



ANALYSIS

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1958, No. 43

An Act to provide for the establishment of a Gas Council, to prescribe its powers and functions, and to provide for the preservation and expansion of the gas industry

[26 September 1958]

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

1. Short Title and commencement—(1) This Act may be cited as the Gas Industry Act 1958.

(2) This Act shall come into force on the first day of April, nineteen hundred and fifty-nine.

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

“Council” means the New Zealand Gas Council established by this Act:

“Gas undertaking” means the whole undertaking and assets of an owner used for or in connection with the manufacture and 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 land, 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:

“Minister” means the Minister of Electricity:

“Municipal corporation” means the Corporation of a city or borough:

“Owner”, in relation to any gas undertaking, means any municipal corporation, supply authority, 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

GAS COUNCIL

3. Gas Council—(1) There is hereby established for the purposes of this Act a Council, to be called the New Zealand Gas Council.

(2) The Council shall consist of—

(a) The Minister, who shall be Chairman of the Council:

(b) One person, who shall be an officer of the Treasury:

(c) One person, who shall be an officer of the New Zealand Electricity Department:

(d) One person, who shall be an officer of the Department of Scientific and Industrial Research:

(e) One person, who shall be an officer of the Mines Department:

(f) One person, who shall be an officer of the Department of Industries and Commerce:

(g) Two persons to be nominated by the Gas Association of New Zealand, Incorporated:

AMD. 19
No. 8

REP. 19
No. 8
Substitutn.

- (h) One person to be nominated by the Gas Institute of New Zealand, Incorporated:
- (i) One person to be nominated by the New Zealand Federation of Labour.
- (3) The members of the Council, other than the Minister, shall be appointed by the Governor-General on the recommendation of the Minister.

4. Term of office of members—(1) Except as otherwise prescribed by this Act, every appointed member of the Council shall hold office for a term of five years, but may from time to time be reappointed.

(2) Any appointed member of the Council 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 appointed member of the Council 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 Council shall not be affected by any vacancy in the membership thereof.

AMD. 196
No. s.

5. Deputies—(1) The Minister may appoint a deputy to act for him during his absence from any meeting of the Council. Any deputy appointed under this subsection shall act as Chairman at any meeting in respect of which he is appointed.

(2) In the absence from any meeting of the Council of any member appointed under paragraph (b), (c), (d), (e), or (f) of subsection two of section three of this Act, any officer of his Department appointed by him may attend the meeting as his deputy.

(3) In any case in which the Minister is satisfied that any member of the Council appointed under paragraph (g), (h), or (i) of subsection two of section three of this Act is incapacitated by illness, absence, or other sufficient cause from performing the duties of his office, the Minister may appoint a deputy, nominated in that behalf by the body which nominated the incapacitated member, to act during the incapacity.

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

(5) No appointment of a deputy and no acts done by him as such, and no acts done by the Council 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.

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

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

(3) At all meetings of the Council the quorum necessary for the transaction of business shall be seven members.

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

(5) The Chairman shall preside at all meetings of the Council 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 at 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 of the Council 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 Council may regulate its procedure in such manner as it thinks fit.

7. Officers of Council—There may from time to time be appointed under the Public Service Act 1912 such persons as may be necessary for the purpose of assisting the Council in the exercise of its powers and functions under this Act.

8. Advisory and Technical Committees—(1) The Council may from time to time appoint such Advisory or Technical Committees as it thinks fit to advise the Council on such matters concerning the gas industry as are referred to them by the Council.

(2) Each Advisory or Technical Committee may, in addition, furnish to the Council reports on any matter relating to the gas industry in respect of which the members of the Committee have special knowledge or experience.

(3) An Advisory or Technical Committee may consist of one or more persons and any person may be appointed under this section to be a member of a Committee notwithstanding that he is not a member of the Council.

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

(2) There may be paid to members of the Council and of any Committee appointed by the Council from the Gas Industry Account 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.

10. Functions of Council—The Council shall have the following functions:

- (a) To administer the Gas Industry Account in accordance with the provisions of this Act and of any other Act relating to the receipt and expenditure of public money: REP. 196
No. 2
- (b) To advise the Government in respect of such matters affecting the organisation and welfare of the gas industry as may be referred to it by the Minister:
- (c) To advise the Government of any changes deemed necessary in the legislation and regulations relating to the gas industry:
- (d) To assist and advise owners of gas undertakings generally in respect of matters affecting the gas industry:
- (e) To perform such functions, powers, and duties as are conferred or imposed on it under this Act or otherwise howsoever.

PART II

FINANCIAL PROVISIONS

11. Gas Industry Account—(1) There may be kept within the Public Account an Account to be called the Gas Industry Account. REP. 196
No. 2
Substituted

(2) There may in each year be paid from the Consolidated Fund into the Gas Industry Account, out of money appropriated by Parliament for the purpose, such sums as may be approved in that behalf by the Minister of Finance.

(3) There shall from time to time be paid into the Gas Industry Account such other money as may from time to time be lawfully payable into the Account.

12. Money payable out of Account—(1) There may from time to time, without further appropriation than this section, be paid out of the Gas Industry Account such sums by way of subsidy, grant, or loan, as the Council thinks fit, in accordance with this Part of this Act.

(2) There may also from time to time be paid out of the Gas Industry Account, out of money appropriated by Parliament for the purpose, all salaries and allowances and other expenditure incurred in the administration of this Act.

13. Subsidies and loans to owners of gas undertakings—

(1) The Council may pay out of the Gas Industry Account in respect of each financial year to each owner of a gas undertaking, by instalments as the money is in the opinion of the Council available in the Account, or in accordance with the relative urgency in each case, a subsidy in accordance with the provisions of this Part of this Act.

(2) In addition to the subsidy payable under subsection one of this section, the Council may, so far as the money available in the Gas Industry Account will permit, grant and pay to the owner of any gas undertaking such additional financial assistance, whether by way of grant or loan, in respect of the undertaking as the Council thinks justified.

(3) No payment shall be made under this section without the prior approval of the Minister and, where the payment is by way of loan, the Minister shall obtain the approval of the Minister of Finance before approving the payment.

14. Provisions as to subsidies, grants, and loans—(1) In determining whether or not a subsidy, grant, or loan shall be paid to the owner of a gas undertaking, and in determining the amount of any such subsidy, grant, or loan, the Council shall have regard to:

- (a) The necessity in the public interest of maintaining the gas undertaking in operation:
- (b) The desirability of providing gas to consumers at a cost comparable with that of electricity:
- (c) The financial position of the gas undertaking:
- (d) The relative prices charged for gas and electricity in the district where the gas undertaking is situated:
- (e) The relative cost of coal or other raw materials used by the owner in the manufacture of gas:

(f) Any surplus of revenue likely to be available to the owner after making fair and reasonable provision for dividends and reserves:

(g) Any representations in that behalf made by the Government:

(h) Such other matters as the Council deems relevant in the circumstances.

(2) Subsidies, grants, or loans, under this Part may be granted in relation to the amount of gas supplied by the owner, or may be granted for a specified purpose, and may be granted upon and subject to such conditions as the Council thinks fit to impose.

(3) If the owner of a gas undertaking accepts a subsidy, grant, or loan, under this Part upon and subject to terms and conditions imposed by the Council, the owner shall be deemed to have contracted with the Council to observe the terms and conditions and shall be liable for a breach thereof accordingly, notwithstanding any enactment or rule of law to the contrary.

15. Annual report and accounts to be presented to Parliament—(1) The Minister shall, in each year, as soon as practicable after the thirty-first day of March, cause to be prepared and sent to him a report on the operations of the Council and a statement of accounts for the year ending on that date.

(2) The report and statement of accounts shall be laid before Parliament within twenty-eight days after they have been received by the Minister if Parliament is then sitting, and, if not, shall be laid before Parliament within twenty-eight days after the commencement of the next ensuing session.

PART III

GENERAL

16. Supply authorities may acquire gas undertakings—

(1) In addition to the powers conferred on it by any other enactment, any supply authority may, with the approval of the Council, 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.

(2) 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, 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 pursuant to an agreement under this section 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.

17. Owner to have all powers necessary to sell gas undertaking—Notwithstanding the provisions of any enactment, bylaw, rule, contract, deed, instrument, or other document whatsoever, the owner of the gas undertaking shall be deemed to have full authority to dispose of the undertaking or any part thereof to a municipal corporation or a supply authority and to enter into and carry out any necessary agreements in respect of the acquisition.

18. Powers of supply authority to extend outside its district—Where any gas undertaking is acquired by a supply authority and any part of the undertaking is not situated within the district of the authority, the 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.

19. Provisions of section fifteen of Local Government Commission Act 1953 not to apply—Notwithstanding the provisions of section fifteen of the Local Government Commission Act 1953, that section shall not apply to any agreement entered into between a municipal corporation or a supply authority and the owner of a gas undertaking for the acquisition of the undertaking.

20. Council may negotiate with Minister of Mines—The Council may, if it thinks fit, enter into negotiations, including negotiations for long term contracts, with the Minister of Mines for the purpose of ensuring that coal is supplied to the owners of gas undertakings on the most advantageous terms and conditions, and for that purpose may make such recommendations to that Minister as the Council thinks fit.

21. Regulations—(1) The Governor-General may from time to time 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.

22. Repeals and savings—(1) The Electricity and Gas Co-ordination Act 1956 is hereby repealed.

(2) Notwithstanding the repeal of the Electricity and Gas Co-ordination Act 1956, where any supply authority has acquired a gas undertaking under that Act, the gas undertaking may be carried on in all respects as if subsection one of this section had not been passed:

Provided that any references in that Act to the Board shall be read as references to the Council and any powers conferred by that Act on the Board shall, in respect of any gas undertaking acquired as aforesaid, be exercised by the Council.
