



## ANALYSIS

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1991, No. 16

An Act to constitute the Ministry of Energy

(5 July 1991)

BE IT ENACTED by the Parliament of the Cook Islands in Session assembled, and by the authority of the same as follows:

1. Short Title - This Act may be cited as the Ministry of Energy Act, 1991.

2. Interpretation - (1) In this Act, unless the context otherwise requires,-

"consumer" means any person who is supplied with energy by the Government or by a licensee or by any other person engaged in the business of supplying energy to the public under this Act or any other law for the time being in force and includes any person whose premises are for the time being connected for the purpose of receiving energy from the works of the Ministry or of a licensee or such other person as the case may be;

- "electric supply line" means a wire, conductor, or other means used for conveying, transmitting, or distribution of energy, whether by overhead line or ground cable, together with any casing, covering, coating, tube, pipe, or insulator enclosing, surrounding or supporting the same or any part thereof, or any apparatus connected therewith for the purpose of conveying, transmitting, or distributing such energy and includes any support, cross-arm, stay, strut, or safety device erected or set up for that purpose;
- "energy" means electrical energy -
- (a) generated, transmitted, or supplied for any purpose, or
  - (b) used for any purpose except the transmission of a message;
- "Government" means the Government of the Cook Islands;
- "inspector" means an Electrical inspector appointed under section 18 of this Act;
- "licensee" means a licensee appointed pursuant to section 6 and includes officers and employees thereof acting in their official capacity;
- "Minister" means the Minister of Energy;
- "Ministry" means the Ministry of Energy constituted under this Act and includes officers and employees thereof acting in their official capacity;
- "outer islands" means all the islands of the Cook Islands other than Rarotonga;
- "regulations" means regulations made under this Act;
- "Secretary" means the Secretary of Energy appointed under this Act;
- "works" include generating plants, electric supply lines, and any building, plant, machinery, apparatus, and any other thing of whatever description required to supply energy to the public;

3. Ministry of Energy - (1) There shall be a Department of State to be known as the Ministry of Energy.

(2) The Ministry, under the control of the Minister shall be charged with the administration of this Act and the regulations, and with such other functions as may be lawfully conferred on it.

4. Minister of Energy - The Minister shall be responsible for the policy and control of the Ministry and such other functions as may be conferred upon him by this or any other Act.

5. Principal functions of the Ministry - The principal functions of the Ministry shall be to -

- (a) plan for, promote, and encourage for the benefit of residents and temporary visitors in the Cook Islands, the development of different sources for the generation of energy including, but not limited to, diesel, photovoltaic, coal, ocean thermal, wind, and biomass generation;
- (b) administer all arrangements for the generation, purchase, transmission, distribution, and sale or other disposition of energy generated by facilities directly under the control of the Ministry or purchased from other sources within the country;

- (c) ensure standards of safety, efficiency, and economy of operation in respect of the generation, transmission, and distribution of energy;
- (d) promote and encourage the safe and efficient use of energy by consumers;
- (e) promote and encourage measures for conservation of all forms of energy;
- (f) conduct and encourage research regarding exploitation of different energy sources consistent with local requirements and resources, keeping in mind the benefits of conserving the environment;
- (g) purchase, stock, manufacture, and sell energy devices such as cables, meters, and fixtures for domestic and commercial power connections, solar water pumps, lighting tubes and fixtures, batteries and spares for solar installations, solar dryers, desalinisation plants, and biogas digesters.

6. Grant of licences - (1) The Minister, on application made to him in the prescribed form and on payment of prescribed fees, may grant a licence to any person to supply energy in any specified area and to lay down or place electric supply lines for the conveyance and transmission of energy.

(2) Any person applying for a licence under section 6(1) shall publish a notice of his application in the prescribed manner and particulars and the licence shall not be granted until all objections received by the Minister within the period prescribed have been considered by him.

(3) The grant of a licence under section 6(1) may prescribe conditions regarding the nature and area of supply, and such other general or specified conditions as the Minister may think fit in the public interest.

(4) The grant of an earlier licence by the Minister for any purpose shall not restrict his power to grant a subsequent licence for a similar purpose to another person within the same area.

(5) The Department of Electric Power Supply created by the Electric Power Supply Act 1973-74 and its successors shall be deemed to be licensees for the supply of energy in the Cook Islands for the purposes of section 6(1).

7. Secretary of Energy - There shall be appointed from time to time, under the Public Service Act 1975, a Secretary of Energy who shall be the administrative head of the Ministry.

8. Appointment of other officers and employees - There may be appointed from time to time, under the Public Service Act 1975, such other officers and employees of the Ministry as may be necessary.

9. Delegation of powers of Minister - (1) The Minister may by writing under his hand, either generally or particularly, delegate from time to time to the Secretary all or any of the powers which are conferred on him as Minister by this or any other enactment.

(2) Subject to any general or special directions given or conditions attached by the Minister, the Secretary may exercise any powers delegated to him as aforesaid in the same manner and with the same effect as if they had been conferred on him directly by this section and not by delegation.

- (3) Any such delegation shall -
- (i) be revocable at will and no such delegation shall prevent the exercise of any power by the Minister;
  - (ii) until revoked, continue in force according to its tenor, notwithstanding the fact that the Minister by whom it was made may have ceased to hold office and shall continue to have effect as if made by his successor.

10. Duties of the Secretary - The principal duties of the Secretary shall be to -

- (a) exercise those powers vested in him or delegated by this Act or the regulations;
- (b) ensure that the functions of the Ministry are effectively carried out;
- (c) administer the provisions of this Act and the regulations;
- (d) issue such instructions and rules to officers and employees as may be required to give full effect to this Act and the regulations;
- (e) plan for the development of energy and the supply of power in the Cook Islands for such period and in such detail as the Minister may require from time to time;
- (f) regularly advise the Minister, of energy developments in the Cook Islands; and
- (g) implement the policies of the Government as conveyed by the Minister.

11. Delegation of Secretary's powers - (1) The Secretary may by writing under his hand, either generally or particularly, delegate from time to time to such officer or officers or employee or employees of the Ministry as he thinks fit all or any of the powers exercisable by him under this Act or any other enactment but not including this present power of delegation; provided that the Secretary shall not delegate any power delegated to him by the Minister without the written consent of the Minister.

(2) Every person purporting to act pursuant to any delegation under this section shall be presumed to be acting in accordance with the terms of the delegation in the absence of proof to the contrary.

- (3) Any delegation under this section -
- (i) may be made to any specified officer or employee or to officers or employees of a specified class or be made to the holder or holders for the time being of a specified office or class of office;
  - (ii) shall be revocable at will and no such delegation shall prevent the exercise of any power by the Secretary;
  - (iii) until revoked, shall continue in force according to its tenor, notwithstanding the fact that the Secretary by whom it was made may have ceased to hold office and shall continue to have effect as if made by his successor.

12. Expenses of Ministry to be appropriated by Parliament - There shall be paid out of the moneys appropriated by Parliament

from time to time such moneys as are required by the Ministry to give effect to the provisions of this Act.

13. Advisory and technical committees - (1) The Minister may appoint from time to time advisory or technical committees and define the functions of such committee.

(2) Should the Minister so direct, there may be paid, out of money appropriated by Parliament for the purpose, to members of any such committees such remuneration by way of fees, salary, allowances, travelling allowances and expenses in accordance with the regulations.

14. Work authorised by Minister to be public work - Every work which is authorised by the Minister to be carried out, established, or undertaken under this Act shall be considered as a public work as defined in the Ministry of Supportive Services Act 1973-74.

15. Special investigations - (1) The Minister may cause from time to time as he thinks fit an investigation pursuant to this section to be made into any matter connected with or affecting any of the functions of the Ministry.

(2) For the purpose of any investigation, the Minister may require by order in writing signed by him, any person, partnership, company, or other organisation involved in any activity relating to or affecting the subject matter of the investigation to produce for the inspection of any person nominated in that behalf by the Minister any papers, books, or documents which are in the possession of the person, partnership, company or other organisation, or to set down in writing any facts relating to the subject matter of the investigation which are within the knowledge of the person, partnership, company, or other organisation, and to allow copies or extracts from any such papers, books, or documents to be made by the person inspecting them.

(3) Any person who fails to comply with any order of the Minister under this section or who deceives or obstructs or attempts to deceive or obstruct any person nominated by the Minister as aforesaid in the conduct of any such investigation commits an offence, and shall be liable on summary conviction to a fine not exceeding \$5,000.

(4) All information obtained by the Minister or by any other person by means of any investigation shall be treated as confidential. Information so obtained may be published only where such publication is made in support of the purposes of this Act and where no privilege recognised at law is violated.

16. Te Aponga Uira O Tumu-Te-Varovaro - There shall be established an Authority by the name of Te Aponga Uira O Tumu-Te-Varovaro for planning, developing, maintaining, and administering all aspects of generation, transmission, distribution, and sale of energy in the island of Rarotonga. The Te Aponga Uira O Tumu-Te-Varovaro shall be constituted by an Act of Parliament.

17. Outer Islands Power Directorate - (1) There shall be established a Directorate within the Ministry to be designated as the Outer Islands Power Directorate. The Directorate shall be responsible for planning, developing, maintaining, and administering all aspects of generation, transmission, distribution and sale of energy in the outer islands. Generation

of energy shall include generation by diesel generating sets, solar photovoltaic generators, or any other means.

(2) Diesel power generation, transmission, and distribution on outer islands shall be managed and administered by the Te Aponga Uira O Tumu-Te-Varovaro as an agent of and on behalf of the Outer Islands Power Directorate for an initial period of time as directed by the Minister, after which such functions shall be transferred to the control of the Directorate. During this initial period of two years, the sale, billing, and revenue collection for energy sold on the outer islands shall be the responsibility of the Directorate.

(3) There shall be appointed from time to time a Director of the Outer Islands Power Directorate under the Public Service Act, 1975.

(4) The Director shall organise applied research activities in the fields of generation and utilisation of all forms of energy with a view to reduce the dependence on fossil fuels and improve the quality of life for the population of the outer islands.

(5) The Director shall make necessary arrangements to purchase, stock, manufacture, and sell energy devices such as, cables, meters, and fixtures for domestic and commercial power connections, solar water pumps, lighting tubes and fixtures, batteries and spares for solar installations, solar dryers, desalinisation plants, and biogas digesters. These arrangements shall be made to ensure availability of products of good quality to consumers at economical prices.

18. Electrical Inspectorate - (1) There shall be established an Electrical Inspectorate within the Ministry under the management of a Chief Electrical Inspector who shall be assisted by one or more inspectors appointed under the Public Service Act 1975. The functions of the Inspectorate shall be to

- (a) ensure compliance of prescribed safety and wiring standards for all energy installations, whether commercial, domestic, public, or private;
- (b) inspect, examine, and approve new energy installations, whether commercial, domestic, public, or private, before they are connected to grid supply from central generating stations;
- (c) initiate and take measures for conservation of energy, prevent wastage of energy in all forms, and undertake initiatives of public information, education, and extension in furtherance of the above objectives;
- (d) inspect and approve standby generating sets whether public or private.

(2) The Chief Electrical Inspector shall be ex-officio the Secretary of the Electrician Registration Board.

(3) Any inspector or any officer appointed to assist an inspector may enter, inspect, and examine any place or vessel in which he has reason to believe that there is an appliance or apparatus used in the generation, transmission, transformation, conversion, distribution, or use of energy and may carry out tests therein. All persons entering, in pursuance of this Act or the regulations, any building used as a human dwelling or a place of worship shall have due regard, insofar as possible in the circumstances, to the social and religious usages of the occupant of the building.

(4) Every supplier, consumer, owner, and occupier of a place or vessel shall have a duty to facilitate the work of any inspector or officer carrying out such examinations and tests as are necessary, in his reasonable opinion, to satisfy himself that the provisions of this Act, the regulations, or the terms of a licence, if any, are met.

(5) Any inspector or any officer appointed to assist an Inspector may serve an order upon any supplier, consumer, owner, or occupier calling upon him to comply with any specified rule and the person so served shall thereupon comply with the order within the period named therein and shall report in writing to the Inspector when the order is complied with.

(6) Any inspector may by written notice require any person to withdraw from sale or use any materials, appliances, accessories, devices, or 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 regulations; and it shall be an offence if after receipt of such notice that person sells or offers for sale, or uses or permits to be used, any such materials, appliances, accessories, devices, or equipment.

19. Theft of energy - Energy is declared to be a thing capable of being stolen. Any person who fraudulently abstracts, causes to be wasted, diverts, consumes, or uses energy shall be guilty of theft.

20. Power to enter land - The Ministry or any licensee may enter from time to time on any land for the purpose of maintaining any works and may remain on such land for such time as is reasonably necessary to carry out such maintenance.

21. Removal of undergrowth and trees causing damage to works - (1) The Ministry or any licensee may cut and remove on either side of any works, whether existing or proposed, for a distance of 2 meters on flat terrain and 3 meters on hilly terrain, any undergrowth, tree, or part of any tree which may interfere or may be likely to interfere with any works.

(2) Should any tree growing on any land cause or be likely to cause damage to any works, the Ministry or any licensee may cause notice to be given to the owner of such land to remove the said tree or any part thereof and should the owner fail to comply with the terms of such notice within the time specified therein (being not less than seven clear days after the time of service of that notice), the Ministry or the licensee may enter upon that land and remove the tree or any part thereof but so that no unnecessary damage is done or incurred thereby.

(3) A copy of the notice under subsection (2) shall be sent to the Conservation Officer having jurisdiction over the area relating to subsection (2).

(4) Any person suffering any damage on account of exercise of power under subsection (2) shall be entitled to compensation by the Ministry or the licensee. The amount of compensation shall be as agreed upon between the Ministry or the licensee, and the person concerned or failing agreement, to be determined in accordance with the law.

22. Codes - (1) The Secretary may issue, amend, or revoke from time to time codes of practice relating to -

- (a) the setting or endorsing of standards or specifications concerning the design, construction, installation, importation, or manufacture of energy equipment, appliances, apparatus, materials, installations, or systems;
- (b) the inspection, maintenance, installation, or use of energy equipment, materials, installations, or systems;
- (c) the safety of persons or property associated with or using energy equipment, materials, installations, or systems.

(2) Any code issued under subsection (1) may include reference to the instructions, orders, or requirements of an overseas organisation. On inclusion in the code of a reference to any such requirement, that requirement (as it existed on the date of inclusion) shall be deemed to form part of the code.

(3) Any code, amendment to a code, or revocation of a code shall take effect upon approval by the Minister.

(4) The Minister shall not approve any code, amendment to a code, or revocation of a code unless -

- (a) not less than one month has elapsed since the publication in the Cook Islands Gazette of a notice of intention by the Secretary to seek the Minister's approval;
- (b) the Minister has consulted such persons or representatives thereof who, in the opinion of the Minister, may be affected by the code, amendment of a code, or revocation of a code, and those persons have been given an opportunity to consider the consequences of the proposed changes and address their comments to the Minister;
- (c) the Minister has considered comments addressed to him.

(5) Should the Secretary consider it essential in the interests of safety or for ensuring the continuity of the supply or distribution of energy to amend any code forthwith, he may issue an emergency amendment to the code and promulgate it in such manner as he thinks fit.

(6) An emergency amendment under subsection (6) shall remain in force for sixty days after the date on which it was issued and may be continued by the Minister up to a further period of one hundred and twenty days whereafter it may be continued after following the procedure contained in subsection (4).

23. Annual report - (1) The Secretary shall furnish to the Minister at the end of each financial year a report of the activities of the Ministry for the preceding year.

(2) Every such report shall be laid before Parliament within twenty-eight days after the furnishing thereof to the Minister if Parliament is then in session and if not, shall be laid before the Parliament within twenty eight days after the date of commencement of the next ensuing session.

24. Regulations - The Queen's Representative, by Order in Executive Council, may make such regulations as are deemed necessary for the purpose of giving full effect to this Act and for the due administration thereof, including the imposition of



penalties in an amount not exceeding \$5,000 for offences against the regulations.

25. Repeals - The following enactments are hereby repealed -
- (a) Electric Power Supply Ordinance 1960, No. 8;
  - (b) Department of Electric Power Supply Act 1973-74, No. 7.

26. Transitional - (1) Officers and employees of the Department of Electric Power Supply as of the date of the coming into force of this Act are hereby appointed to the Ministry and are deemed to have been so appointed in accordance with the Public Service Act 1975, without interruption in the continuity of their service.

(2) Officers and employees of the Department of Electric Power Supply in the Energy section of the Department as of the date of the coming into force of this Act are hereby appointed to the Outer Islands Power Directorate and are deemed to have been so appointed in accordance with the Public Service Act 1975, without interruption in the continuity of their service.

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This Act is administered by the Ministry of Energy.