

Chapter 306.

Electricity Supply (Government Power Stations) Act 1970.

Certified on: / /20 .

INDEPENDENT STATE OF PAPUA NEW GUINEA.

Chapter 306.

Electricity Supply (Government Power Stations) Act 1970.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

AN ACT

entitled

Electricity Supply (Government Power Stations) Act 1970,

Being an Act to provide for the control and maintenance of Government power stations, and for related purposes.

PART I. – PRELIMINARY.

1. Interpretation.

In this Act, unless the contrary intention appears–

“**consumer**” means a consumer of electricity supplied under this Act;

“**electricity**” includes electric current, electrical energy or any like agency;

“**electric line**” means a wire, conductor or other means used for the purpose of conveying, transmitting or distributing electricity, including–

- (a) any casing, coating, covering, tube, pipe, pole, post, frame, bracket or insulator, enclosing, surrounding or supporting such a line, or any part of such a line; and
- (b) any apparatus connected with such a line for the purpose of conveying, transmitting or distributing electricity;

“**Inspector**” means an Electricity Inspector appointed under Section 10;

“**previous Administrator**” means the Administrator or Government of the former Territory of Papua and New Guinea or the former Australian Territory known as Papua New Guinea;

“**the regulations**” means any regulations made under this Act;

“**this Act**” includes the regulations;

“**works**” includes electric lines and any buildings, machinery, engines, works, matters and things required to generate or supply electricity.

2. Saving of rights, etc., under Posts and Telegraphs Acts.

Nothing in this Act shall be deemed to affect the exercise of any right, power or authority under any law in force relating to Posts and Telegraphs.

PART II. – GOVERNMENT POWER SUPPLY.

3. Authority to operate Government power stations.

Notwithstanding any other law, the Minister may–

- (a) maintain and operate any works vested in the State for or in connection with the generation and supply of electricity and, where necessary, improve and extend them; and
- (b) construct new, additional or supplementary works; and
- (c) acquire works or property for or in relation to the generation of supply of electricity; and
- (d) supply electricity to any person within the country on such terms as are prescribed or as are agreed on by the State and the person; and
- (e) purchase electricity from any person within the country; and
- (f) [*Repealed.*]
- (g) do all other things that are–
 - (i) required or permitted to be done by the Minister or the State under this Act; or
 - (ii) incidental to or necessary or convenient to be done for, in or in connection with the performance of its functions or the discharge of its duties under this Act.

PART III. – ERECTION, MAINTENANCE, ETC., OF WORKS.

Division 1.

Powers, etc.

4. Erection of transmission lines, etc.

(1) In this section, “**Government land**” means all land other than–

- (a) customary land that is not leased by the owners to the State; and
- (b) land held by a person other than the State for an estate greater than a term of years; and
- (c) land that is the subject of a State lease under the *Land Act 1996*.

(2) Except as to the requirements of Subsection (5), this section applies to and in respect of pylons, posts, poles, pillars and electric lines (as described in Subsection (3)) vested

in the State.

(3) For the purposes of this Act and of the conveyance, transmission and distribution of electricity, the Minister, on giving notice of his intention to do so to the owner or occupier of the land, may, subject to Subsection (5), erect, maintain and remove—

- (a) pylons, posts, poles or pillars in, under, through, over, across or on any land to which this subsection applies; and
- (b) electric lines (including, without limiting the definition of that expression in Section 1, conduits, substations, transformers and other appliances and things necessary for the works) in, under, through, over, across or on any such land or any building, house or premises on any such land.

(4) The land to which Subsection (3) applies is land, including land under the sea or a river or stream that—

- (a) is outside a town; or
- (b) is a street or other Government land within a town,

at the time when the pylons, posts, poles, pillars or electric lines are erected.

(5) The exercise of the powers conferred by Subsection (3) is subject to the prior approval of—

- (a) in the case of land outside a town—the Head of State, acting on advice; or
- (b) in the case of Government land within a town—the Minister.

(6) Notwithstanding any other law, pylons, posts, poles, pillars and electric lines erected, maintained or removed under Subsection (3) are the property of the State.

5. Entry on land, etc.

(1) Notwithstanding any other law, for the purposes of this Act a person authorized by the Minister with such assistants as he thinks necessary may, subject to Subsections (2) and (3), at all reasonable times—

- (a) enter on any land on which pylons, posts, poles, pillars and electric lines may be erected by the State or a previous Administration, or on which pylons, posts, poles, pillars and electronic lines that are vested in the State are erected, or on adjoining land, with such persons, vehicles and things as he thinks proper; and
- (b) make surveys, take levels, sink pits, examine the soil and do any other thing in relation to the land.

(2) Subject to Subsection (3), before entering on any land under Subsection (1), the person concerned shall give notice to the owner or occupier of the land of his intention to do so.

(3) Notice in accordance with Subsection (2) need not be given if—

- (a) the land, or part of the land, is in a Local-level Government area and, not less than one week before entry, written notice has been given to the Local-level Government specifying the area, or the approximate area, affected, together with a request that the Local-level Government advise any persons likely to be affected; or

- (b) the name or place of abode or business, of the owner or occupier cannot, after the exercise of reasonable diligence be found, and unreasonable delay or expense would otherwise be caused to the State; or
- (c) the land is apparently unoccupied,

but in any such case the authorized person shall advise any person who asks for his authority for being on the land that he is on the land for the purposes of this Act.

(4) In addition to the powers conferred by Subsection (1), the authorized person or his assistants, doing as little damage as may be, may—

- (a) trim, lop or cut down any trees and bushes that may obstruct the work being carried out; and
- (b) place on or below the surface of the soil such pegs, marks, metal pins or other distinguishing marks as are necessary for any of the purposes of this Act.

6. Notice of intention to enter under Section 4 or 5.

Notice of intention to enter on land under Section 4 or 5 may be given—

- (a) orally or in writing to the owner or occupier personally; or
- (b) by post addressed to the owner or occupier at his usual or last-known place of abode or business; or
- (c) in writing to a person apparently living or employed at that place of abode or business and apparently not less than 16 years of age,

but where notice of intention is given in accordance with Paragraph (b) the entry may not be made before the notice would be delivered in the ordinary course of post.

7. Ancillary powers.

In the exercise of the powers conferred by this Act, an officer, or a person authorized by the Minister for the purpose, may—

- (a) require the owner or occupier of any land to cut down or lop any trees or undergrowth growing on the land that obstruct, or, in the opinion of the officer or person, are likely to interfere with an electric line; and
- (b) at all reasonable times enter any premises to which electricity is or has been supplied by the Minister under this Act for the purposes of—
 - (i) inspecting any electric line or works; or
 - (ii) ascertaining the quantity of electricity consumed or supplied; or
 - (iii) removing any such electric line or works, where—
 - (A) a supply of electricity is no longer required; or
 - (B) the Minister desires to take away and cut off the supply of electricity from the premises.

Division 2.

Registration of Titles.

8. Noting of N.E.C. etc., approval to works.

Where—

- (a) the Head of State, acting on advice, under Section 4(5)(a); or
- (b) the Minister under Section 4(5)(b),

approves the erection of electric lines, in, under, through, over, across or on, any land, or on a building, house or premises on any land, that is subject to the provisions of the *Land Registration Act 1981* a copy of the approval shall be forwarded by the Clerk of the National Executive Council to—

- (c) the Registrar of Titles, with a request that the approval be noted on the title or titles affected; and
- (d) the registered proprietor of the land.

9. Registration of rights.

(1) As soon as practicable after the construction of electric lines—

- (a) under Section 4; or
- (b) by agreement between the State and any other person,

the Government shall conduct a survey and forward to the Registrar of Titles a copy of the survey plan specifying details of the land affected.

(2) The Registrar of Titles shall—

- (a) when requested under Section 8—note the approval on any title or titles affected; and
- (b) on receipt of a survey plan required by Subsection (1) specifying the width of the land affected and the extent of the restrictions imposed—cause the rights conferred by Sections 4 and 5 and any regulations made under Section 23(1)(g) to be registered on any title or titles affected.

(3) Notwithstanding the absence of a dominant tenement, the registration of rights under Subsection (2)(b) shall be deemed to be the registration of an easement, and the *Land Registration Act 1981* shall be read subject to this section.

PART IV. – INSPECTION, ETC.

10. Appointment of Electricity Inspectors.

The Minister may, by notice in the National Gazette, appoint a person to be an Electricity Inspector for the purposes of this Act.

11. Duties of Inspectors.

An Inspector shall—

- (a) as required by the Minister—
 - (i) inspect and test any electric lines and works and the supply of electricity given under this Act; and

- (ii) examine meters and certify to their accuracy; and
- (b) perform such other duties as are prescribed or required by the Minister.

12. Testing of mains.

(1) On the occasion of the testing of a main—

- (a) reasonable notice of the testing shall be given to the owner by the Inspector; and
- (b) the testing shall be carried out—
 - (i) at such suitable hour as, in the opinion of the Inspector, will least interfere with the supply of electricity; and
 - (ii) in such manner as the Inspector thinks expedient.

(2) The State is not responsible for any interruption in the supply of electricity caused or required by an Inspector for the purpose of testing a main.

(3) Unless the Minister otherwise directs, the testings referred to in this section shall not be made in regard to a particular portion of a main more frequently than once in any period of 12 months.

13. Testing of works and supply on consumers' premises.

(1) When required to do so by a consumer and on payment by the consumer of the prescribed fee, an Inspector shall—

- (a) test the variation of the voltage at the consumer's terminals; or
- (b) make such other inspection or testing of any service lines, apparatus and works on the consumer's premises, as is necessary for the purpose of determining whether—
 - (i) this Act; and
 - (ii) the conditions subject to which the supply of electricity is for the time being authorized,

have been complied with.

(2) Where an inspection under Subsection (1) shows that a supplier of electricity is at fault, the supplier shall reimburse the consumer the fee paid by him.

14. Testing of suppliers' instruments.

(1) An Inspector shall have access at all reasonable hours to the premises of—

- (a) a consumer of electricity; or
- (b) a person who supplies electricity under this Act,

for the purpose of testing all electric lines and instruments and ascertaining whether they are in order.

(2) Where an electric line or instrument is not in order, an Inspector may disconnect a faulty line or instrument and require the supplier to have it put in order immediately.

15. Report of results of testing.

Within one week after the date on which any testing has been completed by an Inspector he shall make a report of the result of his testing and deliver it to—

- (a) the Departmental Head; and
- (b) the person (if any) by whom he was required to make the test.

PART V. – OFFENCES.

16. Obstruction, etc.

A person who hinders or obstructs a person in the performance of his functions or the exercise of his powers under this Act is guilty of an offence.

Penalty: A fine not exceeding K100.00.

17. Removing, tampering with, etc., electric lines, etc.

(1) A person who—

- (a) wilfully and without lawful excuse removes, destroys or damages an electric line, or pillar, post, lamp, meter, sealing device, fitting, insulator, apparatus or works connected with or relating to the supply of electricity by the Minister; or
- (b) wilfully and unlawfully extinguishes a public lamp or light maintained by the Minister under this Act,

is guilty of an offence.

Penalty: A fine not exceeding K100.00 or imprisonment for a term not exceeding 12 months.

Default penalty: A fine not exceeding K5.00.

(2) A person who—

- (a) wilfully, fraudulently or by culpable negligence—
 - (i) injures an electric line, or pillar, post, lamp, meter, sealing device, fitting, insulator, apparatus or works connected with or relating to the supply of electricity by the Minister, or causes one to be injured; or
 - (ii) alters the index of a meter; or
 - (iii) prevents a meter from duly registering the quantity of electricity supplied; or
- (b) fraudulently abstracts, consumes or uses electricity supplied by the Minister, or causes any such electricity to be wasted or diverted,

is guilty of an offence.

Penalty: A fine not exceeding K100.00 or imprisonment for a term not exceeding 12 months.

Default penalty: A fine not exceeding K5.00.

(3) In addition to any damages that may be recovered, a person who is convicted of an

offence against Subsection (1) or (2) shall for each offence forfeit and pay to the State such sum as the court that convicts him thinks reasonable, not exceeding K50.00.

(4) Subsection (3) does not affect any other right or remedy for the protection of the State or the Minister, or the punishment of the offender.

(5) The existence, in connection with a meter that is in the custody or control of the consumer, of artificial means for—

- (a) causing the alteration of the index of the meter; or
- (b) preventing the meter from duly registering the quantity of electricity supplied; or
- (c) abstracting, wasting, diverting or using electricity supplied by the Minister,

is prima facie evidence that the alteration, prevention, abstraction, waste, diversion, consumption or use, as the case may be, has been fraudulently, knowingly and wilfully caused by the consumer.

18. Agreements for re-supply of electricity.

(1) Where—

- (a) electricity is supplied to a person; and
- (b) that person makes electricity available to a second person under an express or implied agreement that the second person shall pay to him an amount of money in respect of the electricity,

the first mentioned person must not, without the consent of the Minister, demand or receive an amount for the electricity greater than the amount that the second person would be liable to pay to the Minister if the electricity had been supplied by the Minister directly to the second person.

Penalty: A fine not exceeding K200.00.

(2) The excess of any amount paid in contravention of Subsection (1) may be recovered by the person who paid it from the person to whom it was paid as a debt.

PART VI. – MISCELLANEOUS.

19. Compensation.

(1) Where any loss or damage is suffered by a person by reason of the exercise, by or on behalf of the State, of a power conferred by or under this Act, compensation for the loss or damage is payable to him by the State.

(2) Subject to Subsection (3), the amount of compensation payable under Subsection (1) is as determined by the Minister.

(3) A person aggrieved by a determination of the Minister under Subsection (2) may appeal to the National Court.

20. Indemnity.

An officer, employee or agent of the State is not personally liable for anything done or omitted to be done in good faith in the course of any operation or for the purposes of this Act.

21. Recovery of money due.

Any money due to the State under this Act may be recovered by the State as a debt.

22. Purposes of this Act to be public purpose.

The purposes of this Act are a public purpose within the meaning of any law.

23. Regulations.

(1) The Head of State, acting on advice, may make regulations, not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be prescribed, or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular—

- (a) for prescribing the qualifications of Electricity Inspectors; and
- (b) for regulating the form of contracts and agreements to be entered into with the State or the Minister; and
- (c) for fixing charges or fees to be made for electricity sold or services rendered by the State or the Minister; and
- (d) for fixing the terms and conditions on which the State or the Minister will supply electricity or services; and
- (e) for fixing the times at which charges will be made, whether in advance or otherwise; and
- (f) for regulating—
 - (i) the number, form, material, dimensions, construction and arrangement of cables, poles, structures, pipes, fittings and other works supplying electricity; and
 - (ii) the notice to be given of the work; and
 - (iii) the superintendence of the work; and
 - (iv) the making good and replacement of ground disturbed in the course of the work; and
 - (v) the inspection of the work; and
- (g) for—
 - (i) regulating and prescribing the method and means of access (including the notice (if any) to be given) by the State, officers and persons authorized for the purpose under this Act to land on or from which any pylon, post, pole, pillar or electric line is or is to be erected, maintained or removed under Section 4(2); and
 - (ii) prohibiting or restricting the use of any such land to the extent necessary or desirable for the maintenance of, or the prevention of damage or interferences to—
 - (A) any such pylon, post, pole, pillar or electric line; or

- (B) the conveyance, transmission or distribution of electricity; and
- (h) for regulating the construction, distribution, installation, inspection and reading of meters, and for requiring access to them; and
- (i) for regulating the lamps, meters, appliances, and electricity-consuming devices that a consumer may connect to an electricity supply; and
- (j) for prescribing penalties of fines not exceeding K100.00 or default penalties of fines not exceeding K10.00 for offences against the regulations.

(2) The regulations may adopt—

- (a) any standard code or procedure laid down by the Standards Association of Australia or any other prescribed authority, as in force from time to time, in relation to—
 - (i) the construction, maintenance or operation of any plant or machinery; or
 - (ii) the carrying out of processes; or
 - (iii) any other matter or thing within the functions of the State or the Minister under this Act; or

(b) [*Repealed.*]

(3) In adopting a standard code or procedure under Subsection (2), the regulations may adopt it subject to such modifications, conditions or restrictions as are prescribed.

Office of Legislative Counsel, PNG