



ANALYSIS

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1952, No. 74

AN ACT to amend the Electric Power Boards Act 1925. Title.

[23 October 1952

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

1. This Act may be cited as the Electric Power Boards Amendment Act 1952, and shall be read together with and deemed part of the Electric Power Boards Act 1925 (hereinafter referred to as the principal Act).

Short Title.
See Reprint
of Statutes,
Vol. III,
p. 4

Dates on which
members of
Boards come
into office.

2. (1) The principal Act is hereby amended by repealing section eighteen, and substituting the following section:—

“18. (1) Every representative of a constituent district or combined district shall come into office as follows:—

“(a) In the case of a triennial election, if he is declared to be elected pursuant to section eleven of the Local Elections and Polls Act 1925, he shall come into office on the third Saturday in November in the year in which the election is held, but if he is declared elected pursuant to section thirty-two or section thirty-three of that Act he shall come into office on the day next after the day on which the Returning Officer’s declaration is made:

“(b) In any other case, he shall come into office on the day next after the day on which, pursuant to the said section eleven or the said section thirty-two or the said section thirty-three, as the case may be, he is declared to be elected, or, as the case may require, at the time when he is appointed pursuant to section seventeen or section twenty-three of this Act.

“(2) Every representative of a constituent district or combined district shall, unless he sooner retires from office in accordance with subsection four or subsection five of section twelve of this Act or vacates office under section twenty-two of this Act, continue in office until the representative or representatives of the constituent district or combined district who are declared elected on a recount of the votes pursuant to section thirty-three of the Local Elections and Polls Act 1925 or elected at the next triennial election, or appointed pursuant to section seventeen of this Act, as the case may be, come into office, and he shall then, unless re-elected or appointed to the Board, retire from office.”

Repeal.

(2) Subsection four of section sixteen of the principal Act is hereby repealed.

Validation of
past
construction of
electric lines
and works in
certain cases.

3. (1) All electric works constructed by any Board before the commencement of this Act shall be deemed to have been constructed with the authority of the Governor-General in Council for the purposes of section

seventy-six of the principal Act and of the corresponding provisions of any former Act, notwithstanding that the Board may not have obtained authority to construct certain of its electric works, or that any authority obtained by it may not apply to certain of its electric works or may have lapsed before the construction of the works.

(2) All electric lines laid, constructed, put up, placed, or used by any Board before the commencement of this Act shall be deemed to have been laid, constructed, put up, placed, or used under the authority of a licence issued to the Board by the Governor-General in Council under section three hundred and nineteen of the Public Works Act 1928, notwithstanding that the Board may not have obtained a licence in respect of certain of its electric lines, or that any licence granted to it may not apply to certain of its electric lines or may have lapsed before the lines were so laid, constructed, put up, placed, or used.

See Reprint
of Statutes,
Vol. VII,
p. 772

(3) Nothing in this section shall be so construed as to relieve or to have relieved any Board from any obligation to comply with the requirements of any regulation or any requirement lawfully imposed under any regulation.

4. In addition to the powers conferred on it by the principal Act, any Board may, subject to the provisions of this Act, enter into and carry out an agreement with any local authority, company, or body of persons, whether incorporated or not, which owns or operates a gasworks situated within the district of the Board for the purchase or other acquisition of the gasworks by the Board or for the carrying on, control, and management of the gasworks by the Board, and, notwithstanding the provisions of any enactment, by-law, or rule, any such local authority, company, or body of persons may enter into and carry out any such agreement.

Electric Power
Boards may
acquire
gasworks.

5. (1) Any agreement entered into under section four hereof may provide—

Provisions of
agreement.

(a) For the Board to undertake or be responsible for the carrying on of the gasworks and to enter into contracts in connection therewith:

(b) For the payment by the Board of purchase money in respect of the acquisition of the gasworks, and for the terms of any such payment:

- (c) For the maintenance of the gasworks and for contributions by the parties to the agreement towards the cost of maintenance:
- (d) For the management and control of the gasworks or any part thereof to be vested in the Board:
- (e) For the apportionment or allocation of the cost of the carrying on of the gasworks between the parties to the agreement:
- (f) For the payment of interest in respect of any moneys payable by a party to the agreement:
- (g) For the giving by any party to the agreement of security for the payment of any moneys payable by that party under the agreement:
- (h) For the vesting in the Board of all or any of the assets and contractual rights of the owners of the gasworks:
- (i) For the assumption by the Board of outstanding liabilities and obligations in respect of gasworks acquired by the Board:
- (j) For the indemnifying by the Board of the owners of the gasworks against all claims:
- (k) For the submission to arbitration of disagreements between the parties or of such specified matters as are referred to in the agreement:
- (l) For such other terms and conditions incidental to the general arrangement as may be agreed upon.

(2) Where a Board agrees with the owners of any gasworks to purchase or otherwise acquire the gasworks and the parties cannot agree on the amount to be taken into consideration as the value of the gasworks, the matter shall be referred to arbitration in accordance with the Arbitration Act 1908.

(3) No stamp duty shall be chargeable upon or in respect of any agreement entered into under section four hereof or upon or in respect of any assignment, transfer, conveyance, or contract entered into pursuant to any such agreement.

(4) Where the moneys to be paid by a Board under any agreement entered into under section four hereof are not all to be payable within the financial year in which the agreement is entered into, those moneys, 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 moneys borrowed by the Board for the purpose of meeting a liability to which section twelve of that Act applies.

6. The provisions of the principal Act, as far as they are applicable and with the necessary modifications, shall apply to the purchase, acquisition, construction, and carrying on of any gasworks, the distribution, supply, and sale of gas, and the conduct of any business incidental thereto, by a Board, to the same extent as those provisions apply with respect to the electric works and undertaking of the Board; and the gasworks shall be deemed to form part of the Board's undertaking:

Provided that it shall not be necessary for the Board to obtain the authority of the Governor-General in Council under section seventy-six of the principal Act to add to or alter the construction of any gasworks under the control of the Board.

7. Notwithstanding the provisions of section twenty-four of the Local Government Commission Act 1946, that section shall not apply to any agreement entered into under section four hereof or to any party to any such agreement in respect of the agreement.

8. (1) Subject to the provisions of this Act, where the control of any gasworks is vested in a Board pursuant to an agreement entered into under section four hereof, the provisions of section three and section five of the Gas Supply Act 1908 shall not apply to the Board in respect of any premises to which electricity is supplied by the Board.

(2) Where any such premises are connected with a gas main under the control of a Board, the Board shall not discontinue the supply of gas to those premises unless it is satisfied that electrical appliances are installed or are available for installation in the premises providing, without undue hardship to the owner or occupier, heat, light, and power to the same extent as the premises are so provided at the time when notice of intention to discontinue the supply of gas is given under this section.

(3) Notice of intention to discontinue the supply of gas to any premises under this section shall be given by the Board to the owner and to the occupier of the premises.

See Reprint of Statutes, Vol. V, p. 415

Provisions of principal Act to apply to carrying on of gasworks by Board.

Provisions of section 24 of Local Government Commission Act 1946 not to apply. 1946, No. 28

Provisions of Gas Supply Act 1908 not to apply to premises already supplied with electricity by Board controlling gasworks.

See Reprint of Statutes, Vol. III, p. 558

(4) Any such notice shall specify the date on or after which the Board proposes to discontinue the supply of gas under this section, being not less than fourteen days after the service of the notice, and, subject to the provisions of section nine hereof, the Board shall not discontinue the supply of gas until on or after that date.

(5) Any such notice may be served by delivering it personally to the owner or occupier or by posting it by registered letter addressed to the owner or the occupier at his usual place of business:

Provided that if the occupier of any premises cannot be found, service of the notice may be effected by affixing it to the door of the premises concerned, and if the owner of any premises cannot be found, service of the notice on the occupier shall be deemed sufficient compliance with subsection three of this section.

(6) No person shall be entitled to damages or compensation from a Board or from the previous owner of a gasworks acquired by a Board in respect of the discontinuance, in accordance with this Act, of the supply of gas by the Board.

Appeal against
decision to
discontinue
supply of gas.

9. (1) The owner or occupier of any premises may appeal to a Magistrate's Court against the decision of a Board to discontinue the supply of gas to the premises under section eight hereof.

(2) Within fourteen days after the notice referred to in section eight hereof is served on him, the appellant shall give written notice of the appeal to the Board and make application to the Magistrate's Court nearest to the premises concerned for an order varying, in accordance with this section, the decision of the Board being appealed against.

(3) Where any appeal is made under this section—

(a) The appeal shall be heard and determined in the Magistrate's Court before a Magistrate alone, and the Court, for the purposes of hearing and determining the appeal, shall have all the powers vested in it in its ordinary civil jurisdiction:

(b) The decision of the Court shall be final:

(c) The fees prescribed under the Magistrates' Courts Act 1947 shall be payable in the proceedings:

(d) The Court may award such costs as it deems just either in favour of or against the party making the appeal.

(4) In determining any appeal under this section the Court shall have regard to—

(a) The adequacy of the electrical appliances installed or available for installation in the premises:

(b) The cost of any additional installation of electrical appliances necessary to provide the premises with heat, light, and power equivalent to that previously provided by the use of gas:

(c) The amount likely to be realized by the sale of any gas appliances installed in the premises:

(d) The adequacy, in the circumstances, of the notice given by the Board of its intention to discontinue the supply of gas to the premises:

(e) The effect on the efficiency and the economic working of the undertaking of the Board if it is not permitted to discontinue, in accordance with the notice served on the appellant, the supply of gas to the premises concerned:

(f) Such other matters as are brought before it at the hearing or as it considers relevant to the appeal.

(5) If the Court is of opinion that in the circumstances of the case no undue hardship would be caused to the appellant by the discontinuance of the supply of gas to the premises concerned it may dismiss the appeal and order that the Board may so discontinue the supply of gas on or after the date specified in the notice referred to in subsection two of section eight hereof, or on or after such later date as may be specified in the order.

(6) If no order is made under subsection five hereof, the Court shall adjourn the appeal for such period, not exceeding three months, as it thinks fit.

(7) At the termination of the period for which the appeal has been adjourned the Court shall make an order that the Board may discontinue the supply of gas to the premises concerned on or after such date and subject to such conditions as may appear to the Court, having regard to all the circumstances of the case, just and equitable:

Provided that if before the termination of the said period the appellant agrees in writing to the discontinuance of the supply of gas to the premises concerned, the appeal shall be deemed to be dismissed under subsection five of this section.

(8) Where any notice of appeal under this section is served on a Board, the Board shall not discontinue the supply of gas to the premises concerned except in accordance with an order of the Court under this section or unless the appellant agrees in writing to the discontinuance.

Board may levy rates to meet liabilities in respect of gasworks.

10. Where a Board has entered into an agreement under section four hereof, it may from time to time and at any time during any financial year, in addition to any other rate which it is empowered to make and levy, make and levy a separate rate, either within its whole district or within any defined portion or defined portions of its district, for the purpose of meeting any liability incurred by the Board under the agreement.

Certain provisions to apply to Municipal Corporations. See Reprint of Statutes, Vol. VII, p. 622

11. (1) The provisions of sections eight and nine hereof shall apply to any Municipal Corporation which is licensed under Part XIII of the Public Works Act 1928 to supply electricity and which also owns or operates a gasworks, in all respects as if the Municipal Corporation were an Electric Power Board which had acquired the gasworks pursuant to an agreement under section four hereof.

1933, No. 30

(2) Subsection one of section two hundred and seventy-six of the Municipal Corporations Act 1933 shall have no application in respect of any Municipal Corporation to which subsection one hereof relates.

Right of entry to inspect gas fittings.

12. Any person authorized in writing in that behalf by the Board may at all reasonable times, upon producing proof of his authority if required, enter upon any premises to which gas is supplied from any gasworks under the Board's control in order to examine the gas pipes, fittings, and gas meter; and if any such person is refused admittance or obstructed in any such examination, the Board may, without prejudice to any other remedy, cut off the supply of gas from the premises.

Meaning of term "gasworks".

13. For the purposes of this Act the term "gasworks" means the whole undertaking of a gasworks including every valuable thing, whether real or personal, that is an asset of the undertaking; and includes any part of a gasworks.