

**No. 5 of 2000**

**AN ACT TO AMEND THE PUBLIC UTILITIES COMMISSION ACT, 1993**  
*[Date of Assent - 31 January, 2000]*

**Enacted by the Parliament of The Bahamas**

**Short title and commencement.**  
**Act No. 20 of 1993.**

**1.** (1) This Act which amends the Public Utilities Commission Act may be cited as the Public Utilities Commission (Amendment) Act, 1999.

(2) This Act shall come into operation on such date as the Minister may appoint by notice in the Gazette.

**Amendment of section 2 of the principal Act.**

**2.** Section 2 of the principal Act is amended as follows-

(a) by the deletion of the words “controlled public utility” and the definition relating thereto and the substitution therefore of the following-

“ “controlled public utility” means without prejudice to section 25 any person or company (including the lessee, trustee, receiver, or liquidator of such person or company) who provides a utility service to the public or who owns or operates equipment or facilities for -

(a) the production, generation, storage, transmission, sale, delivery, furnishing or supplying, directly or indirectly to or for the public, of electricity;

(b) the provision of a service consisting of emitting, transmitting, conveying, switching or receiving messages within, into or from The Bahamas by means of any system that uses any electric electro-magnetic, electro-optical or optic-electronic means;

(c) the supply of water or the provision of sewerage facilities through a system of pipes connected to households directly or indirectly in any area of a community; and

(d) the sale, distribution or supply of propane gas, but shall not include any person or company not otherwise a public utility who furnishes the service or commodity only to himself, his employees,

(d) the sale, distribution or supply of propane gas, but shall not include any person or company not otherwise a public utility who furnishes the service or commodity only to himself, his employees, tenants or guests, when such service or commodity is not resold to or used by others”; and

(b) by the deletion of the word Minister” and the definition relating thereto and the substitution therefor of the following-

“Minister” means the Prime Minister;”.

**Repeal and replacement of section 4 of the principal Act.**

(3) Section 4 of the principal Act is repealed and replaced by the following -

**“Functions of Commission.**

**4. (1) The duties of the Commission shall be -**

- (a) to ensure that the services rendered by a utility under taking operated by a controlled public utility (hereinafter referred to as “utility services”) are satisfactory and that the charges imposed in respect of those services are reasonable;
- (b) to promote the interest of consumers, whilst enabling service providers that operate efficiently to finance the provision of utility services;
- (c) to publish information, reports and other documents relating to the utility services;

- (d) to promote effective competition consistently and in accordance with any policy established by the Government for that sector.

(2) For the purposes of subsection (1), notwithstanding anything to the contrary in any law, the Commission shall have all the powers provided for under this Act including the power-

- (a) to enquire into the nature and extent of utility services and to determine in accordance with the provisions of this Act the standards which must be maintained in relation to such services;
- (b) to determine in accordance with the provisions of this Act the rates which may be charged in respect of utility services,
- (c) to do anything incidental to or conducive to the performance of its functions or duties under this Act.

(3) Notwithstanding any other law the functions of the Commission in relation to any utility service shall commence only on such date as the Minister may by Notice in the Gazette

**Repeal of section 6 of the principal Act.**

- 4.** Section 6 of the principal Act is repealed.

**Repeal and replacement of section 7 of the principal Act.**

**5.** Section 7 of the principal Act is repealed and replaced by the following -

**“Appointment of experts.**

**7.** The Commission may, from time to time appoint or engage experts or persons having technical or special knowledge necessary for the purpose of assisting the Commission to carry out its functions under this Act or any other Act.”.

**Repeal and replacement of section 8 of the principal Act.**

**6.** Section 8 of the principal Act is repealed and replaced by the following-

**“Expenses and surplus funds of the Commission.**

**8.** (1) Each year the Commission shall prepare a budget, including the budgeted cost relating to each class of utility service that is subject to regulation by the Commission.

(2) The budget shall be subject to the approval of the Minister and the Minister may take into account the overall level of the budget and the apportionment between the classes of the utility services.

(3) The Commission may levy fees on a provider of a class of utility services, to defray the budgeted costs and expenses of the Commission allocable to such utility services.

(4) The Minister may direct the Commission to recover additional amounts as may be provided for under the Telecommunications Act or any other Act.

(5) Any money standing to the credit of the Commission and not required for current purposes (“surplus funds”) may, with the consent of the Minister, be carried to a reserve fund.

The Minister may direct that all or any part of the surplus funds (whether or not in a reserve fund) be paid into the Consolidated Fund.

(6) Subject to subsection (5) the Commission may determine the management of any reserve fund but no part of the reserve fund shall be applied otherwise than for the purposes of the Commission.

(7) Any costs and expenses of the Commission not recovered by the fees levied shall be charged upon and paid out of the Consolidated Fund.”.

**Amendment of section 9 of the principal Act.**

**7.** Subsection (2) of section 9 of the principal Act is repealed and replaced by the following -

“ (2) The Commission may impose a fine of ten thousand dollars on any controlled public utility which fails to comply with the requirements of an order by the Commission.”.

**Amendment of section 10 of the principal Act.**

**8.** Subsection (2) of section 10 of the principal Act is repealed and replaced by the following

“ (2) The Commission may impose a fine of ten thousand dollars on any controlled public utility which fails to comply with any requirement made pursuant to subsection (1).”.

**Insertion of new section 10A into the principal Act.**

**9.** The principal Act is amended by the insertion immediately after section 10 of the following new section -

“10A. Where the Commission imposes a fine under section 9(2) and section 10(2) that fine shall be recoverable in the same manner as a fine imposed by a court of law.”.

**Repeal and replacement of section 13 of the principal Act.**

**10.** Section 13 of the principal Act is repealed and replaced by the following -

**Adherence  
to tariffs.**

**13.** No controlled public utility shall directly or indirectly, demand or receive a rate for any service rendered other than that specified in the tariffs of such public utility applicable thereto and filed in a manner prescribed under this Act.”.

**Amendment of  
section 20 of the  
principal Act.**

**11.** Section 20 of the principal Act is amended as follows-

- (a) by the deletion of the words “three hundred dollars” and the substitution therefor of the words “ten thousand dollars”; and
- (b) by the deletion of the words “fifty dollars” and the substitution therefor of the words “one thousand dollars”.

**Amendment of  
section 23 of the  
principal Act.**

**12.** Subsection (1) of section 23 of the principal Act is amended by the insertion immediately after the words “The Minister may” of the words “after consultation with the Commission”.

**Application of  
principal Act.**

**13.** Sections 4 to 6, 9 to 24 and the Second Schedule of the Principal Act shall apply to particular classes of utility services to the extent they are not disapplied by the provisions of any other Act in relation to such classes of utility services.

**Amendments to  
the First  
Schedule to the  
principal Act.**

**14.** The First Schedule to the principal Act is amended as set out in the Schedule to this Act.

**Schedule.**

**SCHEDULE (section 13)**

**Paragraph**

**Amendment**

1(1) and (2)

Repeal and replace with the following paragraphs-

“ 1.(1) The Commission shall consist of not less than three and not more than five persons to be appointed by the Governor-General on the advice of the Prime Minister after consultation with the Leader of the Opposition.

(2) Such persons shall appear to the Prime Minister to be qualified as having had experience of, and shown capacity in, matters relating to industry, finance, economics, engineering, accounting, commerce, law, management or development and planning.”.

- 3 Repeal the paragraph.
- 4(b) Delete the words “three years” and substitute the words “five years”.
- 4(2) Delete the words “inefficiency, incompetence”;
- 10 Repeal and replace with the following paragraph-
- “ 10. The remuneration of the chairman and members of the Commission shall be determined by the Governor-General on the advice of the Prime Minister and after consultation with the Leader of the Opposition.”.
- 11 Insert immediately after the words “under this Act”, the words “or any other Act in relation to particular classes of utility services”.
- 12 (a) Renumber paragraph 12 as paragraph 12(1);
- (b) delete the colon appearing after the word “functions” and substitute with a full stop;
- (c) insert immediately after the words thinks fit” the words “an executive director and”;
- (d) delete the proviso;

Insert immediately after subparagraph (1) the following paragraphs-

“ (2) An appointment of an executive director shall be made after consultation with the Minister.

(3) The Commission may, after consultation with the Minister remove the executive director at any time on the grounds of misconduct, inefficiency or other cause.

(4) The executive director shall be the chief executive officer of the Commission reporting to the chairman and shall have responsibility for-

(a) the day-to-day administration of the affairs of the Commission; and

(b) the provision of the technical advice and guidance in the execution of the functions of the Commission.”.

16(1) Insert immediately after the words “of this Act” the words “or the Telecommunications Act”.

16(2) Delete the word “manner” and substitute therefor the word “member”.