

New Zealand.



ANALYSIS.

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1911, No. 21.

AN ACT to amend the Public Works Act, 1908.

[28th October, 1911.]

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, 1911, and shall form part of and be read together with the Public Works Act, 1908 (hereinafter referred to as the principal Act).

2. (1.) No person shall lay, construct, put up, place, or use any electric line except under the authority of a license issued to him by the Governor in Council under this Act. Every person who commits a breach of this provision is liable to a fine not exceeding one hundred pounds.

(2.) The Governor may from time to time, by Order in Council gazetted, make regulations—

(a.) Prescribing the form of licenses under this Act, the conditions on which any such license may be issued, and the fees payable thereon:

(b.) Controlling the use and management of any works or lines used for generating, transforming, converting, or conveying electricity (whether so used pursuant to a license under this Act or not) so as to secure the safety of the consumers or employees and of the public from personal injury by reason of such use:

Title.

Short Title.

Electric lines to be laid, &c., only pursuant to license.

Power to make regulations.

(c.) Providing for the removal of lines laid or erected in breach of this Act, and of any line in the use of which any of the conditions of the license under which it was laid or erected are not observed or complied with, and for the removal or alteration of any dangerous line (whether erected under the authority of a license issued under this Act or any other Act or not), at the expense in each case of the owner of the line :

(d.) Imposing fines not exceeding twenty pounds for the breach of any such regulation.

(3.) For the purposes of this section "electric line" or "line" means a wire or wires, conductor, or other means used for conveying, transmitting, or distributing electricity for power, lighting, or heating purposes, and includes any instrument, insulator, casing, tubing, pipe-covering, or post enclosing or supporting an electric line or anything connected therewith.

(4.) All licenses issued under section one hundred and seventy-two of the Post and Telegraph Act, 1908, or the Public Works Act, 1908, and in force at the commencement of this Act shall be deemed to have been issued by the Governor in Council under this section, and shall continue in force according to the tenor thereof.

Repeal.

(5.) Sections one hundred and sixty-seven to one hundred and seventy-five of the Post and Telegraph Act, 1908, are hereby repealed :

Provided that such repeal shall not affect any line heretofore lawfully laid or erected, or any license heretofore granted under the provisions so repealed.

(6.) Except as hereinafter otherwise provided the provisions of Division II of the Post and Telegraph Act, 1908, shall not apply to electric lines as defined by this Act.

Exceptions.

3. The last preceding section shall not apply to any electric line which is used for telegraph, telephone, or wireless-telegraphy purposes, nor to any electric line used for the transmission of power for electric-tramway purposes under the authority of an authorizing order issued under the Tramways Act, 1908, nor to any electric line which is not laid or placed, or is not intended to be used, laid, or placed, beyond the limits of the premises in which the electricity is generated for the purposes of that line.

Damage to electric lines.

4. Every person who causes damage to an electric line shall be liable to make good the damage, and the cost of repairing such damage shall be recoverable in the same manner as fines are recoverable under the principal Act.

Governor may establish electric lines for public purposes.

5. The Governor may from time to time construct and maintain electric lines for lighting or power purposes in or in connection with public offices, buildings, or works under the control of the Government, and for that purpose the Minister of Public Works shall have and may exercise all the powers conferred upon him by Division II of the Post and Telegraph Act, 1908.

Removal of trees causing damage to electric lines.

6. If any tree growing on any land causes or is likely to cause damage to an electric line to which this Act relates, the Minister (in the case of a line erected under section five hereof) or the licensee (in the case of a line licensed under section two hereof) may give

notice to the owner or occupier of that land to remove the said tree or any part thereof, and if the owner or occupier fails to comply with the terms of such notice within the time specified therein (being not less than seven days) the Minister or licensee, as the case may be, or the agent of either of them, may enter upon that land and remove the tree or any part thereof, but so that no unnecessary damage is done or incurred thereby.

7. (1.) In any case the Crown or local authority may, in taking or acquiring land for a public work, take or acquire only the surface, together with such part of the subsoil as is deemed necessary, or may take only such part of the subsoil as is deemed necessary excluding the surface.

Surface only or subsoil only of land may be taken.

(2.) When any land is so taken and any part of the subsoil beneath that land is not taken, the land so taken shall, except in pursuance of some agreement to the contrary, have no right of support from the subjacent subsoil.

(3.) In such a case it shall not be lawful for any person to extract minerals or otherwise interfere with the subjacent land until three months' notice of his intention so to do has been given in writing to the Minister of Public Works in the case of a Government work, or to the local authority in the case of a local work.

(4.) In any case where land has been so taken or acquired to the exclusion of any part of the subsoil, the Minister of Public Works or the local authority, as the case may be, may at any time thereafter take or otherwise acquire as for a public work any part of the subsoil underlying or adjacent to the land so taken or acquired, the acquisition of which is deemed necessary for the support or protection of the surface or of any public work thereon.

(5.) Where a Proclamation or Order in Council is revoked under section three of the Public Works Amendment Act, 1909, and thereafter the whole or any part of the land included therein is again taken by the Crown or by the same local authority for the same or any other public work, no compensation shall be payable in respect of the value of any works or improvements which have been made or effected (whether before or after the commencement of this Act) on the land at any time while it remained vested in the Crown or in the local authority by virtue of the Proclamation or Order in Council so revoked or of any prior Proclamation or Order in Council.

(6.) Section sixteen of the principal Act is hereby amended by adding to subsection two thereof the words "except so far as a contrary intention is expressed in that Proclamation or instrument."

8. (1.) Every agreement made in writing by or on behalf of His Majesty the King and the legal owner in fee-simple of any land for the supply of water to that land from any water-supply works constructed or to be constructed by the Minister of Public Works under the authority of section two of the Public Works Amendment Act, 1910, shall when duly registered in accordance with this Act, except so far as otherwise expressly provided by this section or by the agreement, run with the said land at law so as to confer and impose upon every occupier of that land or of any part thereof for the time being, and whether at the date of the registration of the

Irrigation agreements under Public Works Amendment Act, 1910, to run with the land.

agreement or at any time thereafter until the expiry of the agreement by effluxion of time, a right to enforce the agreement, and an obligation to observe and perform the same during the period of his occupation so far as the agreement relates to the land so in his occupation, and a liability to pay to the Crown all moneys becoming due under the agreement during the period of his occupancy in respect of the land so in his occupation, in the same manner as if such occupier had been a party to the agreement.

(2.) Every agreement made in writing by or on behalf of His Majesty the King and the lessee under any lease of any land for the supply of water to that land from any water-supply works constructed or to be constructed by the Minister of Public Works under the authority of section two of the Public Works Amendment Act, 1910, shall when duly registered in accordance with this Act, except so far as otherwise expressly provided by this section or by the agreement, run with the said land at law so as to confer and impose upon every occupier of that land or of any part thereof for the time being, and whether at the date of the registration of the agreement or at any time thereafter until the expiry of the agreement by effluxion of time, or until the determination of the said lease or of any renewal thereof by effluxion of time or otherwise (whichever event first happens), a right to enforce the agreement, and an obligation to observe and perform the same during the period of his occupation so far as the agreement relates to the land so in his occupation, and a liability to pay to the Crown all moneys becoming due under the agreement during the period of his occupancy in respect of the land so in his occupation, in the same manner as if such occupier had been a party to the agreement.

(3.) The term "lease" in this section means a registered lease, whether from His Majesty the King or otherwise, and includes an occupation-with-right-of-purchase license under Part III of the Land Act, 1908, and a pastoral license under Part VI of the same Act; and the term "lessee" means the holder of any such lease or license.

(4.) No agreement which so runs with the land in accordance with this section shall confer or impose any right or obligation on any party thereto save in respect of the period of his occupation of the land.

(5.) Notwithstanding anything hereinbefore contained, no such agreement shall confer or impose any right or obligation on any occupier who is in occupation of the land or of any part thereof at the date of the registration of the agreement, or on any person deriving title through any such occupier, unless that occupier is a party to the agreement or otherwise consents thereto.

(6.) Notwithstanding anything hereinbefore contained, no such agreement shall confer or impose any right or obligation on any mortgagee under any mortgage registered at the time of the registration of the agreement, or on any person claiming title through any such mortgage, unless the mortgagee is a party to the agreement or otherwise consents thereto.

(7.) For the purposes of this section all land which is not otherwise occupied shall be deemed to be in the occupation of the legal owner in fee-simple thereof.

(8.) In the case of land which is subject to the Land Transfer Act, 1908, any such agreement may be registered (without fee) by depositing a duplicate thereof, certified under the hand of the Minister of Public Works, with the District Land Registrar, who shall thereupon enter a memorial thereof upon the Register against the title of the proprietor in fee-simple or of the lessee, as the case may be, and it shall not be necessary to record the like memorial on the duplicate certificate of title, grant, or instrument of lease. The memorial may sufficiently describe the agreement as an irrigation agreement under the Public Works Amendment Act, 1910.

Registration of agreements.

(9.) In the case of land which is not subject to the Land Transfer Act, 1908, any such agreement may be registered (without fee) by causing a memorial thereof, certified by the Minister of Public Works, to be deposited and entry thereof to be made in the Deeds Register Office. Every such memorial may describe the agreement as an irrigation agreement under the Public Works Amendment Act, 1910, and shall specify the parties thereto, the date thereof, and the land to which the agreement relates.

(10.) When land is subject to a mortgage by way of conveyance of the legal fee-simple to the mortgagee, the owner of the equity of redemption shall for the purposes of this section be deemed to be the owner of the legal fee-simple.

(11.) Any agreement made under the authority of section two of the Public Works Amendment Act, 1910, may be entered into and executed by the Minister of Public Works on behalf of His Majesty the King.

(12.) In every lease of any Crown land within a district defined pursuant to section three of the Public Works Amendment Act, 1910, there shall be contained a covenant on the part of the lessee to take water from the water-supply works provided for the district on the same terms and conditions as are contained in any agreement under this section, and every such covenant shall be deemed to be an agreement within the meaning of this section.

9. (1.) The provisions of Part XIII of the Land Act, 1908, shall not apply to—

Provisions Part XIII of Land Act not to apply in certain cases.

(a.) Any interest acquired in respect of land received from the Crown or a local authority pursuant to a contract or arrangement for the exchange of land for roads or any public purpose; nor to

(b.) Any interest acquired in respect of land formerly used or laid off as a road on the subsequent closing or stopping and sale thereof under the authority of either the principal Act or any other enactment, or in respect of land taken for but not required for any public work, and sold under the authority of any enactment as aforesaid.

(2.) This section shall apply to all interests hereinbefore mentioned acquired since the twentieth day of November, nineteen hundred and seven (being the date of the passing of the Land Laws Amendment Act, 1907), and any memorandum under section three hundred and forty-six of the Land Act, 1908, on any certificate of title for any such interest shall, on application to the District Land Registrar, be removed or cancelled.

Operation of section 116 of principal Act limited.

10. Section one hundred and sixteen of the principal Act (relating to access by road to land sold) shall not apply to any case in which the land sold abuts upon any public navigable river or lake, or upon the sea-shore, and the local authority is satisfied that reasonable access by means of that river or lake, or by sea, is afforded to the said land, and resolves accordingly that the said section shall not apply.

Definition of "local authority" extended.

11. For the purposes of section one hundred and sixteen of the principal Act, in the case of land situated in any district which is not within the jurisdiction of any Borough Council, County Council, Road Board, or Town Board, the term "local authority," as used in that section, shall be construed as meaning the Minister of Public Works.

Occupier of land not to cause injury to bridge by removal of stone, &c.

12. (1.) A local authority may give to the occupier of any land situated within ten chains of any bridge and abutting upon any river or stream notice in writing not to remove or permit to be removed any stone, earth, or other material from any part of his land in such manner as to be likely to cause damage to the said bridge.

(2.) Any person dissatisfied with the requirements of any such notice may appeal therefrom to a Magistrate, who may confirm, cancel, or vary the same as he thinks fit.

(3.) Any person who commits a breach of this section is liable to a fine not exceeding one hundred pounds.

Miscellaneous amendments of principal Act.

13. (1.) The principal Act is hereby amended as follows:—

(a.) As to section one hundred and sixteen: By inserting, after the words "The owner shall" in subsection two, the words "submit to the local authority for its approval a plan showing the position, course, levels, grades, and extent of the proposed road or street, and, on such approval being obtained, shall."

(b.) As to section one hundred and seventeen: By adding at the end of subsection two the words "and may refer to one or both sides of the road or street."

(c.) As to section one hundred and nineteen: By inserting, after the words "for the said amount" in subsection three, the words "over the whole or any specified part of its district."

(d.) As to section one hundred and twenty: By adding at the end of subsection four the words "any local authority so required to contribute may, in addition to any other rating-power, from time to time make, levy, and collect a rate sufficient to cover such contribution over the whole of its district or over any specified part thereof which in its opinion is benefited by that bridge, ferry, or ford; and."

(e.) As to section one hundred and forty-six: By omitting all words down to but exclusive of the words "by notice in writing," and substituting therefor the words "In any case where trees or hedges overshadow any road or street so as to be detrimental to the maintenance thereof, or so as to obscure or partially to obscure the view at any bend, or at any road or railway crossing, or at any junction with

another road or street, or so as in any other manner to render that road or street dangerous to traffic, the local authority having control of that road or street may."

- (f.) As to section one hundred and fifty-six : By inserting, after the word "established" in subsection two, the words "without the consent of the Governor in Council or in any case."

(2.) The Public Works Amendment Act, 1909, is hereby amended as follows :—

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amended.

- (g.) As to section two : By repealing the same.

- (h.) As to section seven : By adding at the end of subsection one the words "but may not thereby formulate a new cause of action or make a new claim."

- (i.) As to the Schedule : By adding at the end of the amendment to section ninety-one of the principal Act the words "or in any trustee."

(3.) Section twelve of the Public Works Amendment Act, 1910, is hereby amended by omitting the words "Public Bodies' Loans," and substituting the words "Local Bodies' Loans."
