

MINISTRY OF ENERGY RESOURCES BILL

EXPLANATORY NOTE

THIS Bill establishes a new Department of State, to be known as the Ministry of Energy Resources.

The primary function of the Ministry will be to develop, promote, and co-ordinate effective policies for New Zealand in respect of energy.

In particular the Ministry will be responsible for promoting and co-ordinating the efficient and economical production, supply, distribution, and use of energy within New Zealand (having proper regard to conservation, social considerations, and the environment); undertaking, promoting, and co-ordinating investigations and research, and forecasts of demands and changes, in relation to energy and energy resources; maintaining a co-ordinated information service; keeping under review all relevant policies and practices; maintaining liaison with and encouraging co-operation and co-ordination among interested organisations and individuals (including other Government departments and agencies); and providing such administrative services as may be directed.

In addition, the Ministry will take over the administration of the Gas Industry Act 1958 and the Gas Supply Act 1908 from the Electricity Department, and will have such other functions as may from time to time be conferred on it.

The Ministry will be under the control of the Minister of Energy Resources. The administrative head will be known as the Commissioner of Energy Resources, and one or more Assistant Commissioners may also be appointed.

Clause 1 deals with the Short Title and commencement of the Bill. It will come into force on a date to be appointed by the Governor-General by Order in Council.

Clause 2 defines terms used in the Bill.

The most important definition is that of the term "energy", which means work or heat that is or may be produced from coal, electricity, gas, geothermal activity, petroleum, petroleum products, uranium, water, or any other fuel or source whatsoever.

Clause 3 establishes the Ministry.

Clause 4 sets out the functions of the Ministry, which have already been described.

Clause 5 provides that the Minister may give directions to the Commissioner of Energy Resources.

Clause 6 provides for the appointment of the Commissioner in accordance with the State Services Act 1962. It also provides that any other officer of the Public Service may be directed to perform his functions if he is absent or if the office is vacant.

Clause 7 provides that one or more Assistant Commissioners of Energy Resources may be appointed in accordance with the State Services Act.

Clause 8 provides for the appointment in accordance with the State Services Act of such other officers and employees of the Ministry as may be necessary to enable it to properly carry out its functions.

Clause 9 enables the Minister to delegate to the Commissioner all his statutory powers, except the power of delegation itself and the power to consent to the delegation of powers by the Commissioner.

Clause 10 enables the Commissioner to delegate to any other officer or employee of the Ministry any powers conferred on or delegated to the Commissioner, except the power to delegate and (except with the consent of the Minister or the State Services Commission) the power to subdelegate any powers delegated to him by the Minister or the Commission.

Clause 11 provides for the appointment of committees by the Minister to advise or assist him or the Commissioner on matters relating to energy and energy resources.

Clause 12 provides that the Commissioner shall report annually to the Minister on the operations of the Ministry, and that a copy of the report shall be laid before Parliament.

Clause 13 makes consequential amendments to other Acts. The effect of these amendments is as follows:

- (a) The Minister of Energy Resources will become the Chairman of the New Zealand Gas Council established by the Gas Industry Act 1958:
 - (b) An officer of the new Ministry will become a member of the Gas Council in place of the officer of the Electricity Department who is at present a member:
 - (c) The Ministry will be subject to the jurisdiction of the Parliamentary Commissioner (Ombudsman):
 - (d) Appointments to the positions of Commissioner and Assistant Commissioner will be exempt from appeal under the State Services Act 1962.
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Hon. Mr Gandar

MINISTRY OF ENERGY RESOURCES

ANALYSIS

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A BILL INTITULED

An Act to establish a Ministry of Energy Resources to provide for the development, promotion, and co-ordination of effective policies for New Zealand in respect of energy

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

1. **Short Title and commencement**—(1) This Act may be cited as the Ministry of Energy Resources Act 1972.

10 (2) This Act shall come into force on a date to be appointed by the Governor-General by Order in Council.

2. **Interpretation**—In this Act, unless the context otherwise requires,—

15 “Commissioner” means the Commissioner of Energy Resources appointed in accordance with subsection

(1) of section 6 of this Act; and, in relation to any powers and duties of or pertaining to the position of Commissioner which any other officer of the Public Service is for the time being directed under subsection (2) of that section to exercise and perform, includes that other officer: 5

“Energy” means work or heat that is or may be produced from coal, electricity, gas, geothermal activity, petroleum, petroleum products, uranium, or water, or from any other fuel or other source whatsoever: 10

“Minister” means the Minister of Energy Resources:

“Ministry” means the Ministry of Energy Resources established by section 3 of this Act:

“State Services Commission” means the State Services Commission established by the State Services Act 1962. 15

3. Ministry of Energy Resources—There is hereby established a Department of State, to be called the Ministry of Energy Resources.

4. Functions of Ministry—(1) The Ministry shall advise the Minister on the development, promotion, and co-ordination of effective policies for New Zealand in respect of energy. 20

(2) Without limiting the general functions specified in subsection (1) of this section, the Ministry shall, under the control of the Minister,— 25

(a) Promote and co-ordinate the efficient and economical production, supply, distribution, and use of energy within New Zealand, having proper regard to—
(i) The need to conserve any energy resources; and 30

(ii) Social considerations; and

(iii) Any effects of such production, supply, distribution, or use of energy on the environment:

(b) Undertake, promote, and co-ordinate investigations and research into— 35

(i) The production, supply, distribution, and use of energy; and

(ii) The total energy resources of New Zealand:

- (c) Undertake, promote, and co-ordinate forecasts of—
- (i) Demand for energy; and
 - (ii) Changes in the patterns of production, supply, distribution, and use of energy; and
 - (iii) Changes in the total energy resources of New Zealand:
- (d) Develop and maintain a co-ordinated information service on the production, supply, distribution, and use of energy:
- (e) Keep under review all policies and practices that affect—
- (i) The efficient or economical production, supply, distribution, or use of energy within New Zealand; or
 - (ii) The total energy resources of New Zealand:
- (f) Maintain close liaison with and encourage co-operation and co-ordination among any organisations and individuals (including Government departments and Government agencies) that are engaged in, concerned with, or affected by the production, supply, distribution, or use of energy in New Zealand:
- (g) Provide such administrative services as the Minister may from time to time direct.
- (3) The Ministry shall be charged with the administration of this Act and the enactments specified in the First Schedule to this Act.
- (4) The Ministry shall have such other functions as may from time to time be lawfully conferred on it.

5. Powers of Minister—The Minister may, for the purpose of enabling the Ministry to carry out its functions, give to the Commissioner such directions as he thinks fit.

6. Commissioner of Energy Resources—(1) There shall from time to time be appointed under the State Services Act 1962 a Commissioner of Energy Resources, who shall be the administrative head of the Ministry.

(2) On the occurrence from any cause of a vacancy in the office of Commissioner (whether by reason of death, resignation, or otherwise), and in the case of absence of the Commissioner (from whatever cause arising), and from time to time while such vacancy or absence continues, all or any of

the powers and duties of the Commissioner or pertaining to his position may be exercised and performed by any other officer of the Public Service who is for the time being directed by the State Services Commission to exercise and perform them, whether the direction has been given before the vacancy or absence occurs or while it continues. 5

(3) No direction given by the State Services Commission under subsection (2) of this section and no acts done by an officer acting pursuant to any such direction shall in any proceedings be questioned on the ground that the occasion for the direction had not arisen or had ceased, or on the ground that such officer had not been appointed to the office of Commissioner. 10

7. Assistant Commissioners of Energy Resources—There may from time to time be appointed under the State Services Act 1962 one or more Assistant Commissioners of Energy Resources as may be necessary for the effective and efficient carrying out of the functions of the Ministry. 15

8. Other officers and employees of Ministry—There may from time to time be appointed under the State Services Act 1962 such other officers and employees of the Ministry as may be necessary for the effective and efficient carrying out of the functions of the Ministry. 20

9. Delegation of powers by Minister—(1) The Minister may from time to time, either generally or particularly, delegate to the Commissioner all or any of the powers conferred on him as Minister by any enactment, including powers delegated to him under any enactment, but not including the power to delegate under this section or the power to consent to a delegation under section 10 of this Act. 25 30

(2) Subject to any general or special directions given or conditions attached by the Minister, the Commissioner may exercise any powers delegated to him under this section 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. 35

(3) Until any such delegation is revoked, it shall continue in force according to its tenor; and in the event of the Minister by whom any such delegation has been made ceasing to hold office, it shall continue to have effect as if made by the person for the time being holding office as Minister. 40

(4) In the event of the Commissioner to whom any such delegation has been made ceasing to hold office, it shall continue to have effect as if made to the person who is for the time being Commissioner.

5 (5) Where the Commissioner or any other person purports to act pursuant to any delegation under this section, he shall be presumed to be acting in accordance with the terms of the delegation in the absence of proof to the contrary.

10 (6) Every such delegation shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Minister.

10. Delegation of powers by Commissioner—(1) The Commissioner may from time to time, either generally or particularly, delegate to such officer or officers or employee or
15 employees of the Ministry as he thinks fit all or any of the powers exercisable by him under any enactment, including any powers delegated to him under any enactment but not including this power of delegation:

20 Provided that the Commissioner shall not delegate any power delegated to him by the Minister without the written consent of the Minister, or any power delegated to him under the State Services Act 1962 without the written consent of the State Services Commission.

25 (2) Subject to any general or special directions given or conditions attached by the Commissioner, the officer or employee to whom any powers are delegated under this section may exercise those powers 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.

30 (3) 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.

35 (4) Any delegation under this section may be made to a specified officer or employee or to officers or employees of a specified class, or may be made to the holder or holders for the time being of a specified office or appointment or class of offices or appointments.

40 (5) Any delegation under this section shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Commissioner.

(6) Any such delegation shall, until revoked, continue in force according to its tenor, notwithstanding that the Commissioner by whom it was made may have ceased to hold office, and shall continue to have effect as if made by the successor in office of that Commissioner.

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11. Committees—(1) The Minister may from time to time appoint such committees as he thinks fit to advise or otherwise assist the Minister or the Commissioner on such matters relating to energy or energy resources as the Minister may specify.

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(2) Every member of a committee shall hold office at the pleasure of the Minister.

(3) Subject to any directions given to it by the Minister, every committee may regulate its own procedure.

(4) Every committee is hereby declared to be a statutory Board within the meaning of the Fees and Travelling Allowances Act 1951.

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(5) There may, if the Minister so directs, be paid to any member of a committee, out of money appropriated by Parliament for the purpose,—

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(a) Remuneration by way of fees, salary, or allowances in accordance with the Fees and Travelling Allowances Act 1951; and

(b) Travelling allowances and travelling expenses in accordance with the Fees and Travelling Allowances Act 1951 in respect of time spent travelling in the service of such committee.

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(6) The Fees and Travelling Allowances Act 1951 shall apply accordingly.

(7) No person shall, by reason only that he is a member of a committee, be deemed to be employed in the service of Her Majesty for the purposes of the State Services Act 1962 or the Superannuation Act 1956.

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12. Annual report—(1) The Commissioner shall as soon as practicable after the end of each financial year furnish to the Minister a report on the operations of the Ministry for that year.

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(2) A copy of the report shall be laid before Parliament within 28 days after it has been furnished to the Minister if Parliament is then in session, and, if not, shall be laid before Parliament within 28 days after the commencement of the next ensuing session.

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13. Consequential amendments—The enactments specified in the Second Schedule to this Act are hereby amended in the manner indicated in that Schedule.

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SCHEDULES

FIRST SCHEDULE

Section 4 (3)

ACTS ADMINISTERED BY THE MINISTRY OF ENERGY RESOURCES

1908, No. 69—The Gas Supply Act 1908.
1958, No. 43—The Gas Industry Act 1958.

SECOND SCHEDULE

Section 13

ENACTMENTS AMENDED

Enactment	Amendment
1958, No. 43—The Gas Industry Act 1958	By repealing the definition of the term "Minister" in section 2, and substituting the following definition: "Minister" means the Minister of Energy Resources." By repealing paragraph (c) of subsection (2) of section 3, and substituting the following paragraph: "(c) One person, who shall be an officer of the Ministry of Energy Resources:"
1962, No. 10—The Parliamentary Commissioner (Ombudsman) Act 1962	By inserting in Part I of the Schedule, after the reference to the Ministry of Defence (as inserted by section 26 (1) of the Defence Act 1964), the words "The Ministry of Energy Resources."
1962, No. 132—The State Services Act 1962	By inserting in the Second Schedule, after the reference to the Mines Department, the words "Ministry of Energy Resources." By inserting in the Third Schedule, after the reference to the Electricity Department, the words— "Energy Resources Commissioner. Assistant Commissioner."
1968, No. 125—The Electricity Act 1968	By omitting from the First Schedule the item "1958, No. 43—The Gas Industry Act 1958."