

Royal Decree
No 59/2009
Amending some of the provisions of the law of regularization and
privatization of electricity and related water sector

We Qaboos Bin Said

Sultan of Oman

- After having perused the state's basic statute promulgated by Royal Decree 101/96,
- The law of regularization and privatization of electricity and related water sector promulgated by RD 78/2004,
- RD 92/2007 for establishment of Public authority for electricity and water and appointment of a president to it,
- RD 3/2008 specifying the powers and authorities of the Ministry of Housing and approval of its structure,
- And upon exigencies of the public interest

Decree as follows:

Article (1)

The attached amendments on the above mentioned law of regularization and privatization of electricity and related water sector shall be implemented.

Article (2)

All that contravene or contradict the attached amendments shall be cancelled.

Article (3)

This RD shall be published in the official gazette and shall come to force as of the following day of the date of issue.

Issued on 11.10.2009

Qaboos Bin Said
Sultan of Oman

Amendments to some of the provisions of the law of regularization and privatization of electricity and related water sector

First : the following text shall replace the provisions of articles (13,25 clause 10,32,38,52,65,66,67,68,73,78,81 clause 2, 87,93) of the law of regularization and privatization of electricity and related water sector.

Article (13)

The public Authority for Electricity and Water (PAEW) shall be assigned the duty of execution of the government policy related to privatization electricity and related water sector after coordination with the Ministry of Finance and National Economy, and in order to be able to that it:

- a. Shall direct Electricity Holding Company (EHC) to sell its shares in all or some of the companies stated in article 66 of this law or in other companies or oblige that companies to dispose off all or some of their assets, rights or liabilities.
- b. Shall carry out all that required for privatization of the companies working in the sector which are completely or partially owned by government, and allow the private sector for investment in this sector through construction, own, operate, maintenance, development and finance activities related to the sector as per the provisions of this law or any other method.
- c. Fix shareholding percentage in the capital of these companies, licensed by the provisions of this law, which are required to be offered, by such companies, for public subscription and the period during which such process shall be undertaken, and also with regard to the companies completely owned to government upon taking the privatization procedures.

Article (25) 10

Coordinate with ministries and concerned government units and the PAEW with regard to all that required for development of the sector, and provide consultancy to the PAEW upon its request with regard to issues fall within their powers and authorities which are related to the electricity sector and water related to it.

Article (32)

If the PAEW believes, after consultation with the PAEW, that the market is ready for more privatization, it should include the following in its annual report:

- a. Nature of proposed liberation, its extent, time and the amendments required in this law for this liberation and the issued licenses , and the amendments of the rules of the main network , distribution and other related rules and regulations.

- b. The result of its coordination with the participants in the sector and other related bodies with regard to its proposals for liberalization of the market.

The Minister of National Economy, after consultation with the PAEW, present the PAEW proposals for liberalization of the market to the council of ministers for decision. In case of approval of such proposals the PAEW shall issue the required decisions for implementation of such decisions.

Article (36)

The Authority shall provide the Ministry and Finance and National Economy and the PAEW with copy of the program stipulated in article (34) of this law along with copy of the objections of the concerned bodies and the Authority's reply on such objections. The PAEW shall submit copies of all the above at the Minister of National Economy for presentation to the council of ministers.

Article (38)

The Authority, after coordination with the PAEW, issue regulations for achievement of the following objectives:

- a. Ensure regular supply of electricity and desalinated water through the electricity and related water sector.
- b. Protect public for injury risks that may result of works and fixtures related to the electricity and related water sector.
- c. Encourage ideal use of electricity energy by observing controls and standards adopted by the PAEW.

Article (52)

The Authority shall undertake to provide Ministry of Finance and national Economy and PAEW with copy of its annual balance sheet in the same day of publication of its summary. The Authority shall provide sufficient number of copies to the Minister of National Economy for presentation at the council of ministers.

Article (65)

Without prejudice of the provisions of article (13) of this law, EHC shall be assigned with implementation of the government policy to be adopted by the council of ministers with regard to privatization of electricity and related water sector, and shall abide by the method to be determined by the PAEW.

In addition to the powers and authorities assigned to it as per the provisions of this law, the company shall have the following powers:

- a. Encouraging electricity projects and electricity and related water sector, projects financed by the private sector.
- b. Financing companies working in the filed of electricity and related water sector, owned completely by government, within the framework of the state general policy. It shall handle the duty of taking care of the interest of the state in these companies.

- c. Taking all legal actions on the state's shares in the companies stated in article (66) of this law, and the companies stated in clause (e and h) of this article , and taking all actions and entering into contracts required as directed by PAEW.
- d. Takings actions deemed required for achievement of its objectives as directed by the PAEW.
- e. Establishing new companies or directing any of its subsidiaries for the purpose of availing new production capacity, or management, operation, or maintenance of some of its assets or acquired electrical establishments, production or networks, or what is acquired from such establishments to a licensee whose license has been cancelled in application of article (121) of this law, and all the aforementioned as may be directed by the PAEW.
- f. Provide central accountancy services to the companies working in the filed of electricity and related water sector, owned completely to the state, and others who are desirous of receiving such services against charges.
- g. Provide consultancy services to the PAEW upon request with regard to the future of restructuring and regularization of the unrelated water sector.
- h. Establishment of new companies as directed by the PAEW for the purpose of restructuring and privatization of the unrelated water sector. EHC may not practice any of the activities subject to regularization as per the provisions of this law.

Article (66)

The state's ownership of shares in the following companies shall be through is ownership of shares in EHC:

- a. Oman Company for Purchase of Energy and Water SAOC
- b. Omani Electricity Transmission o SAOC
- c. Wadi Al Jizi Energy CO SAOC
- d. Al Ghubra Power and Desalination Co SAOC
- e. Mazon Electricity Co SAOC
- f. Majan Electricity SAOC
- g. Muscat Electricity Distribution CO SAOC
- h. Rural Areas Electricity Co SAOC
- i. Companies to be established as per the provisions of clause (E & H) of the previous article.

Article (67)

The companies stated in the previous article shall take form of Omani Closed Joint Stock Companies. The PAEW, after obtaining the approval of the Ministry of Finance, amend the legal form of any of these companies, subject to the provisions of the commercial companies law. The Ministry of Finance shall undertake providing required finance for these companies to carry out their activities and achieve their objectives all through the period in which their capital is owned by the state either from the Ministry of Finance or any other source.

Article (68)

Each of the companies stated in article (66) of this law, completely owned by the state, shall have a Board of Directors to be formed by a decision to be issued by the EHC, in coordination with the Ministry of Finance.

Article (73)

EHC shall undertake to submit its annual budget and the budget of the companies stated in article (66) of this law to the PAEW for review. The Authority after carrying out such revision, shall submit these budgets to the Ministry of Finance for approval, all through the period in which the capital of these companies is completely owned by the state.

Article (78)

OPWP, after being notified by the PAEW with the new production capacity of desalination water which such Authority estimated the need for it, and approved by the Ministry of Finance and National Economy, shall offer it for competition for arranging this capacity and enter into contracts with regard to it as per the provisions of this law, in the cases where the above Authority decide to notify it with.

If there is a need for new capacity of electricity or its production or both of them which is connected with desalination water, OPWP shall make arrangements for provision of the same as per the provisions of this law. It should not refuse or la behind of undertaking the required competition for this, claiming that it was not notified by the PAEW, as per the provisions of the previous clause.

Article (81) Second clause :

The PAEW shall be entitled, after coordination with the Ministry of Finance and National Economy (MOFNE), to decide privatization of any new company as stated above, if economic interest warrants.

Article (87)

Provision of required finance for expansion of the network of Rural Areas Electricity Company shall be as follows:

- a. Rural Areas Electricity Company shall submit proposed budget for finance, after being approved by the Authority , at the times and for the periods stated in its license, to EHC which shall submit such budget to the PAEW for decision , after coordination with the Ministry of Finance and National Economy.
- b. EHC shall undertake to provide required finance for expansion of the network of the Rural Areas Electricity Company as per the method to specified by the latter, in case the PAEW approved the finance budget as per clause (a) of this article.

Article (93)

The Ministry of Housing, as per the law regulating usufruct of the Sultanate's lands, grant the companies stated in article (66) of this law or that licensed as per its provisions, upon a request from any of them, usufruct right on the state's lands in future for establishment of projects to be subject to regularization as per the provisions of this law.

B- The expression "The Public Authority for Electricity and Water " (PAEW) shall replace the expressions "The Ministry of Housing, Electricity and Water, and "The Minister of Housing , Electricity and Water" wherever stated in the law for regularization and privatization of electricity and related water sector, except when stated in (article "1" by exempting the expression Ministry of Housing, Electricity and Water stated in the definition of water section, 96,97,98,134,142) as it should be replaced with the expression " Ministry of Housing".

C- The following words and expressions shall replace the words and expressions stated in articles (22,29,30,31,71,88,122,135) of the law of regularization and privatization of electricity and related water

The word " to the ministries" stated in clause 21 of article 22 shall be replaced with the expression "to the ministries and the PAEW".

The expression "Ministry of Housing, Electricity and water with copy of this report and provide the Ministry of Finance and National Economy with sufficient number of copies to be submitted to the Council of Ministers" stated at the end of article (29) , shall be replaced with the expression "Ministry of National Economy and the PAEW, and the PAEW shall submit sufficient numbers of this report to the Minister of National Economy for presentation to the council if ministers".

The expression "The Ministry of National Economy" stated in articles (30 & 31) shall be replaced with the expression "the PAEW".

The expression "the financial law and the financial control law" referred to in article "71" shall be replaced with the expression "the state financial control law" .

The expression "the Ministry of National Economy" stated in clauses (a, b, fourth, 2/c, 3/c, second 3/f) of article "88" shall be replaced with the expression "the PAEW" . Also the expression "this ministry" stated in clause 3/c/second) referred to, shall be replaced with the expression "the PAEW"

The word "government" whenever stated in article "22" shall be replaced with the expression "the PAEW".

The expression "this ministry" stated in clause (g/2) of article (135) shall be replaced with the expression "the PAEW".

Second (A) The following two new clauses shall be added to the end of article (1) of the law for regularization and privatization of electricity and related water sector :

Strategic investment decision:

The decision to be taken by the PAEW in execution of the state's general policy for the necessity of investment in the activities subject to regularization as per the provisions of the law, in the cases where there is no reasonable demand for the services of such activities, for realization of public interest.

Research and Development Project

It is an experimental research project in the field of the activities subject to the regularization as per the provisions of this law. It aims at enhancing electricity and related water sector through the results achieved such as introducing new methods or techniques that might be used in future in the field of such activities.

B- The following new expression shall be added to clause (b) of article 17 of the law of regularization and privatization of electricity and related water sector after the expression " to be determined by the council of ministers from time to time":

"upon a proposal from PAEW"

C- Two new articles under no. (22 Bis) , (25Bis) and a new item to article (54), article (74), and new articles no (122Bis) , (122Bis) (1) and (122 Bis) () to the law of regularization and privatization of electricity and related water sector as follows:

Article (122 Bis) :

In addition to the duties stated in the previous article, the Authority shall take required actions for execution of the strategic investment decision, through obliging a licensee for transmission or distribution, as per the provisions of this law to do investment in the activities the subject of this decision.

Article (25 Bis)

In addition to the powers awarded to it as per the provisions of this law, the Authority shall provide consultancy to the PAEW upon its request with regard to restructuring of the unrelated water sector. To do that it may appoint consultants, experts and technicians in this field, provided that the PAEW shall bear the resulting costs.

Article (54): c :

Against the services to be provided by it to the PAEW as per the provisions of this law.

Article (74): I:

To provide consultancy and technical support to the PAEW upon its request with regard to the future vision with regard to the demand for drinking water.

Article (122 Bis)

Approval and publication of the criterion for characterization of the projects as research and development projects and decision shall be issued by the PAEW, after coordination with the Authority. The decision shall include specification of publication method.

Article (122 Bis 1)

Investment request in research and development project shall be submitted by the concerned persons to the Authority as per the rules and procedures to be issued by it in this regard. The Authority shall review the request in coordination with the PAEW to ensure that the project is in line with the criterion stated in the previous article. If the projects deemed to be in line with the standards, a decision shall be issued by the Authority approving the project as research and development project. This decision shall include details of the nature and location of the project and all that related to it, method of execution, operation and development of the work, preparation of reports and method of publication.

The PAEW may provide required finance for execution of the project as per the terms to be specified by a decision to be issued in this regard.

Article (122 Bis 2)

If the research and development project is related to new production capacity, and after consultation with the licensees and exemptions holders whose interest are expected to be affected as a result of execution of the project, The Authority take any of the following two actions:

Offer the project for competition through OPWP or Rural Areas Electricity Company and set up the details of that competition.

Enter directly into contracting for execution of the project with the person to be specified, through any of the above mentioned two companies as per the rules and financial arrangements to be decided.

In all case the Authority shall issue a decision setting the procedures to be following by the licensee, as per the provisions of this law with regard to the production capacity or the project production after completion or any other related advantage.

Third; the expression "after consultation with the Ministry of Housing, Electricity and Water" stated in article (5) of the law of regularization and privatization of electricity and related water sector.

Fourth: the provisions of article (136) of the law of regularization and privatization of electricity and related water sector shall be cancelled.