Renewable Energy Act 2011 [*Act 725*].

(2) Any order or direction made or issued under the Act before the date of coming into operation of this Enactment shall be deemed to have been made or issued under this Enactment and shall continue to remain in full force and effect in relation to the person to whom the order or direction is applied until

amended or revoked.

(3) Any approval or decision made under the Act and its subsidiary legislation before the date of coming into operation of this Enactment shall continue to remain in full force and effect as if the approval or decision was made under this Enactment until amended and revoked.

(4) Any pending appeal to the Minister under section 11 of the Act and its subsidiary legislation shall be continued or completed under the Act.

(5) Any pending application, approval or decision made under the Act before the date of coming into operation of this Enactment shall be dealt with by the Commission under this Enactment.

(6) Any renewable energy power purchase agreement entered under the Act shall be deemed to have been lawfully and validly executed under this Enactment.

(7) Any payment payable by the distribution licensee for the allocation of the tariffs levied under the Act prior to the coming into operation of this Enactment and collected after the date of coming into operation of this Enactment shall be made in accordance with the Act as if the Act is still in force.

(8) Any claim for the recovery of money by the distribution licensee for any payment of generation of the renewable energy made by the distribution licensee to the feed-in approval holder under the Act shall be made, within twelve months from the date of coming into operation of this Enactment, in accordance with the Act as if the Act is still in force.

(9) Any administrative fees payable under section 20 of the Act and its subsidiary legislation shall be paid in accordance with the Act as if the Act is still in force.

### **Existing licences**

**67.** Nothing in this Enactment shall be construed as reducing or extending the duration of a licence issued under section 8 of the Electricity Supply Enactment 2024.

SCHEDULE  
[Section 2]  
RENEWABLE RESOURCES, FEED-IN TARIFF RATES, EFFECTIVE PERIOD AND ANNUAL DEGRESSION RATES

<i>First Column</i>	<i>Second Column</i>	<i>Third Column</i>	<i>Fourth Column</i>	<i>Fifth Column</i>	
<i>Renewable resources</i>	<i>Description of qualifying renewable energy installation</i>	<i>Feed-in tariff rate (in ringgit per kilowatt hour)</i>	<i>Effective period (Commencing from the feed-in-tariff commencement date)</i>	<i>Annual depression rate</i>	
Biogas	(a) Renewable energy installation having an installed capacity of:	<i>Basic feed-in tariff rate</i>			
	(i) up to and including 4 megawatts	0.32	16 years	0.5 %	
	(ii) above 4 megawatts, and up to and including 10 megawatts	0.30	16 years	0.5 %	
	(iii) above 10 megawatts, and up to and including 30 megawatts	0.28	16 years	0.5 %	
	(b) Renewable energy installation having any one or more of the following criteria in addition to (a) above:	<i>Bonus feed-in tariff rate in addition to basic feed-in tariff rate</i>			
	(i) use of gas engine technology with electrical efficiency of above 40%	+ 0.02	16 years	0.5 %	
(ii) use of locally manufactured or assembled gas engine technology	+ 0.01	16 years	0.5 %		
(iii) use of landfill or sewerage gas as fuel source	+ 0.08	16 years	1.8%		

SCHEDULE  
[Section 2]  
RENEWABLE RESOURCES, FEED-IN TARIFF RATES, EFFECTIVE PERIOD AND ANNUAL DEPRESSION RATES - (cont.)

<i>First Column</i>	<i>Second Column</i>	<i>Third Column</i>	<i>Fourth Column</i>	<i>Fifth Column</i>
<i>Renewable resources</i>	<i>Description of qualifying renewable energy installation</i>	<i>Feed-in tariff rate (in ringgit per kilowatt hour)</i>	<i>Effective period (Commencing from the feed-in-tariff commencement date)</i>	<i>Annual depression rate</i>
Biomass	Renewable energy installation having an installed capacity of:	<i>Basic feed-in tariff rate</i>		
	(i) up to and including 10 megawatts	0.31	16 years	0.5 %
	(ii) above 10 megawatts, and up to and including 20 megawatt	0.29	16 years	0.5 %
	(iii) above 20 megawatts, and up to and including 30 megawatts	0.27	16 years	0.5 %
	(b) Renewable energy installation having any one or more of the following criteria in addition to (a) above:	<i>Bonus feed-in tariff rate in addition to basic feed-in tariff rate</i>		
	(i) use of gasification technology	+ 0.02	16 years	0.5 %
	(ii) use of steam-based electricity generating systems with overall efficiency of above 14%	+ 0.01	16 years	0.5 %
	(iii) use of locally manufactured or assembled gasification technology	+ 0.01	16 years	0.5 %
	(iv) use of municipal solid waste as fuel source	+ 0.10	16 years	1.8%



SCHEDULE  
[Section 2]  
RENEWABLE RESOURCES, FEED-IN TARIFF RATES, EFFECTIVE PERIOD AND ANNUAL DEGRESSION RATES - (cont.)

<i>First Column</i>	<i>Second Column</i>	<i>Third Column</i>	<i>Fourth Column</i>	<i>Fifth Column</i>
<i>Renewable resources</i>	<i>Description of qualifying renewable energy installation</i>	<i>Feed-in tariff rate (in ringgit per kilowatt hour)</i>	<i>Effective period (Commencing from the feed-in-tariff commencement date)</i>	<i>Annual depression rate</i>
Small hydropower	Renewable energy installation having an installed capacity of up to and including 10 megawatts	0.24	21 years	8.0 %
	Renewable energy installation having an installed capacity of above 10 megawatts, and up to and including 30 megawatts	0.23	21 years	8.0 %
Solar Photovoltaic	(a) Renewable energy installation having an installed capacity of:	<i>Basic feed-in tariff rate</i>		
	(i) up to and including 4 kilowatts	1.23	21 years	8.0 %
	(ii) above 4 kilowatts, and up to and including 24 kilowatts	1.20	21 years	8.0 %
	(iii) above 24 kilowatts, and up to and including 72 kilowatts	1.18	21 years	8.0 %
	(iv) above 72 kilowatts, and up to and including 1 megawatts	1.14	21 years	8.0 %
	(v) above 1 megawatt, and up to and including 10 megawatt	0.95	21 years	8.0 %
	(vi) above 10 megawatts, and up to and including 30 megawatts	0.85	21 years	8.0 %

SCHEDULE  
[Section 2]  
RENEWABLE RESOURCES, FEED-IN TARIFF RATES, EFFECTIVE PERIOD AND ANNUAL DEGRESSION RATES - (cont.)

<i>First Column</i>	<i>Second Column</i>	<i>Third Column</i>	<i>Fourth Column</i>	<i>Fifth Column</i>
<i>Renewable resources</i>	<i>Description of qualifying renewable energy installation</i>	<i>Feed-in tariff rate (in ringgit per kilowatt-hour)</i>	<i>Effective period (Commencing from the feed-in-tariff commencement date)</i>	<i>Annual depression rate</i>
	(b) Renewable energy installation having any one or more of the following criteria in addition to (a) above:	<i>Bonus feed-in tariff rate in addition to basic feed-in tariff rate</i>		
	(i) use as installations in buildings or building structures	+ 0.26	21 years	8.0 %
	(ii) use as building materials	+ 0.25	21 years	8.0 %
	(iii) use of locally manufactured or assembled solar photovoltaic modules	+ 0.03	21 years	8.0 %
	(iv) use of locally manufactured or assembled solar inverters	+ 0.01	21 years	8.0 %

All intermediate calculations and the final feed-in tariff rates under this Schedule shall be rounded to the fourth decimal place in ringgit per kilowatt-hour and a figure of five or more in the fifth decimal place shall result in a rounding up of the fourth decimal.

CERTIFIED by me to be a true copy of the Bill passed by the Legislative Assembly on Wednesday, the 3rd day of January, 2024.

*Speaker,  
State Legislative Assembly.*