

Law No. (6) of 2011
Regulating Participation of the Private Sector in
Electricity and Water Production in the Emirate of Dubai¹

We, Mohammed bin Rashid Al Maktoum, Ruler of Dubai,

After perusal of:

Law No. (6) of 1997 Concerning Contracts of Government Departments in the Emirate of Dubai and its amendments;

Law No. (7) of 1997 Concerning Land Registration Fees and its amendments;

Law No. (7) of 2006 Concerning Real Property Registration in the Emirate of Dubai;

Law No. (19) of 2009 Establishing the Supreme Council of Energy;

Law No. (14) of 2009 Concerning the Pricing of Government Services in the Emirate of Dubai;

Law No. (35) of 2009 Concerning Management of the Public Funds of the Government of Dubai;

The legislation regulating free zones in the Emirate of Dubai;

Decree No. (1) of 1992 Establishing the Dubai Electricity and Water Authority and its amendments;

Decree No. (22) of 2009 Concerning Special Development Zones in the Emirate of Dubai; and

Executive Council Resolution No. (2) of 2010 Establishing the Regulation and Supervision Bureau for the Electricity and Water Sector in the Emirate of Dubai,

Do hereby issue this Law.

Title of the Law
Article (1)

This Law will be cited as "Law No. (6) of 2011 Regulating Participation of the Private Sector in Electricity and Water Production in the Emirate of Dubai".

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¹Every effort has been made to produce an accurate and complete English version of this legislation. However, for the purpose of its interpretation and application, reference must be made to the original Arabic text. In case of conflict, the Arabic text will prevail.

Law No. (6) of 2011 Regulating Participation of the Private Sector in Electricity and Water Production in the Emirate of Dubai

Definitions

Article (2)

The following words and expressions, wherever mentioned in this Law, will have the meaning indicated opposite each of them unless the context implies otherwise:

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| Emirate: | The Emirate of Dubai. |
| SCE: | The Supreme Council of Energy. |
| DEWA: | The Dubai Electricity and Water Authority. |
| Bureau: | The Regulation and Supervision Bureau for the Electricity and Water Sector in the Emirate of Dubai. |
| Regulated Activity: | Any of the activities related to the production of electricity and/ or the desalination and remineralisation of water for the purpose of supplying the Transmission System with the produced Electricity and/ or Water. |
| Licence: | A document issued by the Bureau authorising a Licensee to conduct any of the Regulated Activities specified therein. This includes the terms and conditions contained in this document. |
| Licensee: | Any entity licensed by the Bureau to produce Electricity and/ or Water in the Emirate in accordance with the provisions of this Law. This includes, a Project Company. |
| Exemption: | A document issued by the Bureau exempting a Licensee from compliance with all or any of the requirements for obtaining a Licence to conduct any of the Regulated Activities. |
| Project Company: | A company established in accordance with the provisions of this Law to conduct any of the Regulated Activities in the Emirate. |
| Conditions: | The technical, financial, and regulatory requirements specified by the Bureau in a Licence; and the grounds and cases based on which an Exemption is issued to a Licensee by the Bureau; as the case may be. |
| Principal Assets: | Movable and immovable assets allocated by a Licensee to conducting Regulated Activities. These include, everything provided to enable the operation of power plants and/ or desalination plants owned by, or allocated |

by the RTA to, the Licensee, together with any real rights related to the land on which such assets exist.

Transmission System: The system of DEWA which is entirely or mainly comprised of:

1. water pipelines, and water storage and transportation facilities and installations, that are used for transporting water from one or more desalination plant(s) to a pumping station or storage facilities; or for transporting water between pumping stations; and
2. high voltage cables and power facilities and installations owned or operated by DEWA and used for transmission of power from a power plant to a power sub-station or to another power plant.

Scope of Application

Article (3)

The provisions this Law will apply to all Regulated Activities and to all public and private entities conducting such activities in the Emirate, including in free zones and Special Development Zones.

Duties of the Bureau

Article (4)

For the purposes of this Law, the Bureau will have the duties and powers to:

1. develop, in coordination with the concerned Government Entities, the standards and rules for conducting the Regulated Activities, including those related to the technical, health, environmental, and safety aspects; regularly review and update such standards and rules; and submit the same to the SCE for approval;
2. receive and consider applications for Licences and Exemptions related to conducting the Regulated Activities; and determine such applications upon obtaining the approval of the SCE;
3. verify, as per the relevant regulations and procedures prescribed by the SCE, compliance by the Licensees with this Law, the terms of the issued License or Exemption, and the adopted rules and requirements for conducting the Regulated Activities;
4. develop the rules and standards related to the operation of the transmission and connection system between the power generation facilities and/ or desalination facilities of the Licensee, to the Regulated Activities, and to the Transmission System;

5. prepare the required studies and research on conducting the Regulated Activities in the Emirate by the Licensees; and make the necessary proposals for developing their activities;
6. take the necessary actions and measures stipulated in this Law against violating Licensees and against any other entity that violates the provisions hereof;
7. keep and regulate records containing all the data and information of Licensees;
8. seek assistance from experts and specialists who have the qualifications and experience required to enable the Bureau to perform its duties under this Law;
9. represent the Emirate in regional and international conferences, forums, meetings, and organisations in all matters related to Regulated Activities;
10. give opinions and advice on all cases and issues presented to it by the SCE and other concerned Government Entities;
11. form the necessary committees and work teams and determine their duties and powers; and delegate any of the powers vested in the Bureau under this Law to such committees and work teams; and
12. perform any other duties assigned to it by the SCE.

Conducting Regulated Activities

Article (5)

- a. No public or private entity may conduct the Regulated Activities in the Emirate without first obtaining a Licence from the Bureau. The Licence will be granted in accordance with the provisions of this Law and the resolutions issued in pursuance hereof.
- b. Notwithstanding the provisions of paragraph (a) of this Article, DEWA will be exempt from obtaining the Licence referred to herein as it is the entity having the exclusive authority, under the above-mentioned Decree No. (1) of 1992, to implement electricity and water production projects in the Emirate.

Restricted Regulated Activities

Article (6)

The SCE, upon the recommendation of DEWA, may determine the Regulated Activities that may be conducted, and the facilities that may be managed or constructed, by a Licensee for the purpose of supplying the Transmission System with electricity and/or water.

Establishment of Project Companies

Article (7)

For the purpose of achieving its objectives under the above-mentioned Decree No. (1) of 1992, DEWA may establish various types of Project Companies, either solely or in partnership with any other persons, including non-UAE national individuals, companies, and corporations.

Criteria for Selecting Partners

Article (8)

Notwithstanding the provisions of the above-mentioned Law No. (6) of 1997, partners in Project Companies established for the purpose of conducting the Regulated Activities will be selected in accordance with the relevant rules adopted by the SCE upon the recommendation of DEWA.

Allocation of Real Rights

Article (9)

For the compensation it determines, DEWA will have the authority to grant a Project Company the usufruct right or any other real right in any part of the land plots demarcated on the map attached hereto or in any other land owned by DEWA for a period not exceeding ninety-nine (99) years.

Granting Licences and Exemptions

Article (10)

The Bureau is the sole entity in the Emirate assigned with the duty to issue Licences and Exemptions under this Law. Such Licences and Exemptions, as the case may be, will be issued subject to the technical, financial, and regulatory conditions and requirements prescribed by the SCE in this respect. For this purpose, the Bureau will:

1. evaluate Licence applications in accordance with the criteria stipulated in Article (12) of this Law and with the requirements adopted by the SCE in this respect; and

2. coordinate with the concerned entities in the Emirate to issue Licences and Exemptions.

Applications for Licences

Article (11)

A Licence application will be submitted on the form prescribed by the Bureau for this purpose, accompanied by the required supporting data and information, and by proof of payment of the relevant prescribed fees.

Criteria for Issuing Licences

Article (12)

The SCE will, upon the recommendation of the Bureau, approve the technical, financial, and administrative criteria for evaluating an application for Licence submitted by an applicant entity to conduct a Regulated Activity. This includes the criteria related to any party that the applicant intends to subcontract to fully or partially conduct the Regulated Activity.

Exemption

Article (13)

The Bureau may, within the scope of its duties and functions under this Law, exempt a Licensee, upon its request, from compliance with certain terms of its Licence. The Bureau may also amend, extend, or revoke such an Exemption at any time. In any event, the Bureau must inform the exempted entity in writing of the nature, extent, and terms of such an Exemption or of any amendment or revocation thereof.

Procedures for Exemption

Article (14)

- a. The Bureau may exempt a Licensee, upon its request, from compliance with all or any of the terms of its Licence, in accordance with the relevant rules adopted by the SCE.
- b. An Exemption granted pursuant to this Article will be in the form of a document issued by the Bureau stating the terms and conditions that ensure that the exempted Licensee will conduct the Regulated Activities for which the Licence is issued.

Where a Licensee fails to comply with the terms of the Exemption, the Bureau may, based on the exigencies of public interest and subject to a written notice, fully or partially revoke such an Exemption.

In issuing an Exemption, the Bureau must:

1. request the Licensee to provide the data and information required for supporting the Exemption application; and
2. coordinate with the concerned Government Entities.

Term of Licences and Exemptions

Article (15)

A Licence or an Exemption will be valid throughout the period specified therein, unless such a Licence or an Exemption is revoked in the cases, or pursuant to the rules, stipulated in this Law or in the Licence.

Announcement of Licences and Exemptions

Article (16)

The Bureau must announce the Licences and Exemptions issued pursuant to this Law and any amendments to such Licences or Exemptions to the extent possible and by all the means available, including means of publication and direct notification. However, the Bureau may not announce the details of any Exemption it issues if it believes that disclosing such details does not serve the public interest.

Subcontracting

Article (17)

- a. A Licensee is prohibited from subcontracting any entity to perform any work related in whole or in part to the Regulated Activities, unless this is disclosed upon applying for the Licence. Such a disclosure must include the details of that entity, the Regulated Activity it will conduct, and any other information requested by the Bureau.
- b. Notwithstanding the provisions of paragraph (a) of this Article, where a Licensee wishes, after obtaining the Licence, to subcontract any entity, or replace any subcontracted entity, the Licensee must obtain the prior approval of the Bureau, whereupon the Licensee must amend its Licence to reflect the subcontracting or replacement.

Amending Terms of Licences or Exemptions

Article (18)

The Bureau may, for reasons relating to public interest, amend the terms of a Licence or Exemption issued to a Licensee. In this case, the Bureau must notify the Licensee of such an amendment and of the details and reasons for the amendment. Upon receiving the proposed amendment, the Licensee must inform the Bureau in writing of its approval of the proposed amendment or object to the same as per the procedures and within the time frame prescribed in Article (19) of this Law. Where a Licensee fails to inform the Bureau of its approval or objection within thirty (30) days from the date of being notified of the amendment, the amendment will become binding on the Licensee.

Objection to Licence Terms Amendment

Article (19)

- a. A licensee may submit a written appeal to the Bureau against the amendment of the terms of the Licence within thirty (30) days from the date of being notified of the same. The appeal must be accompanied by the relevant supporting documents.
- b. The Bureau must consider the appeal referred to in paragraph (a) of this Article within (30) days from the date of its submission, and must issue its decision to uphold or cancel the amendment.

Where the Bureau dismisses a request made by the Licensee under the appeal for cancellation of an amendment, the Licensee may submit a grievance in respect of the dismissal to the SCE within twenty (20) days from the date of the dismissal. The grievance will be determined by a committee formed by the SCE for this purpose.

Criteria for Conducting Regulated Activities

Article (20)

Upon the recommendation of the Bureau and in coordination with the concerned Government Entities in the Emirate, the SCE will issue the environmental, health, technical criteria, and safety criteria for conducting the Regulated Activities in order to ensure the conduct by the Licensee of such Regulated Activities is in line with best international practices adopted in this respect.

Assignment of Licences
Article (21)

- a. A Licensee is prohibited from assigning its Licence to any other party without first obtaining the relevant written approval of the Bureau.
- b. The approval referred to in paragraph (a) of this Article must be issued in accordance with the relevant terms and conditions prescribed by the Bureau.

Assignment of Assets
Article (22)

- a. Under the pain of nullity, a Licensee may not dispose of any of its Principal Assets, in any manner whatsoever, without first obtaining the written approval of the Bureau. In particular, these dispositions include:
 - 1. selling or transferring the ownership of such assets or leasing them out to third parties with or without consideration;
 - 2. granting or consenting to granting security rights in, or mortgaging, such assets;
 - 3. forfeiting, or causing the forfeiture of, any real rights attached to such assets; and
 - 4. creating, or consenting to creating, any real right in such assets.
- b. Notwithstanding the provisions of paragraph (a) of this Article, the Bureau may, subject to requirements it prescribes, approve creating any security rights in, or mortgaging, any Principal Assets of the Licensee to the extent required for facilitating financing of electricity and water production operations.

Sale of Electricity and Water
Article (23)

A Licensee is hereby prohibited from selling the electricity or water it produces, or from supplying or providing it to any entity within or outside of the Emirate, except for DEWA.

Governing Law

Article (24)

- a. The contracts concluded by Licensees with third parties for conducting Regulated Activities, including seats and rules for settlement of disputes, will be subject to the rules and provisions stipulated in such contracts. The legislation in force in the Emirate will apply to all matters on which such contracts are silent.
- b. All matters related to performance of the contracts concluded by Licensees with DEWA and other local Government Entities will be subject to the legislation in force in the Emirate. This includes seats and rules for settlement of disputes arising in connection with such contracts.

Notices

Article (25)

The Bureau must, to the extent practicable, inform Licensees and the concerned Government Entities in the Emirate, and provide them with copies, of the resolutions relating to them and of the grounds for issuing such resolutions in order to enable them to plan, manage, and finance their various activities in the short and the long term.

Notices of Non-Compliance

Article (26)

- a. If it is established to the Bureau that a Licensee has violated any of the terms of its Licence or Exemption, the Bureau must notify the Licensee of such a violation taking into consideration the following:
 1. The notice must state the nature of violation.
 2. The notice must determine the deadline for remedying the violation.
 3. The notice must determine the actions and penalties that the Bureau will take in case of failure to remedy the violation within the set deadline.
 4. The violating Licensee must keep the Bureau informed of the measures to remedy the violation and provide it with any other information the Bureau deems necessary.
- b. The Licensee must comply with the requirements stipulated in the notice it receives from the Bureau, failing which a fine of no less than one thousand Dirhams (AED 1,000.00) and no more than three million Dirhams (AED 3,000,000.00) will be imposed on it.

- c. In addition to the penalty of a fine, the Bureau may, subject to the approval of the SCE, take any of the following measures against a violating entity:
 1. suspension of the Licence for a period not exceeding three (3) months; or
 2. revocation of the Licence or Exemption of the Licensee.

The penalties and measures stipulated in this Article will not preclude from claiming any damages from the violating entity for the harm resulting from the committed violation.

Objection to Notices or Penalties **Article (27)**

- a. A Licensee may file a written appeal against the notice of non-compliance served on, or the penalty imposed against, it within thirty (30) days from the date of receiving the notice or being notified of the penalty. The appeal must be accompanied by the supporting documents.
- b. The Bureau must consider the appeal referred to in paragraph (a) of this Article within (30) days from the date on which the appeal is filed.

Where the Bureau dismisses a request made by the Licensee under the appeal for withdrawal of the notice or cancel the penalty, the Licensee may submit a grievance to the SCE within twenty (20) days from the date of dismissal. The grievance will be determined by a committee formed by the SCE for this purpose.

Announcement of Non-Compliance Notices **Article (28)**

The Bureau must:

1. announce the non-compliance notice and any amendment thereto or cancellation thereof in the manner it deems appropriate;
2. provide a copy of the non-compliance notice or any amendment thereto or cancellation thereof to any entity that the Bureau believes is affected by the violation committed by the concerned Licensee.

Implementation of Non-Compliance Notices Article (29)

A non-compliance notice issued by the Bureau will be deemed a writ of execution. Where the Licensee fails to comply with the provisions of the non-compliance notice, it will be enforced by the Execution Department of the Dubai Courts.

Audit and Inspection Article (30)

The Bureau will have the power to conduct audit and inspection of Licensees. For this purpose, the Bureau will have the authority to:

1. request concerned Licensee to provide it with any documents the Licensee controls or holds in its possession, together with any information the Bureau deems necessary to have access to, within the time frame it prescribes for this purpose;
2. send any of its employees or its authorised representatives to access the premises and other offices of the Licensee to review its records, documents, procedures, systems, equipment, facilities, and sites.

Penalties Article (31)

Without prejudice to any stricter penalty stipulated in any other law, a person who commits any of the following violations will be punished by imprisonment for not more than one (1) year and/ or a fine of no more than three million Dirhams (AED 3,000,000.00):

1. Conducting any of the Regulated Activities without a Licence issued by the Bureau;
2. providing false or misleading statements or information to obtain the Licence or Exemption;
3. refraining, without a valid reason, from providing the documents or information requested by the Bureau within the prescribed time frame;
4. deliberately altering, destroying, or concealing any document or information requested pursuant to this Law; or
5. performing by himself or in partnership with others any act that may restrict, impact, or prevent competition in any of the Regulated Activities; or any other act that may harm the interests of electricity and water consumers or may harm in any way whatsoever .

Law Enforcement
Article (32)

Employees of Bureau nominated pursuant to a resolution issued by the chairman of the SCE will have the capacity of law enforcement to record the acts committed in breach of the provisions of this Law and the bylaws issued in pursuance thereof. For this purpose, they may access the premises of the Licensee, audit its operations, and issue the relevant violation reports.

Fees
Article (33)

- a. In return for issuing Licences and providing services under this Law, the Bureau will charge the fees prescribed by a resolution of the Chairman of the Executive Council, upon the recommendation of the Department of Finance.
- b. The fees and fines collected pursuant to this Law and the resolutions issued in pursuance hereof will be paid to the Public Treasury of the Government of Dubai.

Compliance
Article (34)

All entities conducting any of the Regulated Activities by the effective date of this Law must comply with the provisions of this Law within no later than six (6) months from the date on which this Law comes into force.

Issuing Resolutions and Bylaws
Article (35)

The SCE will issue the resolutions and bylaws required for the implementation of the provisions of this Law.

Repeals
Article (36)

Any provision in any other legislation will be repealed to the extent that it contradicts the provisions of this Law.

Publication and Commencement
Article (37)

This Law will be published in the Official Gazette and will come into force on the day on which it is published.

Mohammed bin Rashid Al Maktoum
Ruler of Dubai

Issued in Dubai on 4 April 2011
Corresponding to 1 Jumada al-Ula 1432 A.H.

