

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

THE ELECTRICITY (GUERNSEY) LAW, 2001 (AMENDMENT) ORDINANCE, 2022

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Electricity (Guernsey) Law, 2001 (Amendment) Ordinance, 2022", and to direct that the same shall have effect as an Ordinance of the States.

EXPLANATORY MEMORANDUM

This Ordinance amends the Electricity (Guernsey) Law, 2001 ("the Electricity Law") to transfer powers in respect of tariffs and prices fixed by Guernsey Electricity Limited ("GEL") from the Guernsey Competition and Regulatory Authority ("GCRA") to the States' Trading Supervisory Board ("STSB"). This applies both in respect of the published tariff regime, and charges applicable under special agreements entered into under section 16 of the Electricity Law.

Section 1(1) to (4) amend section 5 of the Electricity Law, which is concerned with licence conditions, to exclude GEL from the powers of GCRA to include conditions in licences relating to pricing. The amendment at section 1(3) in respect of publication, and the amendment to section 8 of the Electricity Law at section 1(5), are consequential on these changes.

The amendments to section 12 of the Electricity Law at section 1(6) provide for STSB to have the power to approve tariffs fixed by GEL, and to have the power to determine any question relating to whether there is any undue preference or undue discrimination by GEL in fixing tariffs. Section 1(7) to (9) amend section 17 of the Electricity Law, which is concerned with the determination of disputes. The amendment at section 1(10) provides for powers in respect of fixing maximum prices at which electricity may be resold to be transferred to STSB.

Section 2 contains transitional provisions. Section 2(1) to (2) provide that tariffs and prices previously approved by GCRA will remain in force until such time as STSB approves any new ones. Section 2(3) to (4) provide a mechanism for making consequential modifications to the terms of GEL's existing GCRA licence. The provisions empower STSB to make regulations making the necessary modifications to the licence conditions, but only in so far as those are required to give effect to the above amendments and to the relevant Resolutions of the States, and only after consultation with GCRA.

The Electricity (Guernsey) Law, 2001 (Amendment)

Ordinance, 2022

THE STATES, in pursuance of their Resolution of the States of the 10th September, 2021^a, and in exercise of the powers conferred on them by section 36 of the Electricity Guernsey Law, 2001^b, and all other powers enabling them in that behalf, hereby order:-

Amendment of the Electricity Law.

1. (1) The Electricity (Guernsey) Law, 2001 ("**the Law**") is amended as follows.

(2) At the start of section 5(1)(f) insert "(except in the case of Guernsey Electricity)".

(3) In section 5(4)(b), after "licensee" insert "(except, for the avoidance of doubt, Guernsey Electricity)".

(4) After section 5(6), insert –

"(7) No condition may be included in a public electricity supply licence granted to Guernsey Electricity (including a condition included in such a licence by way of modification of that licence) that has the effect of requiring or empowering the Authority to determine, fix or approve in any

^a Article V of Billet d'État No. XXVII of 2021.

^b Ordres en Conseil Vol. XLI, p. 343. This enactment has been amended.

way (including, but not limited to, through publication) tariffs or charges (including, but not limited to, determining and fixing maximum charges that may be levied or applied, either generally or in specified circumstances) proposed or fixed by Guernsey Electricity before or after they are levied or applied, including (but not limited to) tariffs and charges proposed, fixed, levied or applied under a special agreement with respect to supply entered into under section 16. ".

(5) In section 8(1), after "States' directions" insert ", section 5(7)".

(6) In section 12 –

(a) in subsection (1), after "public electricity supply licensee" insert "(other than Guernsey Electricity)",

(b) after subsection (1), insert –

"(1A) The prices to be charged by Guernsey Electricity for the supply of electricity pursuant to section 10(1) shall be in accordance with such tariffs (which, subject to any condition included in its licence, may relate to the supply of electricity in different areas, cases, premises and circumstances) as may be fixed by it from time to time and approved by the Board before they are levied; and when approving tariffs levied by Guernsey Electricity under this subsection, the Board must have regard to the objectives set out in section 2 of the Regulation Law.", and

(c) in subsection (4), after "Authority" insert "(or Board, in the case of Guernsey Electricity)".

(7) At the start of section 17(1) insert "Subject to subsection (1A)", and after section 17(1) insert –

"(1A) Where the relevant public electricity supply licensee is Guernsey Electricity, a dispute falling within subsection (1) relating to –

(a) tariffs fixed under section 12, or

(b) charges applicable under the terms of a special agreement entered into under section 16,

may be referred by either party to the Board (and not the Authority) for resolution."

(8) In section 17(2) –

(a) delete "to it",

(b) insert "or (1A)" after "subsection (1)",

(c) in paragraphs (a) and (b), insert "(or Board, as the case may be)" after "Authority", and

(d) in paragraph (c), after "apply" insert "(other than, for the avoidance of doubt, as to charges in respect of, or otherwise relating to, the consumption of electricity)".

(9) In section 17(3) –

(a) after "Authority" insert "(or Board, as the case may be)",
and

(b) at the end, insert ", having regard to the provisions of this
Part".

(10) In section 23(2), in the first place it appears, after "Authority"
insert "(or Board, in the case of Guernsey Electricity)", and in paragraph (b), after
"Authority" insert "(or Board, as the case may be)".

(11) In section 33(1), insert in the correct alphabetical order –

""**Board**" means the States' Trading Supervisory Board," and

""**Guernsey Electricity**" means Guernsey Electricity Limited, a
company registered in Guernsey under Company No. 38692,".

Transitional provisions.

2. (1) Any tariffs fixed by Guernsey Electricity and approved by the
Authority under section 12 of the Law shall continue to have effect until new tariffs
are fixed by Guernsey Electricity and approved by the Board.

(2) Any maximum prices at which electricity may be resold by
Guernsey Electricity fixed by the Authority under section 23(2) of the Law shall
continue to have effect until new prices are fixed by the Board.

(3) The Board may, by regulations made after consultation with the
Authority, modify any public electricity supply licence granted by the Authority to

Guernsey Electricity under the Law for the purpose only of giving effect to Resolution 1 of the States of 10th September 2021 on Article V of Billet d'État No. XXVII of 2021, and the amendments to the Law made by section 1 of this Ordinance.

(4) For the avoidance of doubt, the provisions of section 8 of the Law (regarding the modification of licence conditions) do not apply to regulations made under subsection (3).

Powers of the Authority under the Competition Ordinance unaffected.

3. For the avoidance of doubt, the provisions of this Ordinance are without prejudice to the powers of the Authority under the Competition (Guernsey) Ordinance, 2012^c.

Citation.

4. This Ordinance may be cited as the Electricity (Guernsey) Law, 2001 (Amendment) Ordinance, 2022.

Commencement.

5. This Ordinance shall come into force on 21st February, 2022.

^c Ordinance No. XXXI of 2012. This enactment has been amended.