

PUBLIC UTILITY UNDERTAKINGS ACT

Principal Act

Act. No. 1950-05	<i>Commencement</i>	1.4.1950
With which is incorporated	<i>Assent</i>	
Act. 1924-12		

Amending enactments	Relevant current provisions	Commencement date
Act. 1935-08	s. 46	
1955-020	s. 47	
Regs. of 28.5.1970	Parts II and III	
LN. 1971/079		
1972/033		
1972/088		
1973/025	Sch.1	
Act. 1973-36	s. 12	
LN. 1974/033		
1974/057		
1975/048		
1975/150	Sch.1	
Act. 1977-05	ss. 13, 41, 55, Sch.1	
1977-14	Sch.1	
1978-13	Sch.1	
1979-05	Sch.1	
1980-06	Sch.1	
1980-14		
1982-10	Schs.1-2	
LN. 1983/006	Sch.2	
Act. 1984-04	Sch.1	1.6.1984
Act. 1987-24	ss. 42A, 56	19.11.1987 ¹
1989-26	ss. 47A-47B, Sch.2	10.8.1989
1990-15	ss. 16-17, 19, 26-27, 32, 34-37, 39, 40-43, 47A-47B, 57, Sch.2	3.5.1990 ²
1992-17	ss. 12, 42A, 46	3.5.1990
1989-26	Sch.1	28.6.1990 ³
1990-36	s. 10	15.11.1990
LN. 1995/096	s. 32A	22.6.1995
Act. 2000-18	ss. 26-48, 57(1)-(2), Sch.2	19.7.2001

¹ Notice of Commencement LN.1987/149

² Notice of Commencement LN.1990/044

³ Notice of Commencement LN.1990/081

2003-02 ss. 3-25, 48

1.4.2003

Transposing:

Directive 90/387/EEC

Council Decisions 91/396/EEC

Council Decisions 92/264/EEC

ARRANGEMENT OF SECTIONS

Section

1. Short Title.
2. Interpretation.

PART I.

Repealed

3. to 25. *Repealed*

PART II.

Repealed

26. to 47. *Repealed*

47A. *Repealed*

47B. *Repealed*

PART III.

CONTROL OF PUBLIC UTILITY UNDERTAKINGS.

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49. Power to Governor to assume control of a public utility undertaking.
50. Powers of controller, etc.
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54. Judges and justices not to be disqualified by liability to pay charges, etc.
55. Incorporation of provisions of the Public Health Act.
56. Liability from payment outstanding accounts.
57. Contractor Companies.

SCHEDULE 1

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SCHEDULE 2

Repealed

AN ACT TO MAKE FURTHER AND BETTER PROVISION FOR THE CONTROL AND ADMINISTRATION OF CERTAIN PUBLIC UNDERTAKINGS.

Short title.

1. This Act may be cited as the Public Utility Undertakings Act.

Interpretation.

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

“functions” includes powers and duties;

“land” includes an interest in land and any easement or right in, to or over land;

“officer” includes servant;

“premises” includes messuages, buildings, lands, easements and hereditaments of any tenure.

PART I.

Repealed

3. to 25. *Repealed*

PART II.

Repealed

26. to 47. *Repealed*

47A. *Repealed*

47B. *Repealed*

PART III.

CONTROL OF PUBLIC UTILITY UNDERTAKINGS.

Interpretation.

48. In this Part unless the context otherwise requires—

“controller” means a person appointed as such under section 49;

“public utility undertaking” means the supply of water, gas.

Power of Governor to assume control of a public utility undertaking.

49.(1) Where any person, who by virtue of any licence, grant or concession or otherwise carries on or operates in Gibraltar any public utility undertaking, shall wilfully or unreasonably cause a cessation of such undertaking, or by reason of circumstances beyond his control is compelled to discontinue the undertaking, or if the Governor shall have good reason to believe that such person is immediately about to discontinue the undertaking, it shall be lawful for the Governor by warrant under his hand to authorize and direct such person as he may deem fit, to enter upon and take possession of the buildings, premises or works from which the undertaking is conducted or operated and to assume the control of and to conduct and to carry on such public utility undertaking until such time as the Governor shall see fit to revoke such warrant.

(2) A person who refuses to hand over the control to or who obstructs or hinders the controller or who does or causes to be done any damage or operation whereby the undertaking to be controlled is rendered less efficient is guilty of an offence, and, upon conviction thereof upon the information of the Attorney-General, is liable to imprisonment for six months and to a fine of £500.

(3) A person who wilfully damages or removes any plant, machinery or apparatus necessary to the working of a public utility undertaking in order to obstruct the working of the undertaking by a controller, whether a controller of such undertaking has or has not been appointed at the time when such damage is done or removal made, is guilty of an offence against this Act, and, upon conviction thereof upon the information of the Attorney-General, is liable to the penalties set out in subsection (2).

Powers of controller, etc.

50.(1) The appointment of a controller of any public utility undertaking shall be notified in the Gazette and from and after the date of such appointment all debts due to the controlled undertaking shall be paid to the controller whose receipt shall be deemed a sufficient discharge for all purposes.

(2) The controller shall, out of the moneys received by him on account of the controlled undertaking, pay all the expenses and necessary outgoings of such undertaking, and may, with the consent of the Governor, expend all reasonable amounts to replace fair wear and tear and keep the undertaking in as good and efficient condition as when control was assumed.

(3) The accounts of the controlled undertaking shall be audited by the Principal Auditor and any surplus of income over expenditure shall be paid, upon the authority of the Governor to the owner or owners of such undertaking.

(4) A person who refuses or neglects to pay to the controller any moneys due to the controlled undertaking or offers or attempts to pay any such moneys to the owner or owners of such undertaking is guilty of an offence and is liable on summary conviction to imprisonment for three months and to a fine of £50.

Employees of controlled undertaking.

51.(1) No person engaged in or upon the controlled undertaking shall cease from work upon the appointment of a controller, and every such person shall be deemed to continue and to remain in the employ of the controller upon the terms of his previous contract of service.

(2) The salaries and wages of such persons may from time to time be varied by the controller with the consent of the Governor and such salaries and wages shall be a first charge on the income of the controlled undertaking:

Provided that no service with or under the controller shall be deemed to be public service in the employ of the Government.

(3) Any notice to determine any contract of service given by the owner of the controlled undertaking to any person engaged in or upon the controlled undertaking shall be deemed to be void and of no effect unless the controller shall assent thereto.

(4) A person who offends against the provisions of this section is guilty of an offence and is liable on summary conviction to imprisonment for one month and to a fine of £20.

No compensation payable to owner.

52. No compensation or other remuneration shall be payable to the owner or owners of the controlled undertaking except as provided in section 49(3).

Saving for existing legal remedies.

53. Nothing in this Act contained shall be construed so as to deprive any person of any legal remedy otherwise existing against the owner or owners of the controlled undertaking for breach of contract or any other matter.

**PART IV.-GENERAL AND MISCELLANEOUS
PROVISIONS.**

**Judges and justices not to be disqualified by liability to pay charges,
etc.**

54. A judge of any court or a justice of the peace shall not be disqualified from acting in cases arising out of this Act by reason of his being liable to the payment of any charges under this Act.

Incorporation of provisions of the Public Health Act.

55. The following provisions of the Public Health Act are deemed to be incorporated in this Act, that is to say—

section 310 (interpretation of “provide”)

section 316 (notices to be in writing; forms of notices, etc.)

section 317 (authentication of documents)

section 318 (service of notices, etc.)

section 319 (proof of resolutions, etc.)

section 336 (powers of Act to be cumulative).

Liability from payment outstanding accounts.

56. The institution by a person of proceedings under section 14(1) or 42A(4) shall not affect that person’s liability to pay any amount outstanding in respect of a period other than that of which such proceedings have been instituted.

Contractor Companies

57.(1) The Government may by contract, on such terms and conditions as it shall think fit, authorise any Company or other body (“the contractor Company”) to undertake the powers and perform the functions conferred on the Government by Part I of this Act or such of those powers and functions as shall be specified in the contract.

(2) Where such a contract as is provided for in subsection (1) is in existence, the expression “contractor Company” shall be substituted for the expression “Government” wheresoever in Part I of the Act such a substitution shall be necessary to give effect to the terms and conditions of the contract.

SCHEDULE 1

Charges for the supply of electricity

Section 13.

The tariffs, charges and prices for the supply of electricity to be applied and charged in respect of the accounting period including 1st June, 1984, and every such period thereafter, shall be as follows:-

Flat Rate Tariffs:

Tariff No. 1-Lighting	9p per unit and in addition thereto there shall be paid a charge to be known as the Standing Additional charge of £2 per calendar month.
Tariff No. 2-Power	8p per unit and in addition thereto there shall be paid a charge to be known as the Standing Additional charge of £4 per calendar month.
Tariff No. 3-Tariff for Domestic Consumers	6.5p per unit and in addition thereto there shall be paid a charge to be known as the Standing Additional charge of £2 per calendar month.

Commercial Tariff:

Tariff No. 4	6p per unit and in addition thereto there shall be paid a charge to be known as the Standing Additional Charge of £3 per calander month.
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Industrial Maximum Demand Tariff:

Tariff No. 5	Two part maximum demand tariff for industrial and commercial users with a maximum demand normally not less than 5Kw.
Primary Charge	£2 per month per Kw of maximum demand based on a monthly half-hour rating, subject to a minimum monthly charge of £10. In addition

	thereto there shall be paid a charge to be known as the Standing Additional charge of £4 per calendar month.
Secondary Charge	5p per unit for all units consumed.
Power Factor Penalty	As set out in the definition below.
Off-Peak Tariff	For energy consumed at times other than the restricted hours as registered by a special meter:
Tariff No. 6A	Restricted hours: 7.00 am to 2.00 pm and 6.00 pm to 11.00 pm.
Charge	4p per unit and in addition thereto there shall be paid a charge to be known as the Standing Additional charge of £3 per calendar month.
Tariff No. 6B	Restricted Hours: (i) Winter period (November to March inclusive) : - 10.30 am to 2.00 pm and 6.00 pm to 9.00 pm: (ii) Summer period (April to October inclusive) : - restrictions to be imposed at the Government's discretion as for winter period if necessary:
Charge	4.5p per unit and in addition thereto there shall be paid a charge to be known as the Standing Additional charge of £3 per calendar month.

Flexible Cost Adjustment Formula.

The price set out in this Schedule of a unit of electricity supplied shall be adjusted upwards or downwards by such amount or by such method as the Governor, having regard to the fluctuating cost of generating or supplying electricity, may by rules prescribe.

Discontinuation of supply:

Where a supply of electricity has been discontinued under section 10 of the Act, a fee of £5 shall be paid by the consumer before the supply is restored.

Summer Air-Conditioning Tariff:

Energy sold for air-conditioning to be charged for under the provisions of Tariff No 6B provided that the consumer arranges the wiring of the circuits involved to enable separate metering. The following definitions shall form part of the Schedule of Tariffs:

Unit

A unit of electricity is the consumption of 1,000 watts for one hour, i.e. one KWh.

Power factor

Power factor means the figure obtained by dividing the kilowatts by the kilo-volt amperes or, in the case of average power factor, the kilowatt hours by the kilo-volt ampere hours, recorded by the Electricity Department's meters over a specified period.

Power Factor Penalty

Consumers charged under the Maximum Demand Tariff (No 5) shall maintain an average power factor of not less than 0.85. When the City Electrical Engineer has reason to believe that the power factor of an installation falls below this value, he may instal meters to measure the average monthly (or quarterly) power factor and the primary charge shall be increased by 1% for each .01 by which the power factor falls below 0.85.

Minimum Charge

Minimum charge means the charge payable monthly (or quarterly) by a consumer in cases where such charge is not exceeded in any particular month (or quarter) by the charge calculated in accordance with the tariff for energy actually consumed during that month (or quarter).

Month (or quarter)

Month (or quarter) means the period comprised between the date any meter is read for the purpose of the account and the date it was read during the month (or quarter) immediately preceding.

Consumer

Consumer means any authority, company, person or body of persons supplied or entitled to be supplied with electrical energy by the Government.

Domestic consumer

Domestic consumer means a consumer who uses electrical energy for lighting, heating, cooling, refrigeration, cooking or other purposes for the household and domestic reasons of one family with dependants.

Business, commercial and general consumer

Business, commercial and general consumer means a consumer occupying premises wholly or mainly used for professional business, or for the purpose of distribution or retail trade or for providing a service (whether or not a charge for such service is made) such as offices, shops, hotels, restaurants, bars, clubs, educational or training establishments, places of amusement, public institutions, churches, hospitals, nursing homes, laboratories and similar institutions.

Industrial consumer

Industrial consumer means a consumer engaged in an extractive or manufacturing industry and on whose premises electricity is used for the most part for the purpose of a mine, quarry-pit, factory, works, foundry, mill, refinery, pumping plant, ship building or repair and/or for motive power or for electro-chemical or electro-thermal process.

SCHEDULE 2

Repealed