



MONTserrat

## CHAPTER 18.02

# LICENSING OF UTILITY SERVICES ACT and Subsidiary Legislation

### Revised Edition

showing the law as at 1 January 2013

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Act.

This edition contains a consolidation of the following laws—

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MONTSERRAT

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**CHAPTER 18.02**

**LICENSING OF UTILITY SERVICES ACT**

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**CHAPTER 18.02**

**LICENSING OF UTILITY SERVICES ACT**

*(Acts 3 of 2007 and 9 of 2011)*

AN ACT TO PROVIDE FOR THE LICENSING OF UTILITY SERVICES AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

**Commencement**

*[1 July 2008]*

**Short title**

1. This Act may be cited as the Licensing of Utility Services Act.

PRELIMINARY

**Interpretation**

2. (1) In this Act, unless the context otherwise requires—

“**apparatus**” means any appliance used or which may be used in connection with providing any licensed utility services;

“**customer**” means any person supplied or provided or entitled to be supplied or provided with any licensed utility service;

“**customer’s terminals**” means the ends of the electric line situated upon any customer’s premises and belonging to him, at which the supply of energy is delivered from the service line;

“**distributing main**” means the portion of any main which is used for the purpose of general supply and from which service lines have their origin;

“**drinking water**” means potable water compliant with World Health Organisation (WHO) or other appropriate drinking water standards;

“**electrical-works**” includes generating stations, subs-stations, buildings, machinery, engines, transmission lines, distributing mains, electric lines, poles, pillars, street boxes, lamps, appliances and all matters or things required for the generation, transmission, distribution, supply, or use of electricity;

“**electricity**” or “**electrical energy**” or “**energy**” means energy involving the use of electricity, electric current or voltage which may be produced by mechanical, chemical or other means and which is generated, transmitted, supplied or used for any purpose except the transmission of a message;

**“electric line”** means a wire or wires, conductor or other means used for the purpose of conveying, transmitting, or distributing electricity with any casing, coating, covering, tube, pole or insulator enclosing, surrounding, or supporting the same or any part thereof, or any apparatus connected therewith, for the purpose of conveying, transmitting or distributing electricity;

**“functions”** includes powers and duties;

**“general supply”** means the general supply of electricity, water, or sewerage services to ordinary customers by licensees, and excludes the supply of such services made under special agreement(s);

**“Governor”** means the Governor acting on the advice of Cabinet; (*Amended by Act 9 of 2011*)

**“land”** means any land not being a street or portion thereof;

**“licence”** means a licence granted under section 4;

**“licensee”** means the holder of any licence granted under section 4;

**“main”** means a water main laid down or erected in, over, along, across or under any street, or public place and through which water may be supplied or intended to be supplied, for the purposes of general supply;

**“Minister”** means the Minister responsible for utilities;

**“Photovoltaic generation”** means the direct generation of electricity from sunlight using solar panels;

**“private purposes”** includes any purposes whatever to which the utility services may for the time being be applicable, not being public purposes;

**“service line”** means any line through which energy may be supplied, or intended to be supplied, to a customer’s premises from any main or transformer;

**“sewerage services”** means the disposal of sewerage including the waste from animal life other than stable manure, the drainings of stable water and liquid waste discharged from sinks, basins, baths and all other water which has been used for domestic purposes or in any industrial processes, and all waste water;

**“street”** includes any highway, whether over any bridge or not, and any road, lane, footway, square, court, alley or passage, over which the public have a right of way; and the pavement of a street and all channels, drains and ditches at the side of a street shall be deemed to be part of the street;

**“system”** means an electrical system in which all the conductors and apparatus are electrically connected to a common source or sources of energy;



“**utility services**” means electricity, geothermal power, water or sewerage services as authorised under this Act. “**utility service**” means any one of such services;

“**water-course**” means any pond, spring, stream, well, water and water rights whether held together with, or independently of, any land;

“**watershed**” means a line of separation between waters flowing to different rivers, basins or seas;

“**water-works**” includes, well, beds, pumps, dams, reservoirs, cisterns, tanks, filters, catchments, aqueducts, tunnels, sluices, conduits, mains, pipes, stand-pipes, showers, valves, pumps, engines, culverts, desalination plants, water treatment plants and all machinery and appliances, lands, buildings and things used for or in connection with the supply of water services by a licensee;

“**works**” includes electrical-works and water-works.

(2) A reference in this Act to a Part or section or Schedule shall, unless the contrary intention appears, be read as a reference to a part or section or Schedule of this Act; and a reference in this Act to a subsection, paragraph or subparagraph shall, unless the contrary intention appears, be read as a reference to the subsection, paragraph or subparagraph, as the case may be, of the section in which the reference appears.

## PART 1

### LICENCES FOR THE SUPPLY OF UTILITY SERVICES

#### **Licence required for supply of utility**

3. (1) Subject to subsection (2) a person shall not supply or use, or cause or permit to be used, any apparatus for the purpose of supplying, any premises with any utility services except under and in accordance with the terms of a licence granted under section 4.

(2) Subsection (1) shall not apply to the use of any electrical plant which—

- (a) is used only for the photovoltaic generation of electricity for own use;
- (b) is installed in any vehicle, vessel or aircraft for the purpose only of supplying electricity to that vehicle, vessel or aircraft;
- (c) is used only in connection with the carrying on of any constructional or repair work, or any excavation, in any case where it is not reasonably practicable to use electricity supplied under a licence;

- (d) is used to generate electricity for own use and consumption for the purpose of providing portable lighting or portable power or for the purpose of driving a vehicle (not being a trolley bus or a vehicle running on fixed rails);
- (e) is electrical plant of any class or description as may be prescribed by the Governor by Order for the purposes of this subsection.

### Grant of licence

4. (1) Subject to the provisions of this Act; the Governor on application made to him in writing by any person, may grant an applicant a licence to—

- (a) generate, transmit, distribute or supply electricity;
- (b) prospect or harness geothermal power or any other source of energy;
- (c) collect, treat, distribute or supply piped drinking water; or
- (d) collect, treat or dispose of waste water and sewage.

(2) An application for a licence under this section shall be made in such form as the Governor may direct and shall contain such particulars and be accompanied by such evidence as he may require.

(3) Subject to subsections (4) and (5), a licence under this section may be granted subject to the payment to the Treasury of such sums as may be specified in the licence and subject to such conditions as the Governor may think fit or as may be prescribed.

(4) Subject to subsection (5) and to the power of the Governor to revoke a licence in accordance with the terms of the licence or under section 7, the period of validity of the licence shall be such period, not exceeding fifty years, as shall be specified in the licence.

(5) The Governor may, on application made in writing by a licensee, not later than one year before the expiration of the period of validity of the licence—

- (a) where such licence has been originally granted for a period of less than fifty years, extend the period of validity of such licence for such further period as not to exceed fifty years reckoned from the original date of validity of the licence as shall be endorsed on such licence; or
- (b) where such licence has been originally granted for a period of fifty years, renew such licence for such period not exceeding fifty years as shall be endorsed on such licence and subject to such terms and conditions as shall be so endorsed.

(6) Where a licensee intends not to seek renewal of its licence, the licensee shall give notice in writing to the Governor of the licensee's

intention not to renew its licence not later than two years before the expiration of the validity of such licence.

(7) Where a licensee contravenes subsection (6), such licensee shall pay to the Government an amount not exceeding \$1,000,000 and the Government may recover the amount from the licensee as a civil debt.

### **Penalty for supplying utility services unlawfully**

5. Any person who contravenes section 3 is guilty of an offence and is liable on summary conviction to a fine of \$5,000 or to imprisonment for a term of six months, and in the case of a continuing offence, he is liable to a further fine of \$100 a day for every day during which the offence continues after his conviction.

### **Securing compliance with licence conditions**

6. (1) Where the Governor is satisfied that a licensee has contravened or is likely to contravene any of the conditions of his licence, he may, by notice in writing served on the licensee, require the licensee, within such period as shall be specified in the notice—

- (a) to take such steps as the Governor considers necessary to secure compliance with that condition and to make good any loss or damage in consequence of a contravention of that condition;
- (b) to give to the Treasury such security as shall be specified in the notice for the due observance of that condition.

(2) A notice under subsection (1) shall state the relevant condition of the licence in respect of which it is to be served and the acts or omissions which, in the opinion of the Governor, constitute or would constitute a contravention of that condition.

(3) If an appeal under section 8(1) is brought against a notice under subsection (1), the notice shall not take effect until the appeal is determined.

### **Revocation of licences**

7. (1) Subject to subsections (2) and (3), the Governor, in addition to the exercise of any power conferred on him to revoke the licence, may, by notice in writing served on a licensee, revoke the licence held by the licensee on any of the following grounds—

- (i) that the licensee, in the opinion of the Governor, is not providing customers in his supply area with a regular and efficient supply of utility services;
- (ii) that, in the opinion of the Governor, it is in the interests of public safety that the licence should be revoked;

- (iii) that the licensee has failed to pay any sum due and payable under the licence to the Treasury;
- (iv) that the licensee has contravened any of the provisions of this Act or regulations made thereunder or the terms and conditions of the licence;
- (v) that the licensee has failed to comply with a notice under section 6(1) or an order of the High Court under section 8(4)(c) for securing compliance with any condition of the licence; or
- (vi) that the licence was obtained by fraud.

(2) Before serving on a licensee a notice under subsection (1) (hereafter in this section referred to as a “**notice of revocation**”), the Governor shall serve on the licensee a notice in writing stating—

- (a) that he is considering serving a notice of revocation on the licensee on the grounds specified in the notice under this subsection; and
- (b) that the licensee may, within the period of twenty one days from the date of the service on him of the notice under this subsection, make written representations to the Governor.

(3) The Governor shall consider any representations made by a licensee in response to a notice under subsection (2) before serving a notice of revocation on the supplier.

(4) After serving a notice of revocation in respect of a licence, the Governor shall publish notice of it in the *Gazette* and in such other way as appears to him expedient for notifying customers in the supply area to which the licence relates.

(5) A notice of revocation shall not have effect—

- (a) subject to paragraph (b), within the period of twenty one days from the date of the service of the notice;
- (b) if an appeal is brought against the notice under section 8(1), until the determination of the appeal.

(6) The Governor may, at the request of a licensee, revoke the licence held by the licensee.

### Appeals

8. (1) A licensee may appeal to the High Court against a notice under section 6(1) or 7(1).

(2) An appeal under subsection (1) shall be instituted by a licensee within the period of twenty one days from the date on which the notice against which the appeal is brought was served on the licensee.

(3) The Attorney General shall be the respondent to every appeal brought under subsection (1).

- (4) On an appeal brought under subsection (1), the High Court may, by order—
- (a) quash or confirm the notice against which the appeal is brought; or
  - (b) where the notice is a notice under section 6(1), vary the requirements imposed by the notice;
  - (c) where the notice is a notice under section 7(1) and the Court is satisfied that the appellant has contravened or is likely to contravene any of the conditions of his licence, quash the notice and require the appellant—
    - (i) to take such steps as the Court considers necessary to secure compliance with that condition and to make good any loss or damage in consequence of a contravention of that condition;
    - (ii) to give the Treasury such security as shall be specified in the order for the due observance of that condition.

## PART 2

### RIGHTS, POWERS AND DUTIES OF LICENSEE

#### **Right of a licensee**

9. A licensee who is granted a licence under section 4 to provide utility services shall subject to the terms and condition of the licence have the right to provide those utility services in respect of which the licence was granted.

#### **Right of licensee to harness geothermal power or any other source of energy**

10. A licensee to whom a licence has been granted to prospect or harness geothermal power or any other source of energy, has the right to prospect or harness geothermal power or any other source of energy throughout Montserrat at such sites (whether on Crown or private land) as may hereafter be designated for public electricity supply purposes by a notice given by the Governor and published in the *Gazette*.

#### **Penalty for providing utility services without a licence**

11. Any person who without a licence provides utility services or utility service with the intention of depriving a licensee of its income or of its rights under section 9 or 10 shall be guilty of an offence and be liable on summary conviction to a fee of \$1,500 or to imprisonment for a term of three months.

## Powers of licensee

**12. (1)** Subject to the provisions of this Act, and the terms and conditions of the licence, the licensee shall, for the purpose of carrying out its functions under this Act, have power to do anything or to enter into any transaction which may be necessary to facilitate the proper discharge of its licensed activities or is incidental or conducive thereto.

**(2)** Without prejudice to the generality of the provisions of subsection (1) and subject to the terms and conditions of the licence granted under section 4(1) the powers of the licensee may include powers—

- (a) to do all acts and things necessary for developing, controlling, generating, distributing or selling electricity for public and private purposes;
- (b) to undertake electrical wiring installation and servicing of electrical equipment and to provide electricity to industrial, commercial and residential premises;
- (c) subject to subsection (3), from time to time to cause standards together with fixtures and fittings and other apparatus to be erected or placed, and electric and water lines to be laid and carried through, across, over or under any street or, after reasonable notice is given to the owner or occupier, through, over or under any land whatsoever, enclosed or otherwise:

Provided that, all such standards, fixtures, fittings and other apparatus and electric, and water lines shall remain the sole property of the licensee and shall not be deemed to become part of any freehold by reason of being affixed thereto;

- (d) subject to subsection (3), from time to time to cause such lamp irons, lamp posts, standards or other lighting apparatus to be put or fixed upon or against the walls or palisades of any building or enclosure or to be put up or erected in such other manner as shall be deemed proper, and also to cause such number of lamps of such sizes and kinds to be provided and affixed and put on such lamp irons, lamp posts and standards as are necessary for lighting the streets;
- (e) Subject to any Environment Laws in force and subject to subsection (4), to cut and remove from any street and to enter upon and to cut and remove from any private or public lands any tree, or any branch, bough or other part of a tree growing on such lands in such proximity to any electricity line, water main, or sewerage main as to interfere with endanger or otherwise prejudicially affect the working of the licensee;
- (f) to do all acts and things necessary for the production, distribution, supply and sale of drinking water to the public in general for domestic and commercial use;

- (g) to establish, operate and maintain a sewerage system in Montserrat;
- (h) to control, manage, maintain, operate and supervise all watercourses and waterworks in Montserrat, and provide (so far as is practicable) an adequate supply of water for the use of the public in general;
- (i) to construct or lay down any waterworks for improving or augmenting the water supply;
- (j) whenever it may be expedient or necessary for the purpose of conserving the water supply or for extending, altering or repairing the waterworks or for the purpose of connecting or repairing water services or in the case of fire, to diminish, withhold, suspend or divert (without prejudice to the payment of charges) the supply of water through the waterworks;
- (k) to manufacture, import, export, buy, sell, collect and generally deal in and with electrical, geothermal water and sewage system equipment of every type.

(3) In the exercise of the powers given by subsection (2)(c) or (d), the licensee—

- (a) shall not be deemed to acquire any right other than that of user only in or over the soil of any enclosed and other land whatsoever through, over or under which it places any of the works; and should any of the work so carried through, over or under any such land become a nuisance or the cause of loss to the owner of such land, the licensee shall remove or alter such work or shall give reasonable compensation as provided by paragraph (b); and
- (b) shall do no more damage than is necessary in the circumstances and where any person sustains damage by reason or in consequence of the exercise of such powers, make full compensation to such person:

Provided that no compensation shall be payable in respect of any right of user acquired under the authority of subsection (3)(a).

(4) In the exercise of the powers given by subsection (2)(e), the licensee—

- (a) shall not, except with the consent of the occupier, enter upon private lands until after the expiration of seven days notice of the intended entry to the occupier of such land; and
- (b) shall make full compensation to the owner of any tree so cut and for any damage suffered by the owner or occupier in respect thereof and the amount of such compensation shall in the event of disagreement, be determined by arbitration.

**Powers of entry**

13. Any authorised officer or employee of the licensee may, at all reasonable times, enter any premises to which any utility is or has been supplied under this Act for the purpose of—

- (a) inspecting the lines, meters, pipes, fittings and other apparatus belonging to the licensed supplier; or
- (b) ascertaining the quantity of electrical energy or water consumed or supplied; or
- (c) where the supply of any utility is no longer required, or, where the licensed supplier is authorised to discontinue supply, disconnect or stop the supply of any utility from any premises, removing any lines, meters, pipes, fittings and other apparatus belonging to the licensee.

Provided that, the licensee shall repair all damage caused by such entry, inspection or removal.

**PART 3****FINANCIAL PROVISIONS****Tariffs**

14 (1) The prices to be charged by any licensee for any utility services supplied to customers shall be in accordance with such tariffs as may be fixed from time to time by Order of the Governor.

(2) Such Order shall be published in the *Gazette*.

**Charges by agreement**

15. Subject to the provisions of section 14, the licensee may enter into special agreements with customers for utility services that reflect the particular characteristics of the customer or service provided.

**Service contracts with Government**

16. Any licensee may enter into contracts with Government for the provision of water, electricity, geothermal power or sewerage services.



PART 4

OFFENCES AND INJURIOUS ACTS

**False statements, etc.**

**17.** If any person, for the purpose of obtaining a licence under this Act, whether for himself or any other person, or for any other purpose connected with this Act—

- (a) knowingly makes a false statement or false representation; or
- (b) produces or furnishes, or causes or knowingly allows to be produced or furnished, any document or information which he knows to be false in a material particular,

he shall be guilty of an offence and liable on summary conviction to a fine of \$1,000 or to imprisonment for a term of two years or to both such fine and imprisonment.

**Injurious acts with intent to cut off supply**

**18.** Any person who—

- (a) maliciously cuts or injures any line or works of a licensee with intent to cut off any supply of electrical energy;
- (b) maliciously causes any interruption to the supply of electricity supplied by a licensee; or
- (c) incites any other person to do any of the acts mentioned in paragraphs (a) or (b),

shall be guilty of an offence and liable on summary conviction to a fine of \$5,000 or imprisonment for a term of two years or to both such fine and imprisonment.

**Non-payment of utility service charges**

**19.** If any customer shall be in default with any payment due by him to the licensee in respect of any utility service the licensee (without prejudice to any other remedy available to it) shall be at liberty to discontinue the supply of the utility service to such consumer until such time as such payment together with the licensee's reasonable charges for the re-connection of the utility service to such consumer have been paid:

Provided the customer shall have been given one month's notice in writing prior to disconnection.

**Stealing electricity**

**20. (1)** If any person without legal right, the proof of which shall be upon him, abstracts or causes to be abstracted, or diverts or causes to be diverted, any electricity supplied by the licensee, or consumes or uses any

such electricity, knowing the same to have been wrongfully or unlawfully abstracted or diverted, such person shall be guilty of an offence and he shall be liable on summary conviction to a fine of \$500 or to imprisonment for a period of twelve months.

(2) If any person without legal right, the proof of which shall be upon him, wilfully disconnects, damages or removes or suffers to be disconnected, damaged or removed any electric line, meter, switch, fuse or other works or apparatus belonging to the licensee, or alters the index of any meter belonging to the licensee or otherwise prevents any such meter from correctly registering any quantity of electricity supplied by the licensee, such person shall be guilty of an offence and for every such offence he shall be liable on summary conviction to a penalty of \$150 for the first offence and \$250 for any such subsequent offence, and without prejudice to the foregoing, the licensee may recover from such person the amount of any damage by it sustained and may also (notwithstanding any agreement or contract previously existing) discontinue any supply of electricity to such person.

(3) If upon any premises or land in the occupation of a customer there is connected to any electric line or meter any wire or device capable of wrongfully abstracting, diverting, consuming or using electricity or of preventing any meter from correctly registering any quantity of electricity supply by the licensee, the existence of such wire or device shall be accepted by a Court as *prima facie* evidence that such consumer has without legal right abstracted or diverted electricity or (as the case may be) has without legal right prevented a meter from duly registering any quantity of electricity supplied by the licensee.

### **Felling trees**

21. (1) It shall not be lawful for any person to trim, cut, or fell any tree the trimming, cutting or felling of which is likely to constitute a danger to any works unless he shall have given to the relevant licensee or otherwise the relevant Ministry, twenty four hours previous notice of such trimming, cutting or felling.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and be liable on summary conviction to a fine of \$1,500 or to imprisonment for a term of six months.

(3) Any person who commits an offence under this section shall, in addition to any penalty, be liable to pay the expenses of remedying the damages so caused.

### **Penalty for damaging meters and for reconnecting service line with meter without consent**

22. (1) If any person—

- (a) wilfully, fraudulently or recklessly damages, or suffers to be damaged, any meter, or alters the index of any meter or

prevents any meter from duly registering the quantity of water supplied;

- (b) reconnects with a meter a service line which has been disconnected by a licensee, without the authority of the licensee,

he shall, without prejudice to any other right or remedy for the protection of the licensee in question or the punishment of the offender, be guilty of an offence and liable on summary conviction, for each offence, to a fine of \$1,500.

(2) The prosecution of any offence under subsection (1) shall not prevent a licensee from recovering the amount of any damage caused to the licensee by the offence and—

- (a) if the offence results in any damage or interference with a meter or other fittings belonging to the licensee, the licensee may also, until the damage or interference has been remedied, but no longer, discontinue the supply of water to the offender; and
- (b) if the offence is an offence under paragraph (b) of that subsection, the licensee may also again disconnect the line at the meter.

(3) The existence of artificial means for causing an alternation to the index of any meter, or the prevention of a meter from duly registering, when the meter is in the custody or under the control of a consumer shall be prima facie evidence that the alteration or prevention had been fraudulently and wilfully caused by the consumer using the meter.

### **General offences with respect to water**

**23. (1)** Any person who—

- (a) bathes in any watercourse or any part of the waterworks; or
- (b) drives or permits or suffers any animal to be driven into or to enter into any watercourse or into any waterworks; or
- (c) washes in or throws into or causes or suffers to be washed in or thrown into any watercourse or water-works any animal or the carcass or part of the carcass of any dead animal; or
- (d) puts or throws or causes or suffers to be put or thrown into any watercourses or waterworks any rubbish, dirt or filth, or any foul or offensive or obnoxious matter, whether solid or liquid; or
- (e) washes or cleanses or suffers or causes to be washed or cleansed in any watercourse or waterworks any cloth, wool, leather or skin of any animal or any clothes; or

- (f) causes or suffers the water from any sink, privy, sewer, drain, engine or boiler or any foul or filthy water being and lying upon any land or premises, which is under his management and control or under the management and control of his servants or agents, to run or flow into any watercourse or waterworks; or
- (g) does or commits any other act or thing whatsoever whereby any water flowing to or from any watercourse or waterworks is fouled or polluted or the flow thereof impeded or interrupted or the water improperly abstracted or wasted; or
- (h) without the consent of the licensee, diverts or takes the water supplying or flowing into any waterworks; or
- (i) without the consent of the licensee, constructs, alters or extends the service in his premises or connects any tap on his premises to the distribution pipes of the waterworks; or
- (j) without the consent of the licensee, does any act whereby the water from any watercourse or waterworks is drawn off or diminished in quantity or wasted; or
- (k) wilfully moves, breaks or injures any lock, cock, valve, tap, pipe or other appliance forming part of or used in connection with the waterworks,

shall be guilty of an offence and be liable on summary conviction to a fine of \$1,500 or to imprisonment for a term of six months or to both such fine and such imprisonment, and in any case in which the offence is continued to a further penalty of \$1,000 for every day during which the offence continued.

(2) In subsection (1) “**water course**” or “**waterworks**” means any water course or waterworks so declared by the Governor under section 30.

(3) In proving interference with the due flow of water from the waterworks or of any watercourse or the pollution thereof, evidence may be given of repeated acts that together caused such interference or pollution, although each act taken by itself may not be sufficient for that purpose.

### **Neglect to give notice of want of repair an offence**

24. Any person whose premises are supplied with drinking water by the licensee who suffers any stop-cock, pipe or other waterworks on his premises to be out of repair, without giving notice to the licensee, so that the water supplied to him shall be wasted, shall be guilty of an offence and liable on summary conviction to a fine of \$300 or to imprisonment for a term of two months or to both such fine and imprisonment.

### **Resisting or obstructing any authorised persons**

25. Any person who obstructs, resists, molests or assaults or who assists any person in obstructing, resisting, molesting or assaulting any employee

of the licensee or any other person acting under the provisions of this Act shall be liable on summary conviction to a fine of \$1,500 or to imprisonment for a term of three months or to both such fine and imprisonment.

### **Offences by corporations**

26. Where an offence against any of the provisions of this Act or any regulations made thereunder has been committed by a body corporate, every person who at the time of the commission of the offence was a director, general manager, secretary or other similar officer of the body corporate, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence unless he proves that the offence was committed without his consent or connivance and that he exercised all due diligence to prevent the commission of the offence as he ought to have exercised, having regard to the nature of his functions in that capacity and to all the circumstances.

## PART 5

### MISCELLANEOUS

#### **Governor to issue policy directions**

27. The Governor may, in respect of any utility service, issue such policy direction as may be necessary in the interest of Montserrat and a licensee shall give effect to such policy directions.

#### **Power of Minister to require information**

28. The Minister may require the licensee to furnish the Minister with returns, accounts and other information as he may require with respect to the utility service and licensed activities of the licensee and shall afford to him facilities for verifying such information in such manner and at such times as he may reasonably require.

#### **Power of Governor to confer exemption**

29. The Governor may on the application of a licensee, by Order exempt the licensee from liability to pay any tax, duties or stamp duty which would otherwise be payable in respect of the operation, activities, investment or profits of the licensee. Such exemption shall last for such period not exceeding the period of validity of the licence, as shall be specified in the Order.

#### **Power to include or remove watercourse or waterworks and to declare area to be watershed**

30. The Governor may from time to time by Order published in the *Gazette* and in at least one newspaper circulating in Montserrat—

- (a) declare that any watercourse shall be subject to the provisions of this Act and thereupon the said provisions shall apply accordingly;
- (b) declare that the provisions of this Act shall cease to apply to any watercourse or waterworks and thereupon the said provisions shall cease to apply accordingly;
- (c) where in his opinion the drainage or water from any area flows or is conveyed to a watercourse or waterworks, declare that area or any part of that area to be a watershed.

### Regulations

**31. (1)** The Governor may make regulations generally for giving effect to the provisions of this Act and, without prejudice to the generality of such power, may make regulations in respect to all or any of the following matters, that is to say—

- (a) the methods of determining the charges payable by customers for the consumption or use of utilities;
- (b) the provision and hiring of meters and the charges therefore;
- (c) the conditions under which a utility services may be discontinued, disconnected or stopped;
- (d) the inspection of the property, both real and personal, of the licensee;
- (e) the charges to be made for connecting to, or installing on, premises utilities or appliances used or to be used in connection with utilities;
- (f) the system and mode of supply of electricity;
- (g) the cleaning, maintenance, protection and prevention of obstruction of watercourses and watersheds;
- (h) generally for securing the safety of persons and property from injury from shock or fire or otherwise, and the prevention of accidents;
- (i) the methods of making application for a supply of utilities;
- (j) the time, place and manner for the payment of moneys payable under this Act or any regulations made thereunder and the mode of collection;
- (k) the fixing and testing of meters;
- (l) the protection of the property, both real and personal, of the licensee;
- (m) regulating the supply of water to customers;

- (n) the prevention of waste, misuse and pollution of water and the securing of the waterworks from injury of any kind;
  - (o) the sanitary control of watersheds;
  - (p) the type of electricity to be supplied for domestic or lighting purposes;
  - (q) the base price to be charged for diesel fuel oils or other forms of energy delivered to the licensee.
- (2) Regulations made under subsection (1) may—
- (a) authorise any employee of the licensee to cut, fell, or burn any tree or underwood whatsoever growing or that shall grow within a distance of thirty feet of any watercourse or watershed; and
  - (b) prohibit within a distance of thirty feet from any watercourse or watershed the cultivation of any land or the depasturing or grazing thereon of any livestock.

(3) Any breach of regulations made under this section shall be punishable on summary conviction by a fine of \$1,000 or to imprisonment for a term of three months.

(4) Regulations made under this section shall have no force or effect until they have been approved by the Governor and published in the *Gazette*.

### **Notices to be in writing**

32. Notices to be given under this Act or regulations made thereunder shall be in writing.

### **Service of notices and documents**

33. (1) A notice or other document required or permitted by this Act or regulations made thereunder to be given to or served on any person may be given to or served on such person personally, or by leaving the same at his usual or last known place of abode or business with some adult person therein, or may be posted in a prepaid letter addressed to such person at his usual last known place of abode or business.

(2) Any notice or other document which is to be given to any person as the owner or occupier of any land or other premises may be addressed to him as the “owner” or “occupier”, as the case may be, of the land or other premises (naming them) and may be posted in some conspicuous place on the land or other premises or, where the premises are a building, may be left with some adult person in the building:

Provided that, service shall not be effected in the manner provided in this subsection if it would be practicable after reasonable inquiry to effect service in any manner provided in subsection (1).

**Arbitration**

34. Where any matter is by this Act or regulations thereunder directed to be determined by arbitration, such matter shall be determined by a fit and competent person as arbitrator, to be agreed to by the parties to the arbitration, or failing such agreement by the parties, by arbitration in accordance with the provisions of the Arbitration Act.

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**ELECTRICITY SUPPLY ORDER – SECTION 10<sup>†</sup>**

*(S.R.O.s 17/1994, 55/1994 and 97/2000)*

**Commencement**

*[6 January 1994]*

**Short title**

1. This Order may be cited as the Electricity Supply Order.

**Charges for electricity**

2. The rates of charges set out in the Schedule below apply to the supply of electricity as shown on meters commencing on 1 February 2001 and thereafter—

**SCHEDULE A**

*(a) Domestic Tariff*

All units shall be charged at 48 cents per unit up to seventy five units and thereafter at 55 cents per unit.

*(b) Commercial*

All units shall be charged at 54 cents per unit.

*(c) Industrial*

All units shall be charged at 47 cents per unit.

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<sup>†</sup> Made under the *repealed* Electricity Supply Act but continuing in force under this Act by virtue of section 7 of the Montserrat Utilities Limited (MUL) Act and section 72(g) of the Interpretation Act.

**Concessions**

3. Notwithstanding anything in paragraph 2 above—
- (i) the minimum Domestic Tariff for houses of less than 1200 square feet floor area shall be \$3.50 per month and for houses of and exceeding 1200 square feet floor area shall be \$15 per month.
  - (ii) the minimum Commercial Tariff for premises of less than 1200 square feet floor area shall be \$5 per month and for premises of and exceeding 1200 square feet floor area shall be \$20 per month.

**Tariffs**

4. (a) The Commercial Tariff shall apply to all premises directly connected to the high voltage systems which are not used exclusively for private residential purposes and are not premises to which the industrial tariff applies.
- (b) The Industrial Tariff shall apply to all premises on which there are installed for the purposes of a manufacturing industry electric motors having an aggregate maximum power output rating of not less than five horsepower and not normally in use before the hours of 6 p.m. and 10 p.m. except with prior approval of the Company. For this purpose one horsepower shall be deemed equal to 3/4 kilowatt.

**Tariffs for Other Services**

5. The rates set out in Column II of Schedule B below shall apply for services set in Column I as from 1 April, 1994.

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**SCHEDULE B**

COLUMN I	COLUMN II
(a) Reconnection fee .....	\$15
(b) Service Call fee .....	\$10
(c) Meter change fee (at customers' request) .....	\$200
(d) Meter Test .....	\$15
(e) Transfer of Service .....	\$25

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**INTERIM WATER SUPPLY REGULATIONS**

**ARRANGEMENT OF REGULATIONS**

**REGULATION**

1. Short title
2. Interpretation
3. Private water services
4. Domestic supply
5. Service pipe to be laid after deposit paid
6. When amount lodged is in excess of cost of service, etc.
7. Mode of dealing with application for alteration or extension
8. Right of Water Authority to determine certain matters
9. Fittings for service
10. Possession of tank on premises without permission of the director
11. Installation, etc., to be carried out only by authorised persons
12. Water Authority to examine fittings
13. Occupiers of premises to notify of defects
14. Water Authority may discontinue water service
15. Notice of discontinuance of service to be given
16. Water Authority may restrict supply of water
17. Water Authority may affix meter on premises
18. Limit of size of baths
19. Wastage of water
20. Wilful misuse of water
21. Regulating the supply of water to localities
22. Water Authority may discontinue water service
23. Supply of water to ships
24. Appointment of assessors
25. Water services rates
26. Water rates when due and how payable
27. Dates on which rates are payable
28. Public stand pipes
29. Protection of water courses

**SCHEDULE**



**INTERIM WATER SUPPLY REGULATIONS – SECTION 14<sup>‡</sup>**

*(S.R.O.s 22/1967, 7/1971, 17/1971, 11/1973, 10/1975,  
12/1977, 25/1977, 2/1980, 1/1982, 14/1993, 98/2000,  
and Acts 19 of 1975 and 4 of 2003)*

**Commencement**

*[30 December 1967]*

**Short title**

1. These Regulations may be cited as the Interim Water Supply Regulations.

**Interpretation**

2. In these Regulations—

“**Director**” means the Director of Public Works and includes any person for the time being performing the duties of that office;

“**domestic supply**” means water supplied for use for domestic purposes only to any dwelling-house, school-house, church, office, store, shop or other building;

“**non-domestic supply**” means water supplied to any hotel, factory, drugstore, laundry, garage used for public service vehicles or for repairing motor vehicles, trough for watering animals, or to any place where water is used wholly or partly for other than domestic purposes;

“**owner**” means any or every person in possession, or in receipt either of the whole or any part of the rents or profits, either as principal or agent, of any premises, or in occupation of the same other than as a tenant from year to year or for less term;

“**stand-pipe**” means any pipe, tap, cock, valve, cistern or tank situated in any public place or in any place to which the public have access, from, through or by means of which water is supplied to the public;

“**water-service**” means any pipe, tap, cock, valve, fitting or other appliance used for conducting a supply of water from the water works into any premises for use thereon.

**Private water services**

3. (1) Water services shall only be installed in houses, buildings or premises approved by the Water Authority.

(2) Applications for the supply of water to private premises shall be addressed to the Water Authority on the form of application in the Schedule to these Regulations. Upon approval of the application, the Water Authority shall cause the

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<sup>‡</sup> Made under the *repealed* Water Authority Act but continuing in force under this Act by virtue of section 7 of the Montserrat Utilities Limited (MUL) Act and section 72(g) of the Interpretation Act.

estimate of the cost of installing the service to be prepared and forwarded to the applicant who will then deposit the estimated sum at the Office Water Authority.

(3) The Water Authority is empowered to discontinue the supply of water to any premises after the removal or demolition of any building in which the service was installed.

*(Amended by S.R.O. 11/1973)*

### **Domestic supply**

4. The size of pipe to be used for conveying a domestic supply of water, unless the Water Authority otherwise directs, shall be of half inch internal diameter.

*(Amended by S.R.O. 11/1973)*

### **Service pipe to be laid after deposit paid**

5. After the estimated cost of the service has been deposited the Water Authority shall cause the service pipe to be laid and connected to the main.

*(Amended by S.R.O. 11/1973)*

### **When amount lodged is in excess of cost of service, etc.**

6. In the event of the amount lodged by the applicant being in excess of the actual cost of laying such service, the Water Authority shall refund the amount of the excess. When the amount deposited is less than the actual cost of laying such service the applicant, on receiving notice thereof from the Water Authority, shall within one calendar month from the date of the notice pay the amount of the difference between the actual and estimated cost of laying down the service. Water shall not be turned on before the actual cost is paid. *(Amended by S.R.O. 11/1973)*

### **Mode of dealing with application for alteration or extension**

7. Every application for alteration or extension of a private service shall be made and dealt with in the same manner as an application for a private service in the first instance.

### **Right of the Water Authority to determine certain matters**

8. The Water Authority shall have the right finally to determine all matters concerning the construction or alteration or repair of private services such as the diameter of the pipe to be used, the manner in which it shall be laid down and the number, size, pattern and position of every tap or fitting. *(Amended by S.R.O. 11/1973)*

### **Fittings for service**

9. (1) Every service shall be provided with the following fittings: A service pipe of approved diameter and material; a stop-cock situated between the main and the premises protected by a suitable cover; a screw-down bib-cock of approved quality.

(2) The service pipe shall be provided with a sufficient number of connectors with back-nuts to facilitate the repair of any part of the service.

(3) If a meter is provided, a stop-cock shall also be provided between the service-cock and the meter, accessible to the occupier of the premises so that the water may be turned off when fittings are defective.

(4) The Water Authority may permit the erection of a cistern at houses on high level points in a water area before permitting the installation of a private water service at such houses. Any private water service installed at such house shall be provided with a meter and an automatic ball valve.

#### **Possession of tank on premises without permission of the Water Authority**

10. The permission of the Water Authority shall be obtained prior to installing on any premises a tank to be used for storing water supplied by the Office of the Water Authority. Any person acting in contravention of this regulation shall be liable on conviction to a fine of \$250. (*Amended by Act 4 of 2003*)

#### **Installation, etc., to be carried out only by authorised persons**

11. The installation, extension or major repair of private services shall be carried out only by persons authorised by the Water Authority.

#### **Water Authority to examine fittings**

12. The Water Authority or other employees of the Office of the Water Authority may examine all water service fittings when considered advisable.

#### **Occupiers of premises to notify of defects**

13. Occupiers of premises supplied with water shall notify the Water Authority without delay in the event of leaks or damage or defect of the pipes and fittings occurring which may cause the waste or contamination of the water supply. Any neglect or inattention to give prompt attention to repairs should be reported to the Water Authority.

#### **Water Authority may discontinue water service**

14. The Water Authority shall cause to be discontinued any water service which is defective and may cause leakage, waste or contamination of the water supply pending the repair of the service.

#### **Notice of discontinuance of service to be given**

15. Notice to discontinue a service shall be given in writing by the consumer, owner or occupier of the premises.

#### **Water Authority may restrict supply of water**

16. The Water Authority may, after the householder has been duly notified, restrict the supply of water to private premises at any time if circumstances render it necessary to limit such supply, or they may discontinue the supply—

(a) for the purposes of examination, repair or alteration, of the service;

- (b) in consequence of non-payment of rates or of expenses incurred by the Water Authority in connection with that private service within the time allowed for such payments;
- (c) for improper use of the supply or for damage to pipes or fittings;
- (d) for wastage of water from the supply after notification to the householder of the wastage.

### **Water Authority may affix meter on premises**

**17. (1)** The Water Authority may at any time affix on premises supplied with water either for a domestic or non-domestic purpose and supplied from a service main a meter for the purpose of registering the quantity consumed.

**(2)** The meter shall remain the property of the Government and shall be fitted to a separated and distinct inlet leading direct from the service main into the premises.

**(3)** Whenever any question shall arise as to the accuracy of any meter the person complaining may, on depositing the sum of \$10 into the Office of the Water Authority, require the meter to be tested; and subsequent charges shall be based on the result of the test. (*Amended by S.R.O. 12/1977*)

**(4)** A meter shall be deemed to be correct if its error does not exceed three per cent.

**(5)** In the event of the meter being found incorrect the amount of the deposit shall be returned; and in the event of the meter being found correct the amount of the deposit shall be paid into the Consolidated Fund.

**(6)** No rent shall be charged for meters.

### **Limit of size of bath**

**18.** The size of a bath in any premises supplied with water shall not exceed thirty six cubic feet in capacity. An extra charge of 48 cents per annum will be made for every cubic foot or part of a cubic foot in excess of the capacity allowed under this regulation.

### **Wastage of water**

**19.** For the purpose of these Regulations there shall be deemed to be a waste of water in any of the following cases—

- (a) when water is flowing from any public or private water service, tap or cock and not into any receptacle except for purposes authorized by the Water Authority;
- (b) when water is flowing from any such water service, tap or cock partly into and partly outside any bath or receptacle;
- (c) when water is flowing from any such water service, tap or cock into or in the direction of a bath or other receptacle which is at the same time overflowing;



- (d) when water is received into any bath or receptacle from any such water service, tap or cock and part of such water is thrown away without being used: Provided that this shall not prevent the use of a reasonable quantity of water for cleaning such bath or other receptacle;
- (e) when water from any such water service, tap or cock is, before being used, flowing from a bath or other receptacle because such bath or receptacle is not water tight, or has a defective outlet.

### **Wilful misuse of water**

**20. (1)** If any person wilfully or negligently causes or permits any waste or misuse of water at or from any public water service, tap or cock, he shall be guilty of an offence.

**(2)** If any owner or occupier of premises wilfully or negligently causes or permits any waste of water from the private water service on any premises provided therewith by the Office of the Water Authority, he shall be guilty of an offence.

### **Regulating the supply of water to localities**

**21.** The Water Authority shall regulate as far as it is able the supply of water in any locality and when necessary may give instructions respecting the shutting-off of the supply and may cause meters to be affixed to any house service when it is suspected that the owner or the occupier of the premises permits any waste.

### **Water Authority may discontinue water service**

**22.** Where it is proved to the satisfaction of the Water Authority that the water supplied by any stand-pipe or tap is habitually wasted by the tap being left open, the Water Authority may direct the supply of water to be locked off.

### **Supply of water to ships**

**23. (1)** The master, person in charge or agent of any vessel, except ships of Her Majesty's Navy for which provision is hereinafter made, may on application to the Water Authority be supplied with water at the rate fixed by the Water Authority and on such application shall state the quantity of water required and pay the amount therefor.

**(2)** In the case of ships of Her Majesty's Navy, water when applied for shall be supplied—

- (a) on the responsibility of the Government of Montserrat in respect of one-half the quantity delivered; and
- (b) free of charge in respect of the other half.

**(3)** No water shall be obtained for any such vessel or ship except on application as above.

### Appointment of assessors

24. Where the water service rate payable in respect of any premises is based on the taxable value of such premises, the Water Authority may appoint such persons as he thinks fit to assess the taxable value thereof for the purpose of fixing the water service rate payable as a percentage of the annual taxable value of such premises:

Provided that, where the taxable value of any such premises has been assessed for the purpose of property tax, under the Property Tax Act, the water service rate shall be based on such assessment.

*(Amended by S.R.O. 17/1971)*

### Water supply rates

25. The Water Supply Rates payable throughout Montserrat in respect of domestic and non-domestic supply shall be as follows—

(A) Domestic Supply—

- (1) (a) a fixed monthly charge assessed at the rate of 0.2% of the taxable value of the property; and
- (b) a monthly charge at the rate of \$16 for each 1,000 gallons to the nearest 1,000 gallons of water consumed;
- (c) where the water consumed is in excess of 30,000 gallons the monthly charge on the excess shall be charged at the rate of \$26 to the nearest 1,000 gallons;
- (d) where the water consumed is less than 1,000 gallons in any month the minimum monthly charge shall be \$8.

(B) Non-domestic Supply—

- (1) where the premises is not a domestic premises a monthly charge assessed at the rate of \$20 for each 1,000 gallons to the nearest 1,000 gallons of water consumed;
- (2) where the water supply is to a vacant lot which has a water main running over or under it or adjacent to any of its boundaries at the rate of 0.25% of the taxable value of 0.25% of the taxable value of the property payable annually until the lot is developed;
- (3) where the water supply is to a temporary building site at the rate of \$20 for each 1,000 gallons to the nearest 1,000 gallons of water consumed. The charge shall be made on the builder until he notifies the Water Authority that the building operation is over.

(C) Reconnection fee shall be \$25.

*(Substituted by S.R.O. 14 of 1993 and amended by S.R.O. 98/2000)*

### **Water rates when due and how payable**

**26.** The charges payable by virtue of regulation 25 shall be due and payable in monthly instalments. *(Amended by S.R.O. 25/1977)*

### **Dates on which rates are payable**

**27.** Water Service Rate shall be paid at the Authority's Office by the person requiring, receiving or using the water supplied by the Water Authority as follows—

- (a) in respect of premises on which no meter is installed the rate shall be paid by equal monthly payments before the 15th of each month;
- (b) in respect of premises on which a meter is installed the rate shall be paid before the 15th of each month or within fifteen days from date of issue of bill.

*(Substituted by S.R.O. 25/1977)*

### **Public stand-pipes**

**28. (1)** No animal shall be watered at any public stand-pipe or cock on a public road except from a receptacle and at a distance of not less than ten yards from such stand-pipe or cock.

**(2)** No person shall wash clothes or any article or any animal at any public or other stand-pipe or cock on a public road.

**(3)** No person shall bathe, or wash, any person or a child at any public or other stand-pipe or cock.

**(4)** No person shall open the cock of any stand-pipe except for the purpose of filling a receptacle with water.

**(5)** If any person contravenes or fails to comply with this regulation he shall be guilty of an offence and shall on summary conviction be liable to a penalty of \$250. *(Amended by Act 4 of 2003)*

### **Protection of water courses**

**29.** The Water Authority may—

- (a) authorise any officer or employee of the Office of the Water Authority to cut, fall, or burn any tree or underwood whatever growing or that shall grow within a distance of thirty feet of any water course;
- (b) prohibit within the distance aforesaid the cultivation of any land or the depasturing or grazing of any livestock.

*(Amended by S.R.O. 11/1973)*

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SCHEDULE

OFFICE OF THE WATER AUTHORITY MONTSEERRAT

Application for water supply service to premises No .....

Name of Applicant .....

Address .....

.....

I hereby make application for a water supply service to the premises described hereunder of which I am the (\*owner) (\*lessee) (\*tenant) and to be so connected to and supplied with water from the Office of the Water Authority—

Premises .....

.....

I hereby agree to pay all charges and costs in respect of this service payable under the Interim Water Supply Regulations.

Signed ..... Name of Applicant.

Date .....

NOTE: If you are not the owner of the premises described above, then before the connection is made the owner's approval must be received and the attached certificate must be signed accordingly.

\* Delete bracketed words not applicable

CERTIFICATE

I certify that I am the owner of the premises described in the above application and agree to a water supply service being connected thereto.

Signed ..... Name of Owner.

Address ..... Date .....

.....

For office use only				
Approved	Date Stamp			
Confirmed	Meter No.		Account Rendered.	
Connection made				
Size of Connection	Meter Size		\$	¢
Size of main				

\_\_\_\_\_



**SUSPENSION OF CHARGES REGULATIONS – SECTION 32<sup>‡</sup>**

*(S.R.O. 62/1997)*

**Commencement**

*[12 December 1997]*

**Short title**

1. This Order may be cited as the Suspension of Charges Regulations.

**Suspension of charges**

2. The rates and charges imposed for the supply of water to premises located in the areas listed in Column 1 of the Schedule are hereby suspended from the corresponding dates appearing in Column 2 of the Schedule.

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**SCHEDULE**

<i>Areas</i>	<i>Suspension Date</i>
Long Ground	September 1996
Spanish Pointe	1 July, 1997
Molyneaux	1 July, 1997
Harris'	1 July, 1997
Lees	1 July, 1997
St. Patrick's	1 August, 1997
Kinsale, Trials	1 August, 1997
Amersham, Parsons, etc.	1 August, 1997
Dagenham	1 August, 1997
Plymouth	1 August, 1997
Ryners Village etc.	1 August, 1997
Richmond Hill, Cork Hill, Weekes, Foxes Bay	1 August, 1997
Salem and its environs	1 October, 1997

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<sup>‡</sup> Made under the *repealed* Water Authority Act but continuing in force under this Act by virtue of section 7 of the Montserrat Utilities Limited (MUL) Act and section 72(g) of the Interpretation Act.





**DESIGNATED AREAS APPROVAL RESOLUTION – SECTION 17<sup>‡</sup>**

*(S.R.O. 18/1985 and Act 9 of 2011)*

The Legislative Assembly hereby confirms the areas listed in the Schedule below to be areas in respect of which special measures are to be taken for conservation and protection of water. *(Amended by Act 9 of 2011)*

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**SCHEDULE**

Lawyers	Quashie	Olveston	Hope
Killiecrankie and Monkey Springs		Corbett	Fogarthy
Underwood and Blackwood Allen		Amersham A, B, C and D	
Paradise	Ginger Ground	Ghaut Maifreme	Sappitt

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<sup>‡</sup> Made under the *repealed* Water Authority Act but continuing in force under this Act by virtue of section 7 of the Montserrat Utilities Limited (MUL) Act and section 72(g) of the Interpretation Act.



