



ANALYSIS

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1987, No. 97

An Act to amend the Ministry of Energy Act 1977

[19 June 1987]

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title and commencement—(1) This Act may be cited as the Ministry of Energy Amendment Act 1987, and shall be read together with and deemed part of the Ministry of Energy Act 1977 (hereinafter referred to as the principal Act).

(2) This Act shall come into force on the 26th day of June 1987.

2. Charges for regulatory activities and services, etc.—The principal Act is hereby amended by inserting, after section 15B (as inserted by section 144 (2) of the Public Finance Act 1977), the following section:

“15BA. (1) The Secretary may from time to time, either generally or in respect of any particular case or class of case; fix the charges payable by any person for any regulatory or other lawful activity or service undertaken or provided by the Ministry or any officer or agent of the Ministry where—

“(a) The activity or service is undertaken or provided at the request of that person and is exclusively or principally for the benefit of that person; and

“(b) A fee is not prescribed in respect of that activity or service.

“(2) All charges so fixed shall be reasonable, and in fixing any charge the Secretary shall have regard to the costs and expenses incurred and borne by the Ministry in undertaking or providing the activity or service.

“(3) The Secretary may require, either generally or in respect of any particular case or class of case, that the whole or a specified part of any such charge be paid in advance.

“(4) All money received pursuant to this section shall be paid into the Energy Account.

“(5) Nothing in this section shall be construed as limiting or affecting the provisions of section 15 of this Act.”

3. Levies—(1) The principal Act is hereby amended by inserting, after section 15F (as inserted by section 144 (2) of the Public Finance Act 1977), the following Part:

“PART IIB

“LEVIES

“15G. **Levies payable by owners of coal mines**—(1) In this section, unless the context otherwise requires, expressions defined in the Coal Mines Act 1979 shall have the meanings so defined.

“(2) On or before the 31st day of January in each year, the owner of every coal mine (including every coal mine worked by the Coal Corporation of New Zealand Limited), wherever it is situated and whether or not a coal mining licence is held in respect of it, shall supply the Secretary with a true and accurate return of the quantity of all coal that has been mined during the immediately preceding period of 12 months ended with the 31st day of December, together with the levy calculated in accordance with this section.

“(3) The levy payable on all coal that has been mined within the said period of 12 months shall be as follows:

“(a) In respect of peat, 30 cents per complete cubic metre or such lesser amount per complete cubic metre as may be prescribed:

“(b) In respect of coal mined from an opencast coal mine, 80 cents per complete tonne or such lesser amount per complete tonne as may be prescribed:

“(c) In respect of coal mined from an underground coal mine, \$1 per complete tonne or such lesser amount per complete tonne as may be prescribed.

“15H. Levies payable by owners of mineral mines—

(1) In this section, unless the context otherwise requires, expressions defined in the Mining Act 1971 shall have the meanings so defined.

“(2) On or before the 31st day of January in each year, the owner of every mine, wherever it is situated and whether or not a mining licence is held in respect of it, shall supply the Secretary with a true and accurate return of the quantity of all minerals that have been mined during the immediately preceding period of 12 months ended with the 31st day of December, together with—

“(a) In respect of such of the minerals as have been sold or agreed to be sold, details of the gross price received or receivable by the seller of the minerals; and

“(b) In respect of such of the minerals as have not been sold or agreed to be sold, the estimated value at the mine of the minerals; and

“(c) The levy calculated in accordance with this section.

“(3) Subject to section 15L of this Act, for the purposes of this section, the value of the minerals shall be the gross price received or receivable for the minerals or the estimated value of the minerals, as the case may be.

“(4) Subject to subsection (5) of this section, the levy payable on all minerals that have been mined during the said period of 12 months shall be as follows:

“(a) Where the value of the minerals is not less than \$1 nor more than \$10 per tonne, 8 cents per complete tonne or such lesser amount per complete tonne as may be prescribed:

“(b) Where the value of the minerals is more than \$10 but \$100 or less per tonne, 12 cents per complete tonne or such lesser amount per complete tonne as may be prescribed:

“(c) Where the value of the minerals is more than \$100 but \$1,000 or less per tonne, 16 cents per complete tonne or such lesser amount per complete tonne as may be prescribed:

“(d) Where the value of the minerals (other than gold and silver) is more than \$1,000 per tonne, 20 cents per complete tonne or such lesser amount per complete tonne as may be prescribed:

“(e) Where the minerals mined are gold or silver, the levy shall be at the rate of \$290 per kilogram of marketable gold or gold equivalent of silver or such lesser rate per kilogram as may be prescribed.

“(5) The annual levy payable under this section in respect of any one mine shall be—

“(a) Not less than \$1,000 or not less than such lesser amount as may be prescribed:

“(b) Not more than \$10,000 or not more than such lesser amount as may be prescribed.

“15I. **Levies payable by occupiers of quarries**—(1) In this section, unless the context otherwise requires, expressions defined in the Quarries and Tunnels Act 1982 shall have the meanings so defined.

“(2) On or before the 31st day of January in each year, the occupier of every quarry, wherever it is situated, shall supply the Secretary with a true and accurate return of all material that has been extracted from the quarry during the immediately preceding period of 12 months ended with the 31st day of December, together with—

“(a) In respect of such of the material as has been sold or agreed to be sold, details of the gross price received or receivable by the seller of the material;

“(b) In respect of such of the material as has not been sold or agreed to be sold, the estimated value at the quarry of the material; and

“(c) The levy calculated in accordance with this section.

“(3) Subject to section 15L of this Act, for the purposes of this section, the value of the material shall be the gross price received or receivable for the material or the estimated value of the material, as the case may be.

“(4) Subject to subsection (5) of this section, the levy payable on all material that has been extracted during the said period of 12 months shall be as follows:

“(a) Where the value of the material is not less than \$1 nor more than \$10 per tonne, 8 cents per complete tonne or such lesser amount per complete tonne as may be prescribed:

“(b) Where the value of the material is more than \$10 but \$100 or less per tonne, 12 cents per complete tonne or such lesser amount per complete tonne as may be prescribed:

“(c) Where the value of the material is more than \$100 but \$1,000 or less per tonne, 16 cents per complete

tonne or such lesser amount per complete tonne as may be prescribed.

“(5) The annual levy payable under this section in respect of any one quarry shall be—

“(a) Not less than \$1,000 or not less than such lesser amount as may be prescribed:

“(b) Not more than \$10,000 or not more than such lesser amount as may be prescribed.

“15j. **Electricity levies**—(1) In this section, unless the context otherwise requires, expressions defined in the Electricity Act 1968 shall have the meanings so defined.

“(2) On or before the 30th day of April in each year, every person or body who or which generates electricity for sale (including the Electricity Corporation of New Zealand Limited) shall supply the Secretary with a true and accurate return of all electricity sold from such generation during the immediately preceding period of 12 months ended with the 31st day of March, together with the levy calculated in accordance with this section:

“Provided that any person or body who or which has sold from such generation less than 2000 megawatt hours during that period need not supply a return nor pay any levy.

“(3) The levy payable on all such electricity that has been sold during the said period of 12 months shall be 2 cents for each complete 100 kilowatt hours of such electricity or such lesser amount for each complete 100 kilowatt hours as may be prescribed.

“15k. **Gas levies**—(1) In this section, unless the context otherwise requires, expressions defined in the Gas Act 1982 shall have the meanings so defined.

“(2) Nothing in this section shall apply to gas sold for use as a feedstock or for the generation of electricity or to liquefied petroleum gas.

“(3) On or before the 30th day of April in each year—

“(a) Every person or body who or which sells piped gas to a franchise holder; and

“(b) Every person or body who or which sells piped gas directly to a consumer otherwise than pursuant to a franchise, whether authorised to do so under the Gas Act 1982 or any other Act; and

“(c) Every franchise holder who sells piped gas which is not subject to a levy pursuant to paragraph (a) or paragraph (b) of this subsection—

shall supply the Secretary with true and accurate returns of the energy content of all such gas that has been so sold during the immediately preceding period of 12 months ended with the 31st day of March, together with the levy calculated in accordance with this section.

“(4) The levy payable on all piped gas that has been so sold during the said period of 12 months shall be 2 cents for each complete gigajoule or such lesser amount for each complete gigajoule as may be prescribed.

“(5) All gas measurements made for the purpose of supplying a return and calculating the levy payable under this section shall be made by the use of methods approved by the Chief Inspecting Engineer.

“15L. **Arbitration**—(1) If there is any dispute or difference between the owner of a mine or the occupier of a quarry and the Secretary as to the gross price received or receivable for any minerals or material or the value of any minerals or material, for the purposes of section 15H or section 15I of this Act, the gross price or value shall be fixed by arbitration in accordance with the Arbitration Act 1908.

“(2) For the purposes of any such arbitration, this section shall be deemed to be a submission within the meaning of the Arbitration Act 1908, and the reference shall be deemed to be to 2 arbitrators, one to be appointed by the Secretary, and the other by the owner of the mine or the occupier of the quarry, as the case may require.

“(3) Notwithstanding the provisions of subsection (1) of this section, the parties may agree on the gross price or value of the minerals or material, either before or after the matter is submitted to arbitration, and, if the agreement is made after the date of any award of arbitration, the award shall be deemed to be cancelled.

“15M. **Due dates for payment**—(1) Every levy payable under section 15G, section 15H, section 15I, section 15J, or section 15K of this Act shall be due and payable on the date specified in that behalf in the section under which the levy is payable.

“(2) If an award of arbitration or agreement under section 15L of this Act results in a change to the amount of levy payable, any overpayment shall forthwith be refunded by the Secretary and any underpayment shall be paid to the Secretary within 30 days after the date of the award of arbitration or agreement, as the case may be.

“15N. Penalty for late payment—If any levy is not paid on or before the date on which it is payable, the person liable to pay it shall pay to the Secretary an additional amount equal to 10 percent of the unpaid amount.

“15O. Recovery of levies—All money payable to the Secretary under this Part of this Act shall be deemed to be payable to the Crown, and may be recovered from the person liable to pay it as a debt due to the Crown.

“15P. Payment into Energy Account—All money received by the Secretary under this Part of this Act shall be paid into the Energy Account.

“15Q. Power to inspect property, obtain information, and enter land—(1) For the purpose of obtaining any information that may be required by the Secretary for the purposes of this Part of this Act, any person specifically or generally authorised in writing in that behalf by the Secretary may from time to time—

“(a) Subject to subsection (3) of this section, at any reasonable time enter any land, building, or place, other than a dwellinghouse:

“(b) Inspect and examine any property and any books, accounts, vouchers, records, or documents:

“(c) Require any person to produce any books, accounts, vouchers, records, or documents in that person’s possession or under that person’s control, and allow copies of or extracts from any such books, accounts, vouchers, records, or documents to be made or taken:

“(d) Require any person to furnish any information or particulars that may be required by the Secretary.

“(2) Every such written authorisation shall contain—

“(a) A reference to this section; and

“(b) The full name of the authorised person; and

“(c) A statement of the powers conferred on the authorised person by subsection (1) of this section.

“(3) Every person exercising any power of entry under subsection (1) of this section shall be in possession of the appropriate written authorisation, and evidence of identity, and shall produce them to the occupier of the land, building, or place—

“(a) If practicable, on first entering the land, building, or place; and

“(b) Whenever subsequently reasonably required to do so by the occupier.

“(4) Every person shall have the same privileges in relation to—

“(a) The production to any authorised person of any books, accounts, vouchers, records, or documents; and

“(b) The furnishing to any authorised person of any information or particulars; and

“(c) The answering of questions put by any authorised person—

under this section as witnesses have in Courts of law.

“15R. **Offence to make incorrect statement, etc.**—

(1) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$2,000 who—

“(a) Makes any statement knowing that it is both incorrect and material in any information or particulars furnished (whether in writing or not) under section 15Q of this Act; or

“(b) Knowingly makes any material omission from any information or particulars so furnished; or

“(c) Resists, obstructs, deceives, or attempts to deceive, any person who is exercising or attempting to exercise any power or function under section 15Q of this Act; or

“(d) Refuses or fails without reasonable excuse to comply with any requirement made under paragraph (c) or paragraph (d) of section 15Q(1) of this Act.

“(2) Any offence against this section committed by any employee or agent in the course of employment or agency shall be deemed to have been also committed by the employee’s or agent’s employer or principal if it is proved that the act or omission constituting the offence occurred with the employer’s or principal’s authority, permission, or consent.

“15s. **Rates of levies may be prescribed**—Without limiting the general power to make regulations conferred by section 28 of this Act, regulations may be made under that section prescribing rates of levies lower than the rates set out in this Part of this Act.

“15T. **Amount of goods and services tax included**—It is hereby declared that the levies payable under this Part of this Act are inclusive of goods and services tax under the Goods and Services Tax Act 1985.”

(2) The provisions of Part IIB of the principal Act (as inserted by subsection (1) of this section) shall apply only in respect of—

- (a) Coal and minerals mined; and
- (b) Material extracted from quarries; and
- (c) Electricity and gas sold—

on and after the commencement of this section.

(3) In respect of—

- (a) Coal and minerals mined; and
- (b) Material extracted from quarries—

during the period commencing on the date of commencement of this section and ending with the 31st day of December 1987, Part IIB of the principal Act (as so inserted) shall apply as if that period was a period of 12 months.

(4) In respect of electricity and gas sold during the period commencing on the date of commencement of this section and ending with the 31st day of March 1988, Part IIB of the principal Act (as so inserted) shall apply as if that period was a period of 12 months.

This Act is administered in the Ministry of Energy.
