

AS TABLED IN THE HOUSE OF ASSEMBLY

A BILL

entitled

ELECTRICITY AMENDMENT ACT 2022

TABLE OF CONTENTS

1	Citation
2	Amends section 2
3	Amends section 6
4	Amends heading to Part 5
5	Amends section 20
6	Amends section 26
7	Inserts sections 32A and 32B
8	Inserts headings
9	Amends section 47
10	Amends section 48
11	Amends section 54
12	Consequential amendments
13	Commencement

SCHEDULE FEES IN RESPECT OF INNOVATIVE LICENCES

WHEREAS it is expedient to amend the Electricity Act 2016 to introduce a new type of licence and for connected and related matters;

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

Citation

1 This Act, which amends the Electricity Act 2016 (the "principal Act"), may be cited as the Electricity Amendment Act 2022.

Amends section 2

2 The principal Act is amended in section 2(1)–

ELECTRICITY AMENDMENT ACT 2022

- (a) in the definition of “Power Purchase Agreement”, by inserting after “Bulk Generation Licensee” wherever those words appear the words “, or an Innovative Licensee”;
- (b) by inserting in the appropriate alphabetical order the following—
 - “innovative business” means a business approved by the Authority to be carried on in the electricity sector in an innovative manner;
 - “Innovative Licence” means a licence issued to an innovative business under section 32A and ‘Innovative Licensee’ shall be construed accordingly;”.

Amends section 6

3 The principal Act is amended in section 6 by inserting after paragraph (c) the following—

“(ca) to promote and encourage innovation in the electricity sector;”.

Amends heading to Part 5

4 The principal Act is amended by repealing and replacing the heading to Part 5 as follows—

“PART 5
LICENCES: GENERAL AND INNOVATIVE LICENCES

LICENCES: GENERAL”.

Amends section 20

5 The principal Act is amended in section 20(1)(a) by deleting “and distributed generators”, and substituting the words “, distributed generators and Innovative Licensees”.

Amends section 26

6 The principal Act is amended in section 26(2)(a) by inserting after the words “Bulk Generation Licensee” the words “or an Innovative Licensee”.

Inserts sections 32A and 32B

7 The principal Act is amended by inserting after section 32 the following—

“Innovative Licences

32A (1) The Authority may, in accordance with this section and regulations, by administrative determination, grant an Innovative Licence that authorises the holder to engage in a regulated activity, for a limited period prescribed by

regulations, in an innovative manner for the purpose of carrying out testing in relation to such activity.

(2) The Authority—

- (a) may require a consultancy deposit as prescribed by regulations;
- (b) shall cause the conduct of a public consultation of any environmental impact assessment of a proposed innovative business as prescribed by regulations;
- (c) may, where the Authority considers necessary, require an innovative licensee to remove any of the licensee's structures, or other equipment related to the innovative business, and shall require the licensee to do so at the end of the licence period.

(3) For the avoidance of doubt, sections 21 to 32 will not apply with respect to Innovative Licences.

(4) The Authority may, in accordance with section 48(2) of the Regulatory Authority Act 2011, grant different classes of Innovative Licences.

Criteria for grant of Innovative Licence

32B (1) The criteria for grant of an Innovative Licence are those listed in section 23(1) (applied with any necessary modifications), provided that any person may be an applicant.

(2) In considering whether to grant an Innovative Licence to an applicant, the Authority shall have regard to—

- (a) whether the applicant for an Innovative Licence has satisfactorily demonstrated to the Authority that the applicant will be able to use new or different technological or innovative measures—
 - (i) to further the purposes set forth in section 6;
 - (ii) to conform to the Grid Code; and
 - (iii) to comply with any relevant technical specifications that are approved by the Authority, including with respect to generation technology and means of interconnection with the grid; and
- (b) such other matters as may be prescribed by regulations.”.

Inserts headings

8 The principal Act is amended as follows—

(a) by inserting above the heading to section 32A the following—

“INNOVATIVE LICENCES”;

(b) by inserting above the heading to section 33 the following—

“APPEALS”.

Amends section 47

9 The principal Act is amended in section 47 by inserting after subsection (3) the following—

“(3A) For the avoidance of doubt, subsection (2)(a) does not apply with respect to Innovative Licences.”.

Amends section 48

10 The principal Act is amended in section 48(1)(c), by inserting after the word “Licence” the words “or Innovative Licence”.

Amends section 54

11 The principal Act is amended in section 54 by inserting after subsection (1) the following—

“(1A) Without prejudice to the generality of subsection (1), the Minister, after consultation with the Authority, may make regulations with respect to Innovative Licences and such regulations may—

- (a) further provide for applications and decisions related to applications;
- (b) provide for consultation, a consultancy deposit and notice before the Authority makes a decision on an application;
- (c) provide for the grant, refusal, renewal, extension, suspension or revocation of licences or other authorizations, as the case may be, and the imposition or variation of conditions that the Authority deems to be necessary;
- (d) provide for granting authorizations that are necessary, or ancillary, to Innovative Licences;
- (e) make provision ensuring that the Authority establishes and adheres to a reasonably prompt timetable in carrying out its functions in relation to Innovative Licences;
- (f) provide for designation of the area within which an Innovative Licensee is permitted to operate, and specify any prohibited and restricted activities therein;
- (g) provide for offences and prescribe penalties for such offences (including any defence, or if thought fit, imprisonment), but not exceeding the penalties fixed by section 55;
- (h) provide for objections, savings and transitional matters;

ELECTRICITY AMENDMENT ACT 2022

- (i) provide for the exercise of any of the Authority's other functions set out in this Act or the Regulatory Authority Act 2011;
- (j) prescribe any other matters related to or connected with Innovative Licences."

Consequential amendments

12 (1) The fees set forth in the Schedule shall have effect.

(2) The Minister responsible for energy may by regulations amend any enactment that is relevant to Innovative Licences to add a provision thereto where it appears to him that the enactment requires amendment consequentially upon the provisions of the Electricity Act 2016 as amended by this Act, or by regulations made under section 54 of the Electricity Act 2016.

(3) Regulations made under subsection (2) shall be subject to the negative resolution procedure.

Commencement

13 This Act shall come into operation on such day as the Minister responsible for energy may by notice in the Gazette appoint.

ELECTRICITY AMENDMENT ACT 2022

SCHEDULE

(Section 12)

FEES IN RESPECT OF INNOVATIVE LICENCES

Amendment of Electricity (Regulatory Authority Fees) Regulations 2021

1 (1) The Electricity (Regulatory Authority Fees) Regulations 2021 are amended in Schedule 1 (General Regulatory Fees Payable) by inserting after paragraph (6) the following—

“

(7) Innovative Provider	\$6,500 per megawatt per annum of installed electricity generation capacity (payable quarterly)	”.
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(2) The Electricity (Regulatory Authority Fees) Regulations 2021 are amended in Schedule 2 (Service Fees Payable) by inserting after the last entry the following—

“

Innovative Licence application fee	\$1,000	”.
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Amendment of Government Fees Regulations 1976

2 The Government Fees Regulations 1976 are amended in the Schedule, in Head 24, by inserting after paragraph (6) the following—

“

(7) Authorisation to an Innovative Licence holder under section 32A	\$3,400 per megawatt per annum of installed electricity generation capacity (payable quarterly)	
(8) Government authorisation fee for the right of an Innovative Licence holder to operate an innovative business in a prescribed approved area pursuant to the Act for the duration of the licence Fee to be paid on issuance of licence.	\$16,500 per annum	”.

ELECTRICITY AMENDMENT BILL 2022

EXPLANATORY MEMORANDUM

This Bill seeks to amend the Electricity Act 2016 (the “Act”) to introduce a new type of licence and for connected and related matters.

Clause 1 provides a title for the Bill.

Clause 2 amends a definition, and inserts new definitions in section 2 of the Act for the interpretation of the Act.

Clause 3 amends section 6 of the Act to include innovation in the electricity sector as a purpose of the Act.

Clause 4 amends the Heading to Part 5 of the Act to include Innovative Licences.

Clause 5 amends section 20 of the Act to make provision for the TD&R licensee to purchase electricity from an Innovative Licensee.

Clause 6 amends section 26 of the Act with respect to licence conditions consequential upon the new Innovative Licence.

Clause 7 inserts sections 32A and 32B in the Act. The new section 32A makes provision for a new limited duration licence, the “Innovative Licence”. Innovative Licensees will have an opportunity for a prescribed limited period, to carry out innovative business in relation to testing as regards a regulated activity, while under the supervision and direction of the Regulatory Authority. The new section 32B makes provision with respect to criteria for grant of an Innovative Licence.

Clause 8 inserts the headings “Appeals” and “Innovative Licences”.

Clause 9 amends section 47 of the Act to make it clear that when the TD&R Licensee procures resources from Innovative Licensees, the generation procurement process required by the Integrated Resource Plan will not apply.

Clause 10 amends section 48 of the Act to provide for Power Purchase Agreements to be concluded to set out the terms for the TD&R Licensee’s purchase of electrical power from an Innovative Licensee.

Clause 11 amends section 54 of the Act to provide for certain matters to be prescribed by regulations in relation to Innovative Licences.

Clause 12 and the Schedule effect consequential amendments, including amendments to the Electricity (Regulatory Authority Fees) Regulations 2021 and the Government Fees Regulations 1976 to provide fees with respect to Innovative Licences.

Clause 13 provides for commencement.