



## ANALYSIS

<p>Title</p> <p>Preamble</p> <p>1. Short Title</p> <p>2. Interpretation</p>	<p style="text-align: center;">PART II</p> <p>ELECTRICITY AND GAS CO-ORDINATION BOARD</p> <p>11. Electricity and Gas Co-ordination Board</p> <p>12. Term of office of members of Board</p> <p>13. Deputies</p> <p>14. Meetings of the Board</p> <p>15. Functions of Board</p> <p>16. Fees and travelling allowances</p>
<p style="text-align: center;">PART I</p> <p>ACQUISITION BY SUPPLY AUTHORITIES OF GAS UNDERTAKINGS</p> <p>3. Supply authorities may acquire gas undertakings</p> <p>4. Provisions of agreement</p> <p>5. Provisions of Electric Power Boards Act 1925 and Auckland Electric Power Board Act 1921-22 to apply in certain circumstances</p> <p>6. Provisions of section fifteen of Local Government Commission Act 1953 not to apply</p> <p>7. Borrowing powers of Supply Authority in respect of purchase of gas undertaking</p> <p>8. How purchase price to be paid</p> <p>9. Method of financing purchase of gas undertaking</p> <p>10. Provisions where essential gas undertaking not taken over</p>	<p style="text-align: center;">PART III</p> <p>PROVISIONS RELATING TO CARRYING ON OF GAS UNDERTAKINGS BY SUPPLY AUTHORITIES</p> <p>17. Supply Authorities to carry on gas undertakings</p> <p>18. Agreements between neighbouring Supply Authorities</p> <p>19. Powers of Supply Authority to extend outside its district</p> <p>20. Property passing to Supply Authority</p> <p>21. Name of Power Board owning gas undertaking</p> <p>22. Right of entry to inspect gas fittings</p> <p>23. Control of Prices Act 1947 not to apply in certain cases</p> <p>24. Rights of employees</p> <p>25. Grants of relief to Supply Authorities</p> <p>26. Regulations</p> <p>27. Repeals and savings</p>

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1956, No. 106

**An Act to provide for the acquisition of essential gas undertakings by Supply Authorities, and to make general provisions relating to the co-ordination of the electricity and gas industries**  
 [26 October 1956]

WHEREAS pursuant to the Electricity and Gas Co-ordination Committee Act 1955 the Electricity and Gas Co-ordination Committee established by that Act decided that it

was essential in the public interest that certain gas undertakings named by that Committee should be continued in operation: And whereas, in accordance with the decision, the gas undertakings named by the Committee have been declared essential: And whereas the gas undertakings declared essential as aforesaid comprise most of the gas undertakings operating in New Zealand: And whereas the Committee has recommended that, in order that essential gas undertakings be continued in operation, there should be a merger of electricity and gas undertakings in those districts in which are situated gas undertakings declared essential as aforesaid and that any such merger should take place on the basis of agreement between the bodies concerned: And whereas legislative authority is necessary in order to empower Supply Authorities and owners of gas undertakings to enter into and carry out the necessary agreements and to empower the Minister of Finance to enter into arrangements enabling the financing of the acquisition of gas undertakings by Supply Authorities: And whereas, for the purpose of advising the Minister on matters relating to the co-ordination of the electricity and gas industries and of carrying out certain other functions it is deemed advisable to establish an Electricity and Gas Co-ordination Board:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

**1. Short Title**—This Act may be cited as the Electricity and Gas Co-ordination Act 1956.

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

“Board” means the Electricity and Gas Co-ordination Board established by this Act:

“Department” means the State Hydro-electric Department:

“Gas undertaking” means the whole undertaking and assets of an owner used for or in connection with the manufacture or supply of gas, or for the manufacture and supply of any by-products produced during or in association with the manufacture of gas; and includes all lands, buildings, works, mains, machinery, apparatus, fittings, appliances, stocks, by-products, contracts, and every other property, right, or interest,

whether real or personal and whether legal or equitable that is an asset of the undertaking and also includes any part of a gas undertaking:

“Essential gas undertaking” means a gas undertaking that has been declared an essential gasworks pursuant to the Electricity and Gas Co-ordination Committee Act 1955:

“Minister” means the Minister in Charge of the State Hydro-electric Department:

“Owner”, in relation to any gas undertaking, means any Municipal Corporation, company, person, or body of persons whether incorporated or not authorised to manufacture or supply gas:

“Supply Authority” means any person or body licensed under Part XIII of the Public Works Act 1928 or otherwise authorised to supply electrical energy.

## PART I

### ACQUISITION BY SUPPLY AUTHORITIES OF GAS UNDERTAKINGS

#### **3. Supply authorities may acquire gas undertakings—**

(1) In addition to the powers conferred on it by any other enactment, any Supply Authority may, subject to the provisions of this Act, enter into and carry out an agreement with the owner of any gas undertaking operating within, or principally within, the district of the Supply Authority for the purchase or other acquisition of the undertaking by the Supply Authority or for the carrying on, control, supervision, or management of the gas undertaking by the Supply Authority.

(2) Where an agreement to purchase an essential gas undertaking, or part thereof, is entered into under this section, the amount of the purchase price shall be that agreed upon between the parties.

(3) Where any agreement is entered into under this section, the Supply Authority concerned shall forthwith notify the Department.

**4. Provisions of agreement—**(1) Any agreement entered into under section three of this Act may provide—

(a) For the Supply Authority to purchase the gas undertaking or any part thereof:

- (b) For the payment by the Supply Authority of purchase money in respect of the acquisition of the gas undertaking and for the terms relating to the payment of any such purchase money:
  - (c) For the exclusion of such property, rights, or obligations from the agreement as the parties may agree:
  - (d) For the assumption by the Supply Authority of outstanding liabilities and obligations of the owner in respect of the gas undertaking:
  - (e) For the management and control of the gas undertaking or any part thereof to be vested in the Supply Authority:
  - (f) For the apportionment or allocation of the cost of the carrying on of the gas undertaking between the parties to the agreement:
  - (g) For the payment of interest in respect of any money payable by a party to the agreement:
  - (h) For the giving by any party to the agreement of security for the payment of any money payable by that party under the agreement:
  - (i) For the indemnifying by the Supply Authority of the owner of the gas undertaking against all claims:
  - (j) For the submission to arbitration of disagreements between the parties or of such specified matters as are referred to in the agreement:
  - (k) For such other terms and conditions incidental to the general arrangement as may be agreed upon.
- (2) No stamp duty shall be chargeable upon or in respect of any agreement entered into under section three of this Act or upon or in respect of any assignment, transfer, conveyance, or contract entered into pursuant to any such agreement.
- (3) Where the money to be paid by a Supply Authority under any agreement entered into under section three of this Act is not payable within any one financial year, that money or so much thereof as consists of principal or the capital value of any instalments shall, for the purposes of the Local Government Loans Board Act 1926, be deemed to be money borrowed by the Supply Authority.

**5. Provisions of Electric Power Boards Act 1925 and Auckland Electric Power Board Act 1921–22 to apply in certain circumstances—**(1) The provisions of the Electric Power Boards Act 1925, as far as they are applicable, and with the necessary modifications, shall apply to the purchase, acquisition, construction, and carrying on of any gas undertaking, the

distribution, supply, and sale of gas, and the conduct of any business incidental thereto by an Electric Power Board under this Act to the same extent as those provisions apply with respect to the electric works and undertakings of the Power Board; and the gas undertaking shall be deemed to form part of the undertaking of the Power Board:

Provided that it shall not be necessary for the Electric Power Board to obtain the authority of the Governor-General in Council under section seventy-six of the Electric Power Boards Act 1925 to purchase, add to, or alter the construction of any gas undertaking or part thereof under the control of the Power Board.

(2) The provisions of the Auckland Electric Power Board Act 1921–22, as far as they are applicable, and with the necessary modifications, shall apply to the purchase, acquisition, construction, and carrying on of any gas undertaking, the distribution, supply, and sale of gas, and the conduct of any business incidental thereto by the Auckland Electric Power Board under this Act to the same extent as those provisions apply with respect to the electric works and undertakings of that Power Board, and the gas undertaking shall be deemed to form part of the undertaking of that Power Board:

Provided that it shall not be necessary for the Auckland Electric Power Board to obtain the authority of the Governor-General in Council under section fifty-one of the Auckland Electric Power Board Act 1921–22 to purchase, add to, or alter the construction of any gas undertaking or part thereof under the control of that Power Board.

**6. Provisions of section fifteen of Local Government Commission Act 1953 not to apply—**(1) Notwithstanding the provisions of section fifteen of the Local Government Commission Act 1953, that section shall not apply to any agreement entered into under section three of this Act or to any party to any such agreement in respect of the agreement.

(2) Subsection four of section fifteen of the Local Government Commission Act 1953 is hereby repealed.

**7. Borrowing powers of Supply Authority in respect of purchase of gas undertaking—**In addition to any powers conferred on it by any other enactment, any Supply Authority may, for the purpose of enabling it to purchase an essential gas undertaking, raise a special loan under the Local Bodies'

Loans Act 1926 by special order and, notwithstanding anything in section nine of that Act, without the prior consent of the ratepayers.

**8. How purchase price to be paid—**(1) Any amount payable by a Supply Authority in respect of the purchase of an essential gas undertaking may be paid in cash, or by the transfer of debentures, stock, or other securities issued by the Supply Authority, or by the transfer of Government or other securities, or in such other manner as the parties may agree, or partly by one of those methods and partly by others.

(2) The issue of any debentures, stock, or other securities by a Supply Authority for the purposes of this section shall be deemed to be the borrowing of money by the Supply Authority, and the provisions of section seven of this Act shall apply to any such borrowing.

**9. Method of financing purchase of gas undertaking—**(1) Any Supply Authority which has agreed under this Act to purchase an essential gas undertaking may enter into an agreement with the Minister of Finance providing for the exchange of debentures, stock, or other securities issued by the Supply Authority for cash or for Government securities or partly for cash and partly for Government securities.

(2) The Minister of Finance, on behalf of Her Majesty, may enter into and carry out any agreement to which subsection one of this section relates.

(3) For the purposes of this section the Minister of Finance is hereby authorised to acquire Government securities as a charge on the National Development Loans Account, and any such securities may be transferred under any agreement to which subsection one of this section relates.

(4) All cash payments or other expenditure required to be made, and all Government securities required to be issued, by the Minister of Finance pursuant to this section shall, without further appropriation than this section, be made or issued as a charge on the National Development Loans Account.

(5) Where any payment or expenditure, or any issue or transfer of Government securities, is made as aforesaid, the authority of the Minister of Finance to borrow under section eleven of the New Zealand Loans Act 1953 shall be deemed to be extended as if the amount concerned had been duly transferred from the National Development Loans Account to another fund or account as mentioned in that section.

**10. Provisions where essential gas undertaking not taken over—**(1) If within twelve months after the commencement of this Act an agreement under this Act has not been entered into between a Supply Authority and the owner of the gas undertaking for—

(a) The acquisition of an essential gas undertaking situated within, or principally within, the district of the Supply Authority; or

(b) The effective control of any such gas undertaking to be vested in the Supply Authority—

the Department shall notify the Minister and the Minister, if he thinks fit, may refer the matter to the Board.

(2) The Board shall thereupon take such steps as it thinks necessary or expedient for the purpose of arranging an agreement between the parties concerned and, if an agreement is not reached within such time as the Board considers reasonable, the Board shall report that fact to the Minister together with any recommendation, including a recommendation for the enactment of further legislation, which it considers relevant.

## PART II

### ELECTRICITY AND GAS CO-ORDINATION BOARD

**11. Electricity and Gas Co-ordination Board—**(1) There is hereby established for the purposes of this Act a Board, to be called the Electricity and Gas Co-ordination Board.

(2) The Board shall consist of five members, of whom one shall be appointed as Chairman, appointed by the Governor-General on the recommendation of the Minister.

**12. Term of office of members of Board—**(1) Except as otherwise provided in this Act, every member of the Board shall hold office for a term of four years, but may from time to time be reappointed.

(2) Any member of the Board may at any time be removed from office by the Governor-General for disability, bankruptcy, neglect of duty, or misconduct proved to the satisfaction of the Governor-General, or may at any time resign his office by writing addressed to the Minister.

(3) If any member of the Board dies, or resigns, or is removed from office, his office shall become vacant and the vacancy shall be deemed to be an extraordinary vacancy.

(4) In the case of an extraordinary vacancy, the Governor-General may appoint some qualified person to fill the vacancy. Any such appointment shall be made in the same manner as the appointment of the vacating member.

(5) The powers of the Board shall not be affected by any vacancy in the membership thereof.

**13. Deputies**—(1) In any case in which the Minister is satisfied that any member of the Board is incapacitated by illness, absence, or other sufficient cause from performing the duties of his office, the Minister may appoint a deputy to act during his incapacity.

(2) Any deputy appointed under this section shall, while he acts as such, be deemed to be a member of the Board.

(3) No appointment of a deputy and no acts done by him as such, and no acts done by the Board while any deputy is acting as such, shall be questioned in any proceedings on the ground that the occasion for his appointment had not arisen or had ceased.

**14. Meetings of the Board**—(1) The first meeting of the Board shall be held on a day appointed by the Minister.

(2) Subsequent meetings of the Board shall be held at such times and places as the Board from time to time determines.

(3) The Chairman, or any two members, may at any time call a special meeting of the Board.

(4) At all meetings of the Board the quorum necessary for the transaction of business shall be four members.

(5) The Chairman shall preside at all meetings of the Board at which he is present. In the absence of the Chairman from any meeting, the members present shall appoint one of their number to be Chairman of that meeting.

(6) At any meeting the Chairman shall have a deliberative vote, and in the case of an equality of votes shall also have a casting vote.

(7) All questions arising at any meeting shall be decided by a majority of the valid votes of members recorded thereon.

(8) Subject to the provisions of this Act and of any regulations made thereunder, the Board may regulate its procedure in such manner as it thinks fit.

**15. Functions of Board**—The principal functions of the Board shall be to advise the Minister in respect of such matters affecting the co-ordination of the electricity and gas industries



as may be referred to it by the Minister and to perform such functions, powers, and duties as are conferred or imposed on it under this Act or otherwise howsoever.

**16. Fees and travelling allowances—**(1) The Board is hereby declared to be a statutory Board within the meaning of the Fees and Travelling Allowances Act 1951.

(2) There shall be paid from the Electric Supply Account out of money appropriated by Parliament for the purpose remuneration by way of fees, salary, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly.

### PART III

#### PROVISIONS RELATING TO CARRYING ON OF GAS UNDERTAKINGS BY SUPPLY AUTHORITIES

**17. Supply Authorities to carry on gas undertakings—**

(1) Each Supply Authority which controls an essential gas undertaking, whether pursuant to this Act or otherwise, shall carry on the undertaking in such manner as to ensure, as far as practicable, that the supply of gas from the undertaking is maintained, that the interests of gas consumers served by the undertaking are protected, and that available supplies of electricity are conserved by the encouragement of the use of gas for the generation of heat and power.

(2) Each Supply Authority which controls an essential gas undertaking shall, if requested to do so by the Board, submit to the Board a statement showing the rates of charges the Authority proposes to make for electricity and for gas.

(3) The Board may either approve the rates of charges or, if it considers that the effect of the charges would be to prevent or hinder the Supply Authority from carrying out its obligations under subsection one of this section, it may recommend to the Supply Authority that alterations should be made to the rates in the manner indicated in that behalf by the Board.

(4) If an alteration is not made in accordance with any recommendation of the Board under subsection three of this section, the Board shall report that fact to the Minister.

**18. Agreements between neighbouring Supply Authorities—**

(1) Any Supply Authority which supplies gas within the district of another Supply Authority, whether or not that

other Supply Authority controls a gas undertaking, may enter into an agreement with that other Supply Authority—

- (a) For the sale to that Supply Authority of gas supplied as aforesaid for resale to gas consumers;
- (b) For the purchase by that Authority of the part of the gas undertaking situated within its district; or
- (c) For the apportionment or allocation of any loss incurred in respect of any such supply of gas.

(2) Every Supply Authority shall have all powers and authorities necessary for it to enter into and carry out any agreement under subsection one of this section.

(3) If the Supply Authorities concerned cannot agree as to the terms of any such agreement, the Board, on the request of any such Supply Authority, shall make such recommendations as it thinks fit with respect to the matter.

(4) For the purpose of enabling it to make any recommendation under subsection three of this section, the Board may request any Supply Authority concerned to supply to the Board a statement showing the rates of charges for electricity applicable within the district of that Supply Authority and any such Authority shall, as soon as practicable, supply the statement.

**19. Powers of Supply Authority to extend outside its district**—Where any gas undertaking is purchased by a Supply Authority and any part of the undertaking is not situated within the district of the Supply Authority, the Supply Authority shall have the same rights, powers, and obligations with respect to that part of the undertaking situated outside its district as it has with respect to the part situated within its district.

**20. Property passing to Supply Authority**—(1) Where a Supply Authority agrees to purchase an essential gas undertaking, all the real and personal property, contracts, rights of action and other rights, obligations, and liabilities of the owner shall, except as may be expressly provided otherwise in the agreement, be deemed to become property, contracts, rights, obligations, and liabilities of the Supply Authority.

(2) Where a Supply Authority agrees to purchase an essential gas undertaking, every estate, right, title, or interest of the owner in or to or under any real or personal property

or any contract or agreement shall pass in accordance with the agreement to purchase, notwithstanding that the consent or approval of any person, body, or authority may be requisite for the assignment thereof by the owner, or that it is not capable of assignment apart from the provisions of this section.

(3) Notwithstanding the provisions of any enactment, by-law, rule, contract, deed, instrument, or other document whatsoever, the owner of any gas undertaking shall be deemed to have full authority to dispose of an essential gas undertaking or any part thereof in accordance with this Act and to enter into and carry out any agreement under section three of this Act.

(4) Nothing in section two hundred and eighty-four of the Municipal Corporations Act 1954 shall apply to any gas undertaking transferred to a Supply Authority under this Act.

#### **21. Name of Power Board owning gas undertaking—**

(1) Notwithstanding the provisions of subsection two of section nine of the Electric Power Boards Act 1925 or of subsection two of section four of the Auckland Electric Power Board Act 1921-22, the Governor-General may by Proclamation published in the *Gazette* declare that the name of any Electric Power Board which owns an essential gas undertaking shall, from a date specified in the Proclamation, be changed to "The ..... Electric Power and Gas Board" and on that date the name of the Electric Power Board shall be deemed to be changed accordingly.

(2) The change of the name of any Electric Power Board pursuant to this section shall not affect in any way the constitution, powers, rights, duties, or obligations of any such Board, and the Board shall remain for all purposes an Electric Power Board within the meaning of any enactment, contract, deed, instrument, or other document whatsoever relating to the Board.

(3) Any Proclamation under this section may at any time be amended or revoked.

#### **22. Right of entry to inspect gas fittings—**

Any person authorised in writing in that behalf by the Supply Authority may at all reasonable times, upon producing proof of his authority if required, enter upon any premises to which gas is supplied from any gas undertaking under the Authority's control in order to examine the gas pipes, fittings, appliances,

and gas meter; and if any such person is refused admittance or obstructed in any such examination, the Authority may, without prejudice to any other remedy, cut off the supply of gas from the premises.

**23. Control of Prices Act 1947 not to apply in certain cases**—The Control of Prices Act 1947 shall not apply in respect of the sale of gas, or coke, or any by-products produced in the manufacture of gas, by any Supply Authority which has purchased or acquired control of any gas undertaking whether under this Act or otherwise.

**24. Rights of employees**—Where any gas undertaking is purchased by a Supply Authority under this Act, all contracts, obligations, or engagements of the owner of the undertaking in respect of the employment of any person in connection with the undertaking or in respect of the rights to superannuation or retiring allowance of any such person shall become contracts, obligations, and engagements of the Supply Authority:

Provided that where, at the commencement of this Act, any contract of employment is in existence between the owner of a gas undertaking and any person employed by the owner in connection with the undertaking, the contract may, by agreement between the owner, the employee, and the Supply Authority, and subject to such conditions as may be included in the agreement, be excluded from the provisions of this section.

**25. Grants of relief to Supply Authorities**—(1) Where any Supply Authority which carries on an essential gas undertaking claims that it has suffered loss through the operation of the undertaking, it may apply under this section for a grant by way of relief.

(2) Any such application shall be made in writing to the Department and referred by the Department to the Board.

(3) The Board shall examine each application referred to it under this section, and, if after having regard to the prices charged by the Supply Authority for electricity and gas supplied by it and all matters which it considers relevant, the Board is of the opinion that a grant should be made it shall make a recommendation accordingly.

(4) Payment of any grant under this section may be made in one amount or by instalments payable over a period not exceeding twelve months.

(5) Any grant recommended by the Board under this section and approved by the Minister of Finance and the Minister in Charge of the State Hydro-electric Department shall, without further appropriation than this section, be paid out of the Electric Supply Account.

**26. Regulations—**(1) The Governor-General may from time to time, by Order in Council, make such regulations as may in his opinion be necessary or expedient for giving full effect to the provisions of this Act and for the due administration thereof.

(2) Without limiting the general power conferred by subsection one of this section, it is hereby declared that regulations may be made under this section for all or any of the following purposes:

- (a) For the regulation and control of the supply of gas and of the installation or use of fittings or appliances used for or in connection with the supply or use of gas:
- (b) Prescribing standards in respect of the calorific value of gas supplied:
- (c) Prescribing permissible pressures at which gas may be supplied:
- (d) Providing for the appointment of Gas Referees for the purpose of making inquiries as to whether or not persons are supplying gas in accordance with the regulations and prescribing their powers and functions in respect of any such inquiries:
- (e) Providing for the testing of gas meters:
- (f) Prescribing fines not exceeding five hundred pounds for offences against any such regulations.

(3) All regulations made under this Act shall be laid before Parliament within twenty-eight days after the making thereof if Parliament is then in session, and, if not, shall be laid before Parliament within twenty-eight days after the date of the commencement of the next ensuing session.

**27. Repeals and savings—**(1) Sections four to thirteen of the Electric Power Boards Amendment Act 1952 and the Electricity and Gas Co-ordination Committee Act 1955 are hereby repealed.

(2) Subsection one of section two hundred and seventy-three of the Municipal Corporations Act 1954 is hereby amended by repealing the proviso thereto.

(3) Without limiting the provisions of the Acts Interpretation Act 1924, it is hereby declared that the repeal of any provision by this Act shall not affect any document made or any thing whatsoever done under the provisions so repealed or under any corresponding former provision, and every such document or thing, so far as it is subsisting or in force at the time of the repeal and could have been made or done under this Act, shall continue and have effect as if it had been made or done under the corresponding provision of this Act and as if that provision had been in force when the document was made or the thing was done.

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