



MONTERRAT

CHAPTER 18.01

MONTERRAT UTILITIES LIMITED (MUL) ACT

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—

MONTERRAT UTILITIES LIMITED (MUL) ACT

Act 6 of 2007 .. in force 1 July 2008 (S.R.O. 17/2008)

Amended by Act 9 of 2011 .. in force 27 September 2011 (S.R.O. 40/2011)

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MONTSERRAT UTILITIES LIMITED (MUL) ACT

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CHAPTER 18.01

MONTSERRAT UTILITIES LIMITED (MUL) ACT

(Acts 6 of 2007 and 9 of 2011)

AN ACT TO REPEAL THE ELECTRICITY SUPPLY ACT AND THE WATER AUTHORITY ACT AND TO ENABLE THE COMPANY TO TAKE OVER THE OPERATIONS, FUNCTIONS AND ACTIVITIES OF MONTSERRAT ELECTRICITY SERVICES LIMITED AND MONTSERRAT WATER AUTHORITY, TO VEST IN THE COMPANY THE ASSETS AND LIABILITIES OF MONTSERRAT ELECTRICITY SERVICES LIMITED AND MONTSERRAT WATER AUTHORITY, AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

Commencement

[1 July 2008]

Short title

1. This Act may be cited as the Montserrat Utilities Limited (MUL) Act.

Interpretation

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

“**Company**” means Montserrat Utilities Limited (MUL), a company incorporated under the Companies Act;

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

“**MONLEC**” means Montserrat Electricity Services Ltd;

“**MWA**” means Montserrat Water Authority;

“**utilities**” means electricity, geothermal power, water or sewerage services and “**utility**” means any one of such services.

Company to be a licensee under the Licensing of Utility Services Act

3. (1) The Company shall be a licensee under the Licensing of Utility Services Act.

(2) Subject to the provisions of the said Act, and any regulations made thereunder and subject to the terms and conditions of the licence, the Company shall be authorised to—

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

Vesting of assets and liabilities in the Company

4. (1) (a) All lands, buildings, installations, equipment and all other forms of property, whether real or personal, and all interests therein, of whatsoever nature, belonging to MONLEC and used exclusively for the purposes of Electricity Supply shall become vested in the Company;

(b) all water-courses and waterworks transferred to and vested in MWA by virtue of the provisions of the Water Authority Act or otherwise, shall be transferred to and vest in the Company; and all other assets and all liabilities and obligations of the MWA under the Water Authority Act, shall also be transferred and accrue to and devolve upon the Company.

(2) (a) All land and other property of every kind including things in action, vested or deemed to be and constituted as part of the Government managed sewerage service immediately before the commencement of this Act shall vest in this Company; and

(b) all pumps, conduits and sewer systems or any sewerage works belonging to or being used by the Public Works Department for sewerage services, shall vest in the Company.

(3) The benefits and burdens of any contract for or in connection with supplying or providing utilities to which MONLEC, MWA or Government is a party (including the rights to recover and receive all moneys due and payable to them) and which subsists or is in force immediately before the date of commencement of this Act, shall be deemed to have been transferred to the Company.

(4) Every agreement in respect of any utility or related to or connected in any way whatsoever with any utility (other than a contract referred to in subsection (3) whether that agreement is in writing or not, and every deed, bond or other instrument in respect of any utility or related to or connected in any way whatsoever with any utility; to which agreement, deed, bond or other instrument MONLEC, MWA or Government was a party or which affected MONLEC, MWA or Government, and whether or not of such a nature that the rights, liabilities and obligations thereunder could be assigned, shall have effect as if the Company were a party thereto or affected thereby instead of MONLEC, MWA or Government and as if for every reference (however worded and whether express or implied) therein to MONLEC, MWA or Government there were substituted in respect of anything to be done on or after the date of commencement of this Act a reference to the Company.

(5) Any proceedings upon contract, agreement, deed, bond or other instrument to which reference is made in subsections (3) and (4) which are pending immediately before the date of commencement of Act and to which MONLEC, MWA or Government was a party shall be continued as if the Company was a party thereto in lieu of MONLEC, MWA or Government.

Exemption from customs duty, consumption tax, income tax, property tax and stamp duty

5. (1) Notwithstanding anything contained in any other Act, all plant, machinery, appliances, apparatus, equipment and materials of every kind whatsoever imported into Montserrat by the Company for the purpose of carrying out its functions under this Act shall be free of all customs duty and consumption tax or any other tax having a similar effect, whatsoever.

(2) Notwithstanding anything contained in the Income and Corporation Tax Act, the income of the Company shall be wholly exempt from payment of income tax.

(3) Notwithstanding anything contained in the Property Tax Act, the property of the Company shall be wholly exempt from payment of property tax.

(4) Notwithstanding anything contained in the Stamp Act, the Company shall be exempt from payment of all stamp duties.

Transitional provisions

6. (1) Subject to subsection (2), upon the coming into force of this Act, all officers and employees of the MWA and MONLEC are deemed to be transferred from the service of the MWA and MONLEC to the service of the Company as employees of the Company upon terms and conditions not less favourable in aggregate than those which were attached to their previous appointment with the MWA and MONLEC.

(2) Every person who is deemed to have been transferred to the service of the Company as an employee under subsection (1) shall, within six months of the coming into force of this Act, have the option of electing to—

- (a) continue working as an employee of the Company, in which case such service shall be considered to have continued uninterrupted into the Company. For the avoidance of doubt, this means that any and all service accumulated prior to the commencement of this Act shall be added to any period employed by the Company in any calculation of pension, gratuity and other allowances and rights, if any, granted by the Company; or
- (b) cease to be an employee of the Company, in which case he will be treated as if he retires from the service of the MWA and MONLEC on the date he ceases to be in the service of the Company. For the avoidance of doubt, this means that the person so electing shall be entitled to whatever pension, gratuity and other allowance that would have been payable by the MWA and MONLEC had that entity still existed and the person retired on the date he ceases to be in the service of the Company.

(3) Where any employee fails to make an election as provided in subsection (2), he shall be deemed to have made an election under subsection (2)(a) and he shall be treated accordingly.

(4) Nothing in subsections (1) to (3) shall affect the right of the Company to—

- (a) terminate the employment of any officer or employee of the MWA and MONLEC transferred to the service of the Company as an employee; or
- (b) vary the rate of pay or conditions of service of such an officer or employee of the MWA and MONLEC,

in the manner and to the extent that the MWA and MONLEC could have done had he continued in the service of the MWA and MONLEC.

(5) All money that, immediately before the commencement of this Act, stood to the credit of the MWA and MONLEC in respect of water supply shall be transferred to and vested in the Company.

(6) The right to receive and recover any money that, immediately before the commencement of this Act, were due to the MWA and MONLEC shall be transferred to the Company and this subsection shall be given effect to as if these moneys had always been payable to the Company.

(7) Any money owed by the MWA and MONLEC on the date of commencement of the Act shall become the responsibility of the Company, and shall be treated as if it had always been payable by the Company.

Savings

7. All rules, regulations and by-laws made pursuant to the Water Authority Act and Electricity Supply Act, now repealed, shall continue in force until such time as new rules and regulations are made.
