

Hon. Mr. Semple

ELECTRICITY AMENDMENT

ANALYSIS

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A BILL INTITULED

AN ACT to Amend the Electricity Act, 1945.

Title.

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

5 **1.** (1) This Act may be cited as the Electricity Amendment Act, 1948, and shall be read together with and deemed part of the Electricity Act, 1945 (hereinafter referred to as the principal Act).

Short Title.

1945, No. 36

10 **(2)** Sections *two* to *five* of this Act shall be read together with and deemed part of Part II of the principal Act.

Rural Electrical Reticulation

15 **2.** For the purposes of sections *two* to *five* of this Act and of Part II of the principal Act, unless the context otherwise requires,—

Interpretation.

“ Authorized officer ”, in relation to an electricity agreement under which the Electrical Supply Authority is an Electric-power Board or a

local authority, means the Clerk of the Board or local authority; and, in relation to an electricity agreement under which the Electrical Supply Authority is the Crown, means the General Manager of the State Hydro-
 electric Department or any other person appointed by the Minister, either generally or specially, for the purposes of this Act; and in relation to an electricity agreement under which the Electrical Supply Authority is a
 company means a director, or the secretary or manager of the company:

“ Electricity agreement ” or “ agreement ” means an agreement in writing made either before or after the passing of this Act between an
 Electrical Supply Authority and the owner or lessee of any land outside a borough or town district by which that owner or lessee undertakes to make payments to the Electrical
 Supply Authority in respect of the capital
 cost of the extension of an electric distribution-
 line for the purpose of supplying electrical energy for any building or installation on that land; and includes any agreement which
 varies or is in substitution for an electricity
 agreement:

“ Lease ” means any registered lease, and any registered or unregistered lease or licence from His Majesty the King in respect of land, including a registered or unregistered licence
 from His Majesty to occupy any land pending the completion of the purchase of that land under a system of deferred payments.

Registration of
 electricity
 agreements and
 of releases
 thereof.

3. (1) Where the owner or lessee of any land outside a borough or town district has entered into an
 electricity agreement, that agreement may be registered against the title of that owner or lessee to the whole or any part of the land usually occupied by him in conjunction with any building or installation to which the agreement applies.

(2) Registration of an electricity agreement may be effected by depositing with the District Land Registrar or Registrar of Deeds, as the case may require, in the land registration district in which the land is situated a duplicate of the agreement certified under the hand

of an authorized officer of the Electrical Supply Authority, together with an application for the registration of the agreement, which application shall be signed by the said authorized officer and shall specify the land
5 against which it is desired to register the agreement, and shall certify that the agreement is one that may be registered against that land under this section. On receipt of the duplicate agreement and application as aforesaid, and on payment of a fee of five shillings,
10 the Registrar shall enter a memorial of the agreement upon the register against the title to the land of the owner or lessee who is a party to the agreement specified in the application. In any such case it shall not be necessary for the District Land Registrar to
15 record the like memorial on the duplicate certificate of title or lease. The memorial may sufficiently describe the agreement as an electricity agreement under the Electricity Amendment Act, 1948.

(3) Any electricity agreement which varies or is
20 in substitution for an earlier electricity agreement (whether that agreement is registered or not) may be registered under this section.

(4) Upon the expiration or termination of a registered electricity agreement an authorized officer of the
25 Electrical Supply Authority shall sign a certificate stating that the agreement has so expired or been terminated and shall deposit the said certificate with the District Land Registrar or Registrar of Deeds, as the case may require. The Registrar shall thereupon,
30 without fee, enter a memorial of the expiration or termination of the agreement on the register against the appropriate title.

(5) Where the owner or lessee of any land in respect of which an electricity agreement is registered
35 sells, transfers, or disposes by way of lease or sublease of any part of that land, being a part on which there neither is nor has been any building or installation to which the agreement applies, an authorized officer of the Electrical Supply Authority shall sign a certificate
40 stating that the said part of the land is released from the operation of the agreement. Every such certificate shall contain a description of the said part of the land sufficient to enable the District Land Registrar or the

Registrar of Deeds, as the case may require, to identify that part. On the certificate being deposited with the Registrar he shall, without fee, enter a memorial of the release upon the register against the appropriate title.

Registered
electricity
agreements to
run with the
land.

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 4. (1) Except so far as is otherwise expressly provided by this Act or by any electricity agreement to which this Act applies, while an electricity agreement is registered against the title of any owner or lessee to any land, until the expiry of the said agreement by effluxion of time or (where the agreement is registered against the title of a lessee) the sooner determination of the lease and every renewal thereof by effluxion of time or otherwise, the said agreement shall run at law with the land against the title to which it is registered so as to confer and impose upon every person who, at the date of the registration of the agreement or at any time thereafter, is for the time being the occupier of that land or of any part thereof, a right to enforce and an obligation to observe and perform the agreement during the period of his occupation of that land or of any part thereof, and a liability to pay to the Electrical Supply Authority all moneys becoming due under the agreement during the period of his occupancy of that land or of any part thereof, in the same manner as if the occupier had been a party to the agreement. Where there is more than one such occupier the obligation and liability so imposed on them shall be borne by them in such manner as the Electrical Supply Authority and those occupiers may agree or, in default of agreement, by those occupiers jointly.

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 (2) Where the lessee for the time being under any lease (whether issued before or after the passing of this Act) of any land, or of any part of any land, in respect of the title to which an electricity agreement is for the time being registered, surrenders his lease and obtains a new lease in exchange therefor, the electricity agreement and the provisions of this Act shall continue to apply as if the new lease were a renewal of the surrendered lease.

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 (3) Where any such lessee as aforesaid obtains a title in fee-simple to land in respect of which an electricity agreement is for the time being registered,

the electricity agreement and the provisions of this Act shall continue to apply to the land to which the title in fee-simple has been so obtained as if the agreement so far as it affects that land had been made with the legal owner in fee-simple of the land.

(4) No electricity agreement which runs with the land in accordance with this section shall confer any right or impose any obligation on any party to the agreement or any occupier of the land, not being the Electrical Supply Authority, except in respect of the period of his occupation of the land.

(5) Notwithstanding anything in the foregoing provisions of this section, no such electricity agreement shall confer any right or impose any obligation—

(a) 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; or

(b) On any mortgagee under any mortgage registered before the registration of the agreement, or on any person deriving title through any such mortgagee,—

unless that occupier or, as the case may require, that mortgagee is a party to the agreement or otherwise consents thereto.

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

5. (1) If at any time any moneys are due and unpaid under any registered electricity agreement, an authorized officer of the Electrical Supply Authority may, on payment of a fee of five shillings, deposit with the District Land Registrar or Registrar of Deeds, as the case may require, in the land registration district in which the land is situated, a certificate under his hand specifying the amount due and unpaid under the agreement by any occupier of the land, and the registered estate or interest of that occupier in any land against the title to which the agreement is registered, and the Registrar shall thereupon register the certificate in respect of the said estate or interest of that occupier.

Moneys payable under registered electricity agreement may be made a charge on the land.

(2) Upon registration of the certificate the amount mentioned therein, and all moneys which after the signing of the certificate and before the release thereof

accrue due by that occupier under the electricity agreement, shall, until payment thereof, be a charge on the said estate or interest in the land of that occupier. The registration of the certificate shall be deemed to be registration of the charge for the purposes of the Statutory Land Charges Registration Act, 1928. 5

See Reprint
of Statutes,
Vol. VII, p. 1280

(3) Where any such occupier has an interest in the land as lessee under a lease the charge shall extend to the interest (if any) of the lessee in any improvements to the land and in any moneys that may be payable by the lessor and by an incoming tenant and otherwise for any such improvements, whether during the term of the lease or thereafter. 10

(4) Every such charge shall be void as against a purchaser under any deed, contract, or instrument (whether executed before or after the said certificate) which is duly registered before the registration of the certificate. 15

(5) Upon payment to it of all moneys for the time being charged on the estate or interest of any occupier in any land in consequence of the registration of a certificate under this section, and of the amount of the registration fee on the certificate, the Electrical Supply Authority, if requested, shall cause a release of the certificate to be registered. 20 25

(6) Upon the deposit with the District Land Registrar or Registrar of Deeds, as the case may require, of an application to release the certificate so far as it affects the estate or interest of any occupier in any land specified in the application, the Registrar shall, without fee, enter a memorial of the release upon the register against the appropriate title. 30

(7) For the purpose of enforcing any charge under this section the Supreme Court or a Judge thereof may, on summons, make such order as he or it thinks fit, either for the sale of the estate or interest which is subject to the charge or for the appointment of a receiver, or otherwise, and any order for sale shall be carried into effect by the Sheriff in the same manner as in the case of a writ of sale, with any modifications that may be necessary or may be provided by rules of Court in that behalf: 35 40

Ibid., Vol. VI,
p. 103

Provided that in the case of Maori freehold land within the meaning of the Maori Land Act, 1931, the charge shall be enforceable only by the appointment of a receiver in accordance with section forty-two of that Act, and subsections three to six of that section shall apply to any receiver so appointed. 45

Regulations relating to Electricity

6. (1) Section three hundred and nineteen of the Public Works Act, 1928, is hereby amended by repealing paragraph (f) of subsection two (as added by section 5 twenty-three of the principal Act), and substituting the following paragraph:—

Regulations relating to electricity. Repeal. See Reprint of Statutes, Vol. VII, p. 772

10 “(f) So as to secure the protection of persons and property from injury or damage caused, either directly or indirectly, by electrical energy—

15 “(i) Authorizing, controlling, and prescribing conditions in respect of the construction, installation, maintenance, use, management, inspection, and testing of electric lines or works, and of instruments, materials, appliances, apparatus, accessories, and equipment used or intended to be used in the construction, installation, maintenance, or use of electric lines or works or in the application of electrical energy:

20 “(ii) Authorizing, controlling, and prescribing conditions and standards in respect of the manufacture, importation, sale, and use of materials, appliances, apparatus, accessories, devices, instruments, and equipment used or intended to be used in the application of electrical energy:

25 “(iii) Prohibiting the manufacture, importation, sale, and use of any such materials, appliances, apparatus, accessories, devices, instruments, and equipment which do not satisfy any prescribed tests or standards, or the use of which may be dangerous to persons or property, or which do not comply with the provisions of any regulations under this section.”

30 35 (2) The said section three hundred and nineteen of the Public Works Act, 1928, is hereby further amended by adding to subsection two the following new paragraph:—

40 “(h) Prescribing conditions for and controlling the supply of electrical energy.”

(3) The said section three hundred and nineteen of the Public Works Act, 1928, is hereby further amended by adding to subsection three (as substituted by section twenty-four of the principal Act) the words “and for the purposes of paragraphs (e) and (f) of the last preceding subsection, also includes any such wire or other conductor, instrument, apparatus, device, means, insulator, casing, tube, pole, support, or thing which is situated on the premises of any consumer of electrical energy, or which forms part of any such consumer’s installation, or is connected thereto, or which is the property of any such consumer or under his control, whether or not the electric line or work is used, laid, or placed beyond the limits of the premises in which the electrical energy is generated for the purposes of the electric line or work, and whether or not the electric line or work is used pursuant to a licence under this section.”

(4) All regulations which have been made or purport to have been made under the said section three hundred and nineteen of the Public Works Act, 1928, or under that section as amended by the said sections twenty-three and twenty-four of the principal Act, and which could have been made under those sections as amended by this section, shall for all purposes be deemed, as from the making thereof, to have been made with full power and authority, and to be binding on all persons (whether licensees under the said section three hundred and nineteen or not), and to be and to have been valid and of full effect; and the powers, rights, duties, and liabilities of all persons in respect of all things done or suffered, whether before or after the passing of this Act, shall be determined accordingly:

Provided that nothing in this section shall affect any judicial determination in any proceedings instituted in any Court before the passing of this Act in the application of that determination to those proceedings.

(5) Section three hundred and twenty of the Public Works Act, 1920, is hereby amended by adding the following proviso:—

“Provided that paragraphs (e) to (h) of subsection two of that section, and subsections three and four of that section, shall apply to any electric line of the nature last mentioned.”