

New Zealand.



ANALYSIS.

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| <p>Title.</p> <p>1. Short Title.</p> <p>2. Section 14 of principal Act amended.</p> <p>3. Cancellation or variation of conditions imposed by Order in Council under section 117 of principal Act.</p> | <p>4. Section 119 of principal Act amended.</p> <p>5. Governor may grant licenses authorising use of water for electrical purposes. License may reserve power of purchase by Crown from licensee. License may confer power to take necessary land. Licensee to pay compensation for injury to land.</p> |
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1908, No. 241.

AN ACT to amend the Public Works Act, 1908.

Title.

[10th October, 1908.]

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 Public Works Amendment Act, 1908, and shall be deemed part of and read together with the Public Works Act, 1908 (hereinafter referred to as the principal Act).

Short Title.

2. Section fourteen of the principal Act is hereby amended by inserting, before the words “any local authority” in subsection two, the words “the Governor or.”

Section 14 of principal Act amended.

3. (1.) When by any Order in Council issued in pursuance of section one hundred and seventeen of the principal Act, or under section one hundred and seventeen of the Public Works Act, 1905, as amended by section three of the Public Works Act Amendment Act, 1906, conditions have been imposed with respect to the building-line in the case of any street or road exempted from the provisions of those sections, the Governor may from time to time, by Order in Council, on the application of the local authority having control of that road or street, amend the first-mentioned Order in Council by cancelling or varying the conditions so imposed thereby, and any such cancellation or variation may extend either to the whole or to any part or parts of the said road or street.

Cancellation or variation of conditions imposed by Order in Council under section 117 of principal Act.

(2.) A copy of every Order in Council issued under the authority of this section shall be transmitted under the hand of the Minister of Public Works to the District Land Registrar or the Registrar of Deeds, as the case may require, who shall register the same against

the title of all land affected thereby, and the original Order in Council shall thereupon be deemed to be amended, and shall have effect as so amended accordingly.

Section 119 of principal Act amended.

4. Section one hundred and nineteen of the principal Act is hereby amended by inserting, after the words "execute such work" in paragraph (e), the words "either as originally proposed or with such alterations as are agreed on between the local authorities concerned or as are recommended by the Commissioner."

Governor may grant licenses authorising use of water for electrical purposes.

5. (1.) Notwithstanding anything contained in Part XII of the principal Act or in the Post and Telegraph Act, 1908, the Governor may from time to time by Order in Council grant to any person or body corporate (hereinafter, together with the successors or assigns of that person or body corporate, called the licensee) a license to use water from any fall, river, stream, or other source for the purpose of generating electricity for electric light, mechanical power, or other uses, and to exercise in respect of that purpose any of the powers and authorities hereinafter specified in that behalf.

(2.) The license may be granted either in perpetuity or for such fixed period, with or without a right of renewal, as the Governor thinks fit.

(3.) The license shall be assignable and determinable on such terms and conditions and in such cases as are expressed in the Order in Council.

(4.) Subject to the provisions of this section the license may contain such terms and conditions, and may impose such obligations on the licensee, as the Governor thinks fit.

(5.) The license shall be deemed to constitute a contract between the licensee and His Majesty the King, and shall be enforceable by and against either party accordingly.

License may reserve power of purchase by Crown from licensee.

(6.) The license may contain a provision vesting in His Majesty the King an option to purchase, at a valuation, the license, together with the whole or any part of the business and undertaking of the licensee so far as it relates to or is connected with the exercise of the license, and together with all real and personal property and all rights vested in the licensee and used or enjoyed in connection with the business or undertaking so to be purchased. The said option of purchase shall be exercisable at such time or times as the license prescribes. The said valuation shall not include any sum in respect of the value of the goodwill of the licensee's business or undertaking, or in respect of the value of the license in respect of the unexpired period thereof. On the completion of any such purchase His Majesty the King shall be deemed to be the assignee of the license, and all the rights vested in the licensee shall vest in His Majesty during the remainder of the term of the license.

License may confer power to take necessary land.

(7.) The license may confer upon the licensee such powers as the Governor thinks fit to take land under the principal Act as for a public work; and to the extent to which such powers are so conferred, and subject to such conditions and restrictions as are expressed in the license, the licensee may for the purposes of any business or undertaking established or proposed to be established by the licensee in connection with the license take land under the said Act in the same manner and subject to the same obligations as if the

said business or undertaking was a public work and the licensee was a local authority within the meaning of the said Act. Nothing in this section or in the license shall be so construed as to take away or restrict the discretionary power of the Governor to refuse to issue a Proclamation taking land under the said Act.

(8.) The license may confer upon the licensee a right at any time or times during the continuance of the license, but subject to such conditions and restrictions as are expressed in the license, to enter upon any road, railway, or other land, whether vested in or occupied by the Crown or any other person or body corporate, and there to construct, erect, lay down, maintain, renew, or repair all such cables, wires, and other things as are required for the transmission of electricity between the fall, river, stream, or other source aforesaid and any place to which the licensee is authorised to transmit electricity in pursuance of the license.

(9.) The license may confer upon the licensee a right at any time or times during the continuance of the license, but subject to such conditions and restrictions as the Governor thinks fit, to raise or lower the level of any river or stream, and to obstruct, impound, or divert the waters thereof, so far as may be necessary for enabling the licensee to use the said waters for the purposes authorised by the license.

(10.) In respect of all lands injuriously affected by the exercise of any of the powers conferred upon the licensee by the license, and in respect of all damage done by the exercise of any of those powers, the licensee shall from time to time, as and when any such injurious affection or damage accrues or happens, pay compensation in accordance with the provisions of the principal Act in the same manner (subject to all necessary modifications) as if the licensee was a local authority and the claim was one for injurious affection or damage arising out of the establishment of a public work. Every claim for such compensation shall be made within twelve months after the injurious affection or damage in respect of which the claim is made has accrued or happened.

Licensee to pay
compensation for
injury to land

(11.) The license shall contain such provisions as the Governor thinks fit determining the maximum charges which the licensee may make for the sale or supply of electricity in pursuance of the license, and may impose upon the licensee the duty of selling or supplying electricity to the public or to any portion of the public.

(12.) The license may impose upon the licensee such fines as the Governor thinks fit for any breach of the obligations thereby imposed upon the licensee, and any such fines may be recovered summarily in accordance with the Justices of the Peace Act, 1908.

(13.) Nothing in this section shall be so construed as to take away or restrict any power vested in the Governor, or a Minister, or a local authority, by Part XII of the principal Act, or by the Post and Telegraph Act, 1908, or to invalidate any license granted under either of those Acts, whether before or after the passing of this Act.