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1998, No. 18

An Act to constitute the Energy Division of the Ministry of Works, Energy and Physical Planning

(25 November 1998)

Price \$6.00

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 and commencement - This Act may be cited as the Energy Act 1998.

(2) This Act shall be deemed to have come into force on a date to be appointed by the Queen's Representative by Order in Executive Council.

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

"Board" means the Cook Islands Electrical Workers Registration Board established by section 11 of this Act;

"Certificate of Registration" means a certificate of registration issued under section 18 of this Act;

"Consumer" means any person who is supplied, or who applies to be 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 a Licensee or such other person as the case may be;

"Division" means the Energy Division of the Ministry of Works, Energy and Physical Planning, constituted under this Act and includes officers and employees thereof acting in their official capacity;

"Secretary" means the Secretary of the Ministry of Works, Energy and Physical Planning;

"Electric supply line" means a wire, conductor, or other means for conveying, transmitting, or the distribution of energy, whether by overhead line or underground cable, together with any casing, coating, tube, pipe, or insulator enclosing, surrounding or supporting the same or part thereof, or any apparatus connected therewith for the purpose of conveying, transmitting, or distributing such energy and includes any support, crossarm, stay, strut, or safety device erected or set up for that purpose;

"Electrical code of practice" or "code" means an electrical code of practice issued pursuant to section 15 of this Act;

"Electrical work" means electrical work described in the regulations, that fall into any of the following categories -

(a) the construction or maintenance of electrical installations or works;

- (b) the maintenance of any fixed appliance or semi-portable appliance;
- (c) the connection or disconnection of electrical wiring of works, electrical installations or electrical appliances to or from a power supply, other than by means of a plug, or appliance inlet, or a pin that is inserted into a socket outlet;
- (d) the construction of, and maintenance of works;
- (e) the installation of private and standby generators;

“Electrical worker” means a person registered to carry out electrical work under section 18 of this Act and includes a Qualified Engineer;

“Energy” means electrical energy -

- (a) generated, transmitted, or supplied for any purpose; or
- (b) used for any purpose except the transmission of a message;

“Fixed appliance” means an electrical appliance which is fastened to a support or otherwise secured in a special location;

“Government” means the Government of the Cook Islands;

“Inspector” means an Inspector of the Electrical Inspectorate appointed under section 14 of this Act;

“Inspectorate” means the Electrical Inspectorate established under section 14 of this Act;

“Licensee” means a Licensee approved under section 6 of this Act and includes officers and employees thereof acting in their official capacity;

“Minister” means the Minister responsible for the Ministry of Works, Energy and Physical Planning;

“Ministry” means the Ministry of Works, Energy and Physical Planning;

“Outer Islands” means the islands of the Cook Islands other than Rarotonga, that fall within the Outer Islands Local Government Act 1987;

“Outer Islands department” means the Energy department or division situated on an Outer Island that was responsible for the supply of energy on that island before the commencement of this Act, and came under the administration of the former Ministry of Energy constituted under the Ministry of Energy Act 1991;

“Practising Licence” means a licence issued under section 19 of this Act;

“Private generating plant” means a generator installed permanently or temporarily, which is used as the principal source of electricity supply to any premises;

“Public Service” has the same meaning that it is given in section 2 of the Public Service Act 1995-96;

“Qualified Engineer” means a person who –

- (a) holds either a Degree or Certificate in Electrical Engineering, having produced to the Secretary documentary evidence that he or she has such qualifications; or
- (b) has the skills or experience prescribed by regulations; and
- (c) who, through active training in the practical aspects of electrical work, can be considered qualified to do electrical work;

“Registrar” means the Registrar of Electrical Workers appointed pursuant to section 17 of this Act;

“Regulations” means the regulations made pursuant to section 25 of this Act;

“Semi-portable appliance” means an appliance, not being a portable appliance, that from the nature of its use requires to be moved or is capable of being moved to a new position from time to time while it is working or between the periods when it is working;

“Standby generating plant” means a generator installed for the purpose of providing electricity in the event of a failure in the main electricity supply from a Licensee;

“Te Aponga Uira o Tumu-Te-Varovaro” means the Authority established under the Te Aponga Uira o Tumu-Te-Varovaro Act 1991;

“Trainee” means any person who is undergoing instruction or training in any class of electrical work for the purpose of obtaining registration under section 18 of this Act;

“Works” includes generating plants, electrical supply lines, and any other building, plant, machinery, apparatus, and any other thing of whatever description required to supply energy to the public.

PART I
ENERGY DIVISION

3. Energy Division - (1) There is hereby established a division of the Ministry of Works, Energy and Physical Planning, to be known as the Energy Division.

(2) The Division shall be charged with the administration of this Act and the regulations, and with such other functions as may be lawfully conferred upon it.

4. Principal Functions of the Division - The principal functions of the Division 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, gas, coal, photovoltaic, ocean, thermal, wind, and biomass generation;
- (b) ensure standards of safety, efficiency, and economy of operation in respect of the generation, transmission, and distribution of energy;
- (c) to review any Act or legislation that may affect the energy sector;
- (d) promote and encourage the safe and efficient use of energy;
- (e) promote and encourage measures for conservation of all forms of energy;
- (f) encourage research regarding exploitation of different energy sources consistent with local requirements and resources, bearing in mind the benefits of conserving the environment;
- (g) monitor electricity tariffs;
- (h) monitor and approve the quality of imported petroleum products, and compliance with fuel standards.

5. Responsibility to the Minister - (1) The Secretary shall report and be responsible to the Minister for compliance by the Division with the Division's obligations under this Act.

(2) In the exercise of its functions and powers, the Division shall have due regard to the general policy of the Crown in relation to energy as communicated to the Secretary from time to time in writing by the Minister. The Division shall comply with any policy direction given by the Minister in writing, unless the Secretary explains to the satisfaction of the Minister the reasons why the direction should not be followed.

6. Grant of Licences - (1) The Minister, on application made to the Minister in the prescribed form and on payment of the prescribed fees, may grant a licence to any person to -

- (a) supply energy in or to any specified area; and
- (b) to lay down or place electric supply lines for the conveyance and transmission of energy.

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

(3) Any licence granted under subsection (1) of this section 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 the Minister's power to grant a subsequent licence for a similar purpose to another person within the same area.

7. Delegation of Powers of the 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 the Minister by this Act.

(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 Act and not by delegation.

(3) Any such delegation shall -

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

8. 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 Division 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 from time to time require;
- (f) regularly advise the Minister of energy developments in the Cook Islands;
- (g) implement the policies of the Government as conveyed by the Minister.

9. Appointment of other Officers and Employees - There may be appointed from time to time by the Secretary, as members of the Public Service, such other officers and employees of the Division as may be necessary for the administration of this Act.

10. Delegation of Powers of the Secretary - (1) The Secretary may by writing under his hand, either generally or particularly, delegate from time to time to such officer or employee of the Division as he thinks fit, all or any of the powers exercisable by him under this Act or any other enactment but not including his 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 -

- (a) may be made to any specified officer or employee of a specified class or be made to the holder or holders for the time being of a specified office or class of office; and
- (b) shall be revocable at will and no such delegation shall prevent the exercise of any power by the Secretary; and
- (c) 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 or her successor.

PART II ADMINISTRATION

11. Cook Islands Electrical Workers Registration Board - (1) There is hereby established a Board called the Cook Islands Electrical Workers Registration Board.

(2) The Board shall have all such powers as are reasonably necessary or expedient to enable the Board to carry out its functions.

12. Functions of the Board - The functions of the Board shall be -

- (a) to conduct, recommend or advise persons of the academic training required to pass examinations that will, along with other criteria to be considered by the Board under section 18 of this Act, be required in order for that person to apply for registration under section 18 of this Act;
- (b) to conduct, recommend or advise on appropriate examinations to be carried out in respect of applications under section 18 of this Act and where necessary to appoint examiners and make all other necessary arrangements for such examinations;
- (c) to receive applications for or relating to registration under section 18 of this Act, and to authorise registration in proper cases;
- (d) to receive applications for or relating to the issue of Practising Licences under section 19 of this Act, and to grant such licences in proper cases;

- (e) to ensure that registered persons maintain an adequate level of competence in the field of work in respect of which they are registered;
- (f) to advise the Secretary of any disciplinary offence committed under section 22 of this Act for the purposes of disciplinary action to be taken under section 24 of this Act;
- (g) to exercise disciplinary powers in accordance with section 24 of this Act;
- (h) to exercise and perform such other functions, duties, and powers as are conferred or imposed on the Board by or under this Act or by or under any other enactment.

13. Membership of the Board - (1) The Board shall consist of the Registrar *ex officio*, as Secretary to the Board and -

- (a) an employee or officer of a Licensee experienced in electrical supply line work;
- (b) and two other members -

to be appointed by the Minister, subject to subsection (2) of this section.

(2) No person shall be appointed as a member of the Board unless he or she

- (a) has a Diploma in Electrical Engineering or an Electrical Trade Certificate; and
- (b) has had a minimum of 7 years practical experience in the electrical industry.

14. Electrical Inspectorate - (1) There shall be established an Electrical Inspectorate within the Division under the management of a Chief Electrical Inspector who shall be appointed as prescribed by regulations.

(2) The office of Chief Electrical Inspector may be held concurrently with any other office.

(3) 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) inspect and approve private generating plants and standby generating plants;
- (d) carry out investigations that may be referred to the Inspectorate:
 - (i) by the Secretary under section 16 of this Act; or
 - (ii) by the Board under section 23(3) of this Act.

(4) The Secretary may appoint any officer or employee of the Division to be Inspectors to assist the Chief Electrical Inspector in carrying out the functions of the Inspectorate.

(5) Any Inspector may enter, inspect, and examine any place or vessel in which he or she 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, in so far as possible in the circumstances, to the social and religious usage of the occupants of the building.

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

(7) Any Inspector may serve an order upon any supplier, consumer, owner, or occupier calling upon him or her to comply with any specified rule and the person served shall thereupon comply with the order within a reasonable period of time and shall report in writing to the Inspector when the order is complied with.

(8) 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 use, or permits to be used, any such materials, appliances, accessories, devices, or equipment.

15. Electrical Code of Practice - (1) The Chief Electrical Inspector may from time to time issue, amend, or revoke an Electrical Code of Practice for the purposes of, or relating to

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

(2) The code may wholly or partly refer to instructions, orders or requirements of other electrical codes of practice in the Cook Islands, New Zealand, or of any other overseas electrical organisation or regulatory authority.

(3) Where the provisions of the Electrical Code of Practice conflict with the provisions of any other code of practice, the provisions of the Electrical Code of Practice shall prevail.

(4) The issuing, amendment or revocation of an Electrical Code of Practice, shall take effect upon approval by the Minister. The Minister shall not grant an approval under this subsection unless -

- (a) not less than one month has elapsed since the publicising of a notice of intention by the Chief Electrical Inspector to seek the Minister's approval, in a daily or weekly printed publication;

- (b) the Minister has considered the comments of any person who has made written submissions on the matter, which are to be filed with the Minister within one month of the publication of the notice.

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

(6) An emergency amendment under subsection (5) of this section 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 wherefore it may be continued after following the procedure contained in subsection (4) of this section.

16. Accident Reports and Investigation - (1) If an electrical worker or any other person is injured, fatally or otherwise, as a result of an accident occurring while the electrical worker is carrying out electrical work in the course of his or her employment, his or her supervisor or employer shall as soon as is practical, complete and provide a detailed account of the accident to the Secretary for investigation.

(2) In any other case where a person is injured, fatally or otherwise, as a result of an accident occurring while a person other than an electrical worker, is carrying out electrical work on any electrical appliance or electrical installation, any person may report the accident to the Secretary for investigation.

(3) Any accident reported to the Secretary under this section, shall be referred by the Secretary to the Inspectorate or any other officer or employee of the Division, to investigate and determine the cause of the accident and the action to be taken, in order to eliminate as far as possible, the unsafe act or condition which led to the accident.

(4) All accidents reported and investigated under this section shall be compiled for annual publication by the Ministry.

17. Registrar of Electrical Workers - (1) There shall be a Registrar of Electrical Workers, who shall be appointed by the Secretary.

(2) The office of Registrar may be held concurrently with any other office.

(3) The Registrar shall have all such powers as are reasonably necessary or expedient to enable the Registrar to carry out the following functions -

- (a) maintain a Register of Electrical Workers;
- (b) receive applications and payments of prescribed fees for or relating to registration under section 18 of this Act;
- (c) receive applications and payments of prescribed fees for or relating to a Practising Licence issued under section 19 of the Act;
- (d) report disciplinary offences to the Board that may warrant investigation under section 23(3) of this Act;
- (e) carry out other actions as may be necessary for the effective administration of this section.

PART III
REGISTRATION OF ELECTRICAL WORKERS

18. Registration of Electrical Workers - (1) Every person shall, on payment of the prescribed fee, be entitled to be registered as an –

- (a) Electrician;
- (b) Electrical Mechanic;
- (c) Electrical Service Technician; or
- (d) a Line Mechanic -

if the person provides to the Board evidence as prescribed by regulations, that satisfies the Board that he or she has the necessary qualifications, skills, experience and training to be so registered under this Act.

(2) Subject to subsection (1) of this section, the Board shall authorise the Registrar to issue to the applicant, a certificate of registration in his or her field of competency.

19. Application for Practising Licence - (1) Subject to subsection (3) of this section, every electrical worker shall apply to the Board for a Practising Licence under this section.

(2) A Practising Licence shall come into force –

- (a) if it is issued before the date of the expiry of the current licence held by the applicant, on the 1st day of July next after the date of issue; and
- (b) in any other case, on the date of its issue, -

and in either case it shall expire with the close of the 30th day of June in the year in which it is stated to expire.

(3) If at any time the holder of a current Practising Licence ceases to be registered under section 18 of this Act, that person's Practising Licence shall cease to be in force and the Board may direct that person to return that licence to the Registrar.

20. Restriction on carrying out electrical work - (1) No person shall carry out any electrical work unless registered or authorised to do so under this Act or the regulations.

(2) The following electrical workers may do electrical work within the limits prescribed by regulations -

- (a) Electrical Mechanics;
- (b) Electrical Service Technicians;
- (c) Line Mechanics.

(3) Any electrical worker shall be restricted to carrying out electrical work that corresponds with his or her field of competency.

PART IV
OFFENCES

21. Offences Relating to Registration and Practising Licence - Every person commits an offence and is liable upon conviction, to a fine not exceeding \$5,000 who –

- (a) for the purposes of obtaining registration as an electrical worker or obtaining a Practising Licence, makes any declaration or produces any document of any kind, that is known to that person to be false or misleading; or
- (b) allows his or her Certificate of Registration or Practising Licence to be used by any other person to do electrical work in contravention of this Act; or
- (c) not being registered under this Act as an electrical worker carries out electrical work or does any act that may reasonably cause any other person to believe that the person is so registered.

22. Disciplinary Offences - (1) For the purposes of disciplinary action in respect of offences reported under section 17(3)(d) of this Act, any electrical worker, Qualified Engineer or trainee, is guilty of a disciplinary offence if that person is found in any disciplinary proceedings held under section 23(4) of this Act -

- (a) to have carried out, or caused to be carried out electrical work in a negligent, unsatisfactory, incompetent, or hazardous manner, or in a manner contrary to any enactment relating to electrical supply or electrical work which was in force at the time the work was done; or
- (b) to have intentionally or negligently created a risk to life or limb, or to have caused a serious fire hazard, through having used or caused to be used faulty or improper fittings; or
- (c) to have intentionally deceived or attempted to deceive any Inspecting Officer by purposely concealing inferior work or inferior fittings used as part of any electrical installation or by making any false or misleading statement to any such Inspector ; or
- (d) to have neglected to apply for permission to carry out any electrical work or furnish any return required under any enactment relating to electrical work or to have furnished a false return; or
- (e) to have employed, directed, or permitted any unauthorised person to do any electrical work or to have done electrical work that under the terms of section 20 of this Act the person is not authorised to do.

23. Complaints - (1) Every person who wishes to complain to the Board about the conduct of a person to whom section 22 of this Act applies, shall make the complaint to the Registrar.

(2) Every complaint under this section shall be in writing.

(3) Where the Registrar has received any complaint under this section, the Registrar shall forthwith inform the Board who shall direct the Inspectorate or any other officer or employee of the Division to investigate the complaint and to report back to the Board.

(4) The Board shall, after reviewing such report and any other relevant information, hold a hearing to determine whether or not it should exercise its disciplinary powers under section 24 of this Act.

24. Disciplinary Powers - If the Board, after conducting a hearing under section 23(4) of this Act is satisfied that a person to whom section 22 of this Act applies, has been found guilty of a disciplinary offence, the Board may -

- (a) in the case of an electrical worker, order that the name of that person be removed from the register;
- (b) in the case of an electrical worker who is the holder of a Practising Licence, cancel that licence;
- (c) order that the registration or Practising Licence be suspended for such period as the Board thinks fit or until that person has undergone any training or courses of instruction deemed necessary; or
- (d) order that the person be limited to such work, or to work under such conditions as the Board may specify;
- (e) in the case of a person who is a trainee or Qualified Engineer order that the person be disqualified from doing or assisting in doing, electrical work, either permanently or for such period as the Board thinks fit or until that person has undergone any specified re-training or courses of instruction deemed necessary; or
- (f) order that person to be censured.

PART V MISCELLANEOUS

25. 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.

26. Transitional - (1) From the date of commencement of this Act every decision, determination, matter or thing not inconsistent with this Act or the regulations and made or done pursuant to the enactments repealed or revoked by this Act, shall be deemed to have been made or done under this Act and shall continue to apply to all persons affected.

(2) An Outer Islands department shall, after the commencement of this Act continue to be a Licensee in its respective island, for the purposes of section 6 of this Act.

(3) Te Aponga Uira o Tumu-Te-Varovaro shall, after the commencement of this Act continue to be a Licensee in Rarotonga, for the purposes of section 6 of this Act.

27. Repeals - The following enactments are hereby repealed –
- (a) the Ministry of Energy Act 1991; and
 - (b) the Electricity Supply Regulations 1992.
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This Act is administered by the Ministry of Works, Energy and Physical Planning