



SAMOA

ELECTRIC POWER CORPORATION ACT 1980

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1980

No. 16

AN ACT to consolidate and amend certain enactments relating to the Electric Power Corporation, its functions, operations and other related matters including its role in the generation, supply and use of electricity.

[Assent and commencement date: 5 September 1980]

[Commencement date (ss 15 & 16): 19 December 1972]

PART 1

PRELIMINARY

1. Short title – This Act may be cited as the Electric Power Corporation Act 1980.

2. Commencement – Sections 15 and 16 are taken to have come into operation on 19 December 1972.

3. Interpretation – In this Act, unless the context otherwise requires:

“Corporation” means the Electric Power Corporation established and continued by section 4;

“deputy” means a person authorised or nominated to act as a director under section 8;

“director” or “director of the Corporation” means a director of the board of the Corporation;

“electrical installation” means the wires, cables, fittings, appliances, meters, insulators, switchboards, outlet sockets and apparatus in, on, under or over any land and premises used in the generating, conducting or transmitting and distributing of electricity but does not include:

- (a) appliances, fittings or apparatus capable of being connected to an outlet socket—
 - (i) at which fixed wiring terminates; and
 - (ii) that is installed for the purposes of connecting appliances, fittings or apparatus operated by electricity;
- (b) the cables and other things required for connecting the appliances, fittings or apparatus to an electrical socket;
- (c) a conductor apparatus or device solely used for alarm purposes supplied or operated from a battery; and
- (d) a conductor apparatus or device used or intended to be used solely—
 - (i) for telecommunication purposes;
 - (ii) in any ship, boat, aircraft or other conveyance or vessel for transport purposes by land, water or air; or
 - (iii) in connection with a source of electricity not exceeding 32 volts;

“electrical wiring work” means the physical work of:

- (a) installing;
- (b) altering; or
- (c) repairing an electrical installation;

“General Manager” means the General Manager appointed under section 32;

“Government” means the Government of Samoa;

“licence” means a licence issued under section 25(2);

“Licensing Committee” means a Licensing Committee established under section 25(1);

“Minister” means the Minister of Works, Transport and Infrastructure;

“Regulator” means the Electricity Regulator appointed under the Electricity Act 2010.

PART 2
ESTABLISHMENT AND FUNCTIONS
OF CORPORATION

4. Nature of Corporation – (1) There shall continue to be the body corporate called the Electric Power Corporation which is the successor by virtue of this section to the Electric Power Corporation established under the Electric Power Corporation Act 1972.

(2) The Corporation:

- (a) is a body corporate with perpetual succession;
- (b) shall have a common seal;
- (c) may acquire, hold and dispose of real and personal property;
- (d) may sue or be sued in its corporate name; and
- (e) may borrow or invest money.

5. Membership of Corporation – (1) The board of the Corporation comprises 7 directors who are to be selected under the applicable law relating to the management of public bodies.

(1A) The directors of the Corporation are to be appointed by the Head of State, acting on the advice of Cabinet, and may be removed from office by Cabinet.

(1B) Cabinet shall appoint one of the directors to be Chairperson, and may appoint a Deputy Chairperson.

(1C) No person may be appointed or continue to hold office as a director, while that person is a full-time salaried officer or employee of the Corporation.

(1D) Unless the board decides otherwise, the General Manager must attend all board meetings but shall have no voting rights.

(2) The performance of the functions or the exercise of the powers of the Corporation is not affected by reason of there being a vacancy or vacancies in the number of directors of the Corporation.

6. *(Repealed by s4 of Act 1986, No.10)*

7. Extraordinary vacancies – (1) An appointed director may be removed by Cabinet:

- (a) for disability;

(b) for bankruptcy; or

(c) neglect of duty or misconduct.

(2) An appointed director may resign his or her office by notice in writing given to the Minister.

(3) If an appointed director dies, or resigns, or is removed from office, his or her office becomes vacant and the vacancy is taken to be an extraordinary vacancy.

(4) An extraordinary vacancy is to be filled by the appointment of a person in accordance with section 5(1).

(5) A person appointed to fill an extraordinary vacancy is to be appointed for the residue of the term for which the vacating director was appointed.

(6) The powers of the Corporation are not affected by a vacancy in the composition of the Corporation.

8. Deputies of Directors – (1) & (2) (*Repealed by the Composition of Boards of Public Bodies Act 2012*)

(3) Where an appointed director is temporarily incapacitated by illness or for other good reason cannot attend the meeting, the Minister may nominate a person to attend that meeting as the deputy of that director.

(4) No deputy shall act as Chairperson or Deputy Chairperson of the Corporation.

(5) The deputy of a director while attending a meeting as a deputy is taken to be a director.

(6) The nomination of a deputy of a director, and any act done by a deputy of a director, shall not be questioned in any proceedings on the ground that the occasion for his or her nomination had not arisen or had ceased.

9. Remuneration – An appointed director shall be paid out of the funds of the Corporation such remuneration, travelling expenses or other expenses reasonably incurred by him or her at such rates as Cabinet may determine.

10. Liability of directors – No director or deputy of a director is personally liable for any act done, or omitted to be done, in good faith in the exercise or performance of the functions, powers and duties of the Corporation.

11. Meetings – (1) Meetings are to be held at any time and place as the Chairperson or Deputy Chairperson determines.

(2) A meeting of the Corporation is to be presided over by the Chairperson or if the Chairperson is not present, by the Deputy Chairperson.

(3) In the absence of both the Chairperson and the Deputy Chairperson, the directors shall appoint one of the directors to be Chairperson.

(4) The Chairperson or, if he or she is absent, the Deputy Chairperson, or 2 directors, may convene a special meeting of the Corporation by notice in writing stating the business to be transacted served on all those eligible to attend.

(5) At each meeting the quorum is 4 persons eligible to vote under this Act.

(6) A question before a meeting of the Corporation shall be resolved by a majority of the valid votes of the directors, or their deputies, present.

(7) A resolution signed or assented to by letter, telegram or cable by a majority of the directors has the same effect as a resolution passed at a meeting of the Corporation.

(8) The Chairperson at any meeting has a deliberative vote, and in the event of an equality of votes, also has a casting vote.

(9) Subject to this Act and regulations the Corporation may regulate its proceedings in such manner as it thinks fit.

12. Minutes of meetings – (1) The Corporation shall:

(a) cause minutes to be kept, in a book provided for that purpose; and

(b) record the names of all persons present, all resolutions and proceedings of meetings of the Corporation and all resolutions passed pursuant to section 11(6).

(2) The minutes of every meeting shall, if signed by a person purporting to be the Chairperson of any meeting, be received in evidence without further proof.

(3) A copy of the minutes is to be provided to each director within 7 days after the completion of every meeting.

13. Secrecy – No director of the Corporation shall communicate or reveal to any person any matter which becomes known to him or her as a director of the Corporation except

with the approval of the Corporation or as required for the due discharge of his or her official duties as a director of the Corporation.

14. Disclosure of interest – (1) A director who has a direct or an indirect interest in a matter being considered or about to be considered by the Corporation otherwise than as a director shall, as soon as possible after the relevant facts have come to his or her notice, disclose the nature of his or her interest at a meeting of the Corporation.

(2) A disclosure under subsection (1) shall be recorded in the minutes of the meeting and, except as otherwise provided by a resolution of the Corporation, the director shall leave the meeting after the disclosure during any deliberation or decision relating to that business, but is to be counted as present for the purpose of forming a quorum for the meeting on any such deliberation or decision.

15. Functions of Corporation – Subject to the provisions of the Electricity Act 2010, the functions of the Corporation are to carry out the following:

- (a) to generate, transmit, distribute and sell electricity;
- (b) to control and provide and maintain, on, over or under any land, generating and storage works, dams, roads, water races, penstocks, fuel storage facilities, electric lines, transformer stations or any other plant or equipment used in the generation, transmission or distribution of electricity;
- (c) to promote, organise, co-ordinate, continue, develop and maintain the generation, transmission or distribution of electricity;
- (d) to use waters or obtain the right to use waters in the sea, lake, waterfalls, rivers or streams for the purpose of generating electricity;
- (e) to alter the course or level of any river, stream, water course or other area of water for the purpose of generation, transmission or distribution of electricity;
- (f) to control the use of electricity;

- (g) to erect works and install all necessary machinery and plant for the purpose of generating electricity;
- (h) to enter any contract for the sale, lease or purchase of property in relation to the generation, transmission, distribution or use of electricity;
- (i) to sell electricity to persons on such terms and conditions as determined by the Corporation and to recover money for the same;
- (j) to obtain the capital cost of providing electricity to a particular consumer on such terms and conditions as it deems fit;
- (k) to charge a fee, where otherwise not prescribed, for a service provided in accordance with its functions;
- (l) to make practice directions relating to any electrical wiring work;
- (m) to investigate any failure to comply with this Act or regulation and institute proceedings under this Act or regulation;
- (n) to construct, alter, maintain or repair, or use the works and undertakings of the Corporation;
- (o) to hire out plant or equipment of the Corporation that is not needed immediately for use by the Corporation.

15A. Protection of lines – (1) Where any tree growing on any land causes or is likely to cause damage to an electric line, the General Manager may give written notice to the owner or occupier of that land to remove the tree or any part of the tree.

(2) A person given a notice under subsection (1) must comply with the notice.

(3) Despite subsection (2), a person who receives a notice under subsection (1) and is dissatisfied with the notice may appeal in writing to the Regulator.

(4) Where the Regulator receives an appeal under subsection (3), the Regulator shall make a determination on the matter within 14 days of receiving the appeal.

(5) In making a determination under this section, the Regulator must consider all the circumstances of the matter, and

particularly the degree of damage that the tree is causing to the power lines and the effect, if any, the removal of the tree will have on the person claiming to own the tree.

(6) Once an appeal is lodged with the Regulator under this section, the General Manager and staff of the Corporation shall not enter the affected land to remove any tree or part of a tree until the Regulator determines the appeal.

(7) A person who wilfully fails to comply with a notice under this section or who interferes with or attempts to interfere with a person attempting to comply with such notice commits an offence and upon conviction is liable to a fine not exceeding 20 penalty units or to imprisonment for a term not exceeding 3 months, or both.

(8) Despite anything in this section, in cases of imminent danger to life or health or the integrity of the power system, the General Manager shall not be required to provide a notice under this section.

16. Powers of Corporation – (1) Subject to any direction, approval or authorisation by the Regulator under the Electricity Act 2010, the Corporation has power to do all things necessary or convenient to be done or in connection with, or as incidental to, the performance of the functions under this Act.

(2) Without limiting subsection (1), the Corporation has the following powers:

- (a) to purchase freehold land; and
- (b) to take a lease of customary, freehold or public land; and
- (c) to secure the rights to perform any of the functions of the Corporation over any customary, freehold or public land; and
- (d) to sell, or otherwise dispose of land vested in the Corporation, but not required for the purpose of the Corporation, in accordance with Cabinet approval; and
- (e) to do anything incidental to any of its powers.

(3) The Corporation may make donations not exceeding in any one year the total sum of \$5,000 to and for any of the following:

- (a) to the Government for the purposes of Independence Day celebrations; and

- (b) to any religious, educational, charitable or sporting body, for any religious, educational, charitable or sporting purpose promoted or supported by such body.

17. Delegation of powers – (1) The Corporation may, either generally or as otherwise provided by the instrument of delegation under its common seal, delegate to a person any of its powers under this Act other than this power of delegation.

(2) A power so delegated, when exercised by the delegate, is, for the purposes of this Act, taken to have been exercised by the Corporation.

(3) A delegation under this section does not prevent the exercise of a power by the Corporation.

(4) A delegation under this section is revocable at the will of the Corporation.

17A. Corporation to provide adequate supply of electricity – Subject to any financial or other resource constraints, the Corporation shall ensure that an adequate supply of electricity is made available for all of the people of Samoa.

18. Policy of Cabinet – In the exercise of its functions and powers the Corporation shall have regard to the general policy of Cabinet as communicated in writing by the Minister for Public Enterprises.

PART 3 FINANCE

19. Application of profits – The Corporation, having set aside such sums from profits as may be necessary or expedient:

- (a) to offset past losses;
- (b) for the expansion, development or replacement of its assets; and
- (c) to create or increase reserves,–

shall transfer the balance of such profits to the Treasury Fund for the benefit of the public revenue.

20. Liability for tax and other duties – The Corporation is not liable to taxation except for customs and excise duties.

21. Accounts – (1) Subject to subsection (3), the Corporation shall:

- (a) keep proper accounts and records in relation to its business; and
- (b) prepare in respect of each financial year a statement of accounts within 6 months of the end of that financial year.

(2) The accounts of the Corporation shall include separate trading and profit and loss accounts and a balance sheet.

(3) Despite anything in this section, the Corporation is required to maintain its accounts in accordance with such directions, instructions or requirements as may be issued by the Regulator.

22. Audit – (1) The Controller and Auditor General (Controller) with or without the assistance of another auditor, shall inspect and audit the accounts and records of financial transactions.

(2) The Controller or a person authorised by the Controller is entitled at all reasonable times to full and free access to all accounts, records, documents and papers of the Corporation relating directly or indirectly to the receipts of payment of moneys by the Corporation or to the acquisition, receipt, custody or disposal of assets by the Corporation.

(3) The Controller or a person authorised by the Controller may make copies of, or take extracts from, any such accounts, records, documents or papers.

(4) The Controller or a person authorised by the Controller may require any other person to provide the Controller or the person authorised with any information in the possession of the other person, or to which the other person has access, as the Controller or person authorised by the Controller considers necessary for the purposes of this Act, and the other person shall comply with the requirement.

(5) Audited copies of the annual accounts and report of the Corporation shall be laid before the Legislative Assembly by the Minister within 28 days after the receipt of a copy by him or her if the Legislative Assembly is then in session, but if not, within 28 days after the commencement of the next ensuing session.

23. Contracts by Corporation – (1) Contracts by the Corporation:

- (a) which, if made between private persons must be by deed shall, if made by the Corporation, be in writing under the common seal of the Corporation;
- (b) which, if made between private persons must be in writing signed by the parties shall, if made by the Corporation, be in writing either under the common seal of the Corporation or signed by any person on behalf of and by direction of the Corporation;
- (c) which, if made between private persons may be made orally, may, if made by the Corporation, be made orally by any person on behalf of and by direction of the Corporation.

(2) The common seal of the Corporation shall not be affixed to any document except pursuant to a resolution of the Corporation, and the execution of any documents so sealed shall be attested by 2 directors.

23A. (Repealed by s57 of Act 2010, No. 23)

PART 4 LICENCES

24. Licence requirement – A person shall not carry out any electrical wiring work unless the person is:

- (a) the holder of a licence issued by the Licensing Committee under section 25(3); or
- (b) a person who is apprenticed to, or employed by, the holder of a licence and is working under the immediate direction and supervision of a person holding that licence.

25. Issue of licence – (1) There shall be a Licensing Committee comprising:

- (a) the Minister for Public Enterprises, who shall be the Chairperson and have the casting vote; and
- (b) the Chief Executive Officer of Works, Transport and Infrastructure; and

- (c) the General Manager; and
 - (d) the Commissioner of Labour.
- (2) The Licensing Committee is validly constituted where there is a quorum of 2, one of whom shall be the General Manager.
- (3) On receipt of an application under section 26, the Licensing Committee may issue a licence to a person for the purpose of carrying out electrical wiring work, on such terms and conditions as it sees fit as endorsed on that licence.
- (4) Where a licence is issued under section 25(3) by a Licensing Committee comprising fewer persons than specified in subsection (1), the issue of that licence is subject to the approval in writing of the Minister for Public Enterprises.
- (5) The Licensing Committee may by public notice specify the minimum standards it requires before considering an application under section 26.

26. Application for licence – (1) An application, by a person for a licence to be issued under section 25(3) shall:

- (a) be in writing in accordance with a form made available by the Corporation;
 - (b) be accompanied by a statement relating to educational qualifications;
 - (c) be accompanied by a written statement specifying the applicant's experience in carrying out electrical wiring work and a report of the person under whose direction and supervision the electrical wiring work was performed by the applicant; and
 - (d) be lodged with the General Manager.
- (2) The General Manager shall, on receipt of the application under subsection (1), submit the application to the Licensing Committee for its consideration.

27. Notification of refusal to grant licence – Where the Licensing Committee refuses an application for a licence, it shall notify the applicant in writing of the refusal and the reasons for the refusal.

28. Grounds for cancellation or suspension of licence –

(1) The Licensing Committee, by a majority opinion, may cancel or suspend a licence where:

- (a) the licence was granted in error or in consequence of a false statement made, or misleading information provided, by the holder of the licence; or
- (b) the holder of the licence has carried out electrical wiring work that does not comply with the regulations or any practice direction issued by the Corporation; or
- (c) the holder of the licence has permitted a person working under his or her direction and supervision to carry out electrical wiring work that did not comply with the regulations or any practice direction; or
- (d) the holder of the licence, on becoming aware that a person working under his or her direction and supervision had carried out electrical wiring work that does not comply with the regulations, did not take the necessary action to ensure that the electrical wiring work complied with these regulations or any practice direction; or
- (e) the holder of the licence has, or a person working under his or her direction and supervision has with his or her knowledge, provided the General Manager, or an officer or employee of the Corporation with information with respect to the safety of an electrical installation, that is false or misleading; or
- (f) a term or condition of the licence has been breached; or
- (g) there has been a failure to comply with the Act, or regulations or practice direction; or
- (h) in the opinion of the Licensing Committee there is good reason to do so.

(2) Where a licence is cancelled or suspended by a Licensing Committee comprising fewer persons than specified in section 25(1), the cancellation or suspension of a licence by that Committee is to be subject to the approval in writing of the Minister.

29. Licence holder to show cause why licence should not be suspended or cancelled – The Licensing Committee may, before cancelling or suspending a licence, by notice in writing served on the holder of the licence, require the holder to show cause why his or her licence should not be cancelled or suspended.

30. Notice of suspension or cancellation – Where the Licensing Committee cancels or suspends the licence of a person under section 28, the Committee shall cause notice of that fact and of the reasons for the cancellation or suspension, as the case may be, to be served on the holder of the licence.

31. Appeal to District Court – (1) Where a person is dissatisfied by a decision of the Licensing Committee to refuse to issue a licence under section 25(3) or a decision to cancel or suspend the person's licence under section 28, the person may, within 28 days after being notified in accordance with section 27 or after notice of that cancellation or suspension has been served upon him or her in accordance with section 30, as the case may be, apply to the District Court for a review of that decision.

(2) Where a person makes an application under subsection (1), the decision of the Licensing Committee in respect of which the application is made shall have effect pending the decision of the District Court Judge.

(3) A person who makes an application under subsection (1) shall cause a copy of that application to be served on the Licensing Committee.

(4) The District Court Judge may affirm, vary or set aside the decision of the Licensing Committee or make any other order as the District Court Judge sees fit.

PART 5 STAFF

32. General Manager – (1) The Head of State, acting on the advice of Cabinet, may appoint a General Manager of the Corporation on such terms and conditions as he or she thinks fit.

(2) No person shall be appointed as the General Manager unless the person:

- (a) is a qualified engineer; and
 - (b) has at least a degree in management or has at least 5 years' experience in managing a corporation, ministry, public body or other prescribed body at an executive level; and
 - (c) has other prescribed qualifications.
- (3) The General Manager shall:
- (a) be the Chief Executive Officer of the Corporation; and
 - (b) be responsible for the control and management of the operations of the Corporation.
- (4) For the purpose of this section and section 33, "qualified engineer" means a professional engineer in the electricity and power industry with a formal qualification in the field of either electrical, electronic or mechanical engineering.

33. Staffing – (1) The Corporation may employ any officers and employees as it thinks necessary for the efficient performance of the functions of the Corporation.

(2) The Corporation may, where there is no General Manager, appoint a person who, where reasonably possible, is a qualified engineer, to be an Acting General Manager.

(3) A person appointed as an Acting General Manager shall have the same powers, for the purposes of this Act, as if he or she were a General Manager until such time as a General Manager is appointed under section 32.

(4) All appointments, appeals, dismissals, conditions of leave, salary scales, promotions and other matters relating to the conditions of employment of persons in the service of the Corporation are under the jurisdiction of the Corporation.

(5) Nothing in this Act shall be construed to place any officer or employee of the Corporation within the term "service of Samoa" as defined in the Constitution of the Independent State of Samoa.

34. Powers of General Manager – (1) Subject to section 35, the General Manager or any officer of the Corporation authorised by him or her may at any reasonable time depending on the circumstances enter or cross any land to carry out any of the following:

- (a) inspect any electrical installation whether the property of the Corporation or not;
- (b) inspect any work done by a person to whom a licence has been issued under this Act;
- (c) construct, maintain or reconstruct any electrical installation;
- (d) ascertain the quantity of electricity supplied to a consumer;
- (e) disconnect the supply of electricity—
 - (i) where the supply of electricity is no longer required by a consumer;
 - (ii) where the continuation of supply of electricity is considered by the General Manager to be hazardous to life or property; or
 - (iii) for any other justifiable reason determined by the General Manager;
- (f) make evaluation for development purposes;
- (g) remove any electrical installation where, in the opinion of the General Manager, its use or existence constitutes a hazard to life or property;
- (h) trim, lop or cut down any vegetation that is, in the opinion of the General Manager, hazardous to any existing or proposed electrical installation.

(2) Where a person constructs a structure which, in the opinion of the General Manager is hazardous to an existing electrical installation or likely to constitute a danger to life or property, by reason of its proximity to an existing electrical installation the General Manager may cause that structure to be dismantled or removed.

(3) The General Manager may direct a person, who, where reasonably practicable, is a holder of a licence issued under section 25, to inspect any electrical installation, and where necessary order additions, alterations or repairs which in his or her opinion are necessary.

(4) Where in the opinion of the General Manager, additions, alterations or repairs are necessary to any electrical installation being used for the generation, transmission, distribution or use of electricity, he or she may by notice in writing, given to either the owner of that electrical installation or the consumer of electricity:

- (a) specify the additions, alterations or repairs to be done by that owner or consumer to the electrical installation; and
- (b) specify the time by which the additions, alterations or repairs to be done by that owner or consumer are to be completed.

35. Entry onto land – For the purpose of entering upon land:

- (a) to construct an electrical installation pursuant to section 34(1)(c);
- (b) in pursuance of section 34(1)(f);
- (c) in pursuance of section 34(1)(h) in relation to a proposed electrical installation; or
- (d) to dismantle or remove a structure that in the opinion of the General Manager is hazardous in relation to a proposed electrical installation as approved by the Corporation in pursuance of its functions,—

the General Manager, other than at the request or consent of the owner or occupier of the land, shall cause notice in writing of his or her intention to enter upon that land to effect the purpose as specified, to be given to the owner or occupier of the land 14 days before entry on to that land is to be effected.

36. Duty to repair – When exercising any of the powers listed in section 34(1), the General Manager or person authorised by him or her may only cause such damage to property as is necessary to achieve the objective and shall where reasonably practicable repair that damage.

37. Consumer or occupier liable for damages – The owner or occupier of the land may be liable to pay the Corporation the necessary expenses incurred in the exercise of the power conferred on the General Manager or a person authorised by him or her under section 34(1)(g).

38. General Manager not liable for compensation – Where necessary damage is incurred in pursuance of the exercise of a power conferred on the General Manager or person authorised by him or her under section 34(1), the

General Manager or person authorised by him or her is not liable to pay compensation to the owner or occupier of that land.

39. *Ex gratia* payment – Nothing in this Act precludes the Corporation from exercising its discretion to make an *ex gratia* payment to the owner or occupier of the land as compensation for damage suffered by that owner or occupier in respect of an exercise of power conferred on either the Corporation or General Manager by this Act.

PART 6 MISCELLANEOUS

40. Offence not to have licence – A person, other than a person described in section 24(b), who performs any electrical wiring work or generates or distributes electricity without a licence or fails to comply with the terms of the licence commits an offence and is liable to a fine not exceeding 5 penalty units or 3 years imprisonment, or both.

41. Obstruction of Corporation staff – A person who, without reasonable excuse, hinders or obstructs the General Manager or a person authorised by him or her in the exercise of a power conferred upon him or her, commits an offence.

42. Destruction, etc., of electrical installation – (1) A person who destroys, obliterates, removes, damages or suffers to be damaged, any electrical installation or tampers with any electrical installation, without lawful authority, or knowingly benefits from the destruction, obliteration, removal or tampering of that electrical installation, commits an offence and is liable to a fine not exceeding 5 penalty units or 3 years imprisonment, or both.

(2) Where a person is convicted of an offence under subsection (1), the Court may, in addition to imposing a penalty order him or her to pay the costs of re-establishing or replacing the electrical installation destroyed, obliterated, removed, damaged or defaced.

43. Failure to comply with notice – A person commits an offence who fails to comply with a notice in writing issued by the General Manager under section 34(4).

44. False Misrepresentation – A person not being licensed under this Act who:

- (a) holds himself or herself out to have been licensed under this Act;
 - (b) takes or uses the name or title of a person who has a licence under this Act; or
 - (c) uses a name, title or description implying that he or she is licensed under this Act,–
- commits an offence and is liable to a fine not exceeding 2 penalty units or 1 year imprisonment, or both.

45. Unlawful use of electricity – A person who unlawfully directs electricity or causes electricity to be unlawfully directed, or uses electricity that is unlawfully directed, commits an offence and is liable to a fine not exceeding 5 penalty units or 3 years imprisonment, or both.

46. False statements in licence – A person commits an offence if in an application for a licence or in a statement accompanying that application he or she makes a statement or provides information that is false or misleading in a material particular.

47. General penalty – A person who commits an offence against this Act for which no penalty is provided elsewhere than in this section, is liable to a fine not exceeding 1 penalty unit or 6 months imprisonment, or both.

48. (Repealed by s57 of Act 2010, No.23)

49. Service of notice – (1) The service on a person of a notice or application under this Act is taken to have been duly effected if the notice:

- (a) is delivered to him or her personally;
- (b) is posted in a prepaid letter addressed to him or her at his or her place of residence or business address; or

- (c) is delivered to his or her place of residence or his or her business address to a person apparently residing at that place or address and apparently not less than 16 years of age.

(2) Where a notice is posted to a person under subsection (1)(b), the notice is, in the absence of proof to the contrary, taken to have been served on him or her at the time at which, in the ordinary course of post, the letter containing the notice would have been delivered.

50. Deeming of evidence – In any proceedings in evidence and certified by the General Manager as purporting to be:

- (a) a practice direction issued by the Corporation;
 - (b) a true copy of a licence issued under section 25 (3);
 - (c) a true copy of a notice issued under section 34 (4);
- or

(d) a statement of a resolution of the Corporation, –
is presumed, unless proved to the contrary, to be evidence of both the fact and the contents of the document.

51. Regulations – (1) The Head of State, acting on the advice of Cabinet, may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act, to be prescribed, or necessary or convenient to be prescribed for the carrying out or giving effect to this Act.

(2) Without limiting subsection (1), regulations may be made for any of the following purposes:

- (a) prescribing procedures of meetings of the Corporation;
- (b) prescribing the conditions of employment of persons in the service of the Corporation;
- (c) prescribing further records or accounts to be kept by the Corporation;
- (d) prescribing conditions relating to the construction, installation, maintenance, use, management, inspection, and testing of electrical installations and instruments, materials, appliances, apparatus, accessories and equipment used or intended to be used in the construction, installation, maintenance or use of electrical installations;

- (e) prescribing conditions and standards relating to the manufacture, importation, sale and use of materials, appliances, apparatus, accessories, devices, instruments or other equipment used or intended to be used in the transmission and conduct of electricity;
- (f) *(repealed by s57 of Act 2010, No23)*
- (g) imposing fines not exceeding 1 penalty unit for the breach of any regulation.
- (h) - (j) *(repealed by s57 of Act 2010, No23)*

52. Repeal and savings – (1) The enactments specified in the Schedule are repealed.

(2) Upon the commencement date of this Act, any matter or proceeding pending or in progress under an enactment specified in the Schedule, may, by virtue of this subsection be continued, compelled or enforced as if the enactment was still in existence.

(3) An arrangement or contract entered into by or on behalf of the Electric Power Corporation as a party and in force immediately before the commencement date of this Act continues in force, despite the repeal of the enactments specified in the Schedule.

(4) A person who was immediately before the commencement of this Act, appointed to the office of Manager in the Electric Power Corporation established under the Electric Power Corporation Act 1972 continues by force of this subsection to hold office as if he or she had been appointed as General Manager under this Act and holds office for the remainder of the period applicable to this appointment that existed immediately before the commencement of this Act.

(5) A person who was either an officer or an employee of the Electric Power Corporation established under the Electric Power Corporation Act 1972 immediately before the commencement of this Act, continues by force of this subsection to be an employee or officer of the Corporation as if an officer or employee under this Act subject to those terms and conditions that applied to him or her immediately before the commencement of this Act.

**SCHEDULE
(Section 52 (1))**

Enactment No.	Title
20, 1972	The Electric Power Corporation Act 1972.
12, 1950	The Electric Lines Ordinance 1950.

REVISION NOTES 2008 – 2017

This is the official version of this Act as at 31 December 2017.

This Act has been revised by the Legislative Drafting Division from 2008 – 2017 respectively under the authority of the Attorney General given under the *Revision and Publication of Laws Act 2008*.

The following general revisions have been made:

- (a) Amendments have been made to conform to modern drafting styles and to use modern language as applied in the laws of Samoa;
- (b) Insertion of the commencement date;
- (c) Other minor editing has been done in accordance with the lawful powers of the Attorney General:
 - (i) “Every” and “any” changed to “a” or “each” where appropriate;
 - (ii) “shall be” and “has been” changed to “is” and “shall be deemed” changed to “is taken”;
 - (iii) “is guilty of” changed to “commits”;
 - (iv) “notwithstanding” changed to “despite”;
 - (v) Numbers in words changed to figures;
 - (vi) “from time to time” removed;
 - (vii) “under the hand of” changed to “signed by”;
 - (viii) “in accordance with” changed to “under”;
 - (ix) “save” changed to “except”;
 - (x) “forthwith” removed;
 - (xi) “the general power conferred by” removed;
 - (xii) Sections 40 and 44 revised and restructured;
 - (xiii) Section 12(1) and 21(1) paragraphed;
 - (xiv) “furnished or furnishes” changed to “provided or provides”.
 - (xv) Part numbering changed to decimal

The following amendments were made to this Act since the publication of the *Consolidated and Revised Statutes of Samoa 2007*:

By the Miscellaneous Fees Amendment Act 2008:

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- Section 23A** - A new section has been added after section 23 by section 4;

By section 57 of the Electricity Act 2010 (No. 23):

- Section 3** - The term “Regulator” has been added;
- Section 15** - The words “The functions of the Corporation are” were substituted with “Subject to the provisions of the Electricity Act 2010, the functions of the Corporation are”;
- Section 15A** - The whole section was deleted and substituted with a new section 15A;
- Section 16** - Amended by deleting subsection (1) and substituted with a new subsection;
- Section 17A** - A new section has been added after section 17;
- Section 21** - Subsection (1) was amended by substituting “The” with “Subject to subsection (3), the”,
- A new subsection has been added after subsection (2);
- Section 23A** - This section has been repealed;
- Section 24** - Amended by deleting the phrase “or generate or distribute electricity”;
- Section 25(3)** - Amended by deleting the phrase “or generating or distributing electricity”;
- Section 48** - This section has been repealed;
- Section 51** - Amended by deleting paragraphs (f), (h), (i) and (j);

By the Composition of Boards of Public Bodies Act 2012 (commenced on 1 April 2012):

- Sections 3** - Definition of “Director” amended;
- Section 5(1)** - replaced with section 5(1) to 5(1D);
- Section 7** - amended;
- Section 8** - repealed;

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By the *Audit Act 2013* (commenced 27 January 2014):

Section 22 - amended;

By the *Electric Power Corporation Amendment Act 2014* (commenced 7 April 2014):

Section 32 - substituted subsections (2) and (3) and inserted new subsection (4);

Section 33(2) - omit “and experienced electrical”;

By the *Public Bodies (Performance and Accountability) Amendment Act 2015*, commenced on 24 April 2014:

Section 18 after “Minister” insert “for Public Enterprises”;

Section 25(1)(a) delete “of Works, Transport and Infrastructure” and substitute “for Public Enterprises”;

Section 25(4) after “Minister” insert “for Public Enterprises”.



Lemalu Hermann P. Retzlaff
Attorney General of Samoa

*This Act is administered by
the Ministry of Works, Transport and Infrastructure.*
