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## WAIKATO ELECTRICITY AUTHORITY

[LOCAL]

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incl. GST \$1.90

No. 69—1

## A BILL INTITULED

**An Act to make provision for the amalgamation of the Central Waikato Electric Power Board and the Electricity Division of the Hamilton City Council, for the organisation of electricity distribution in the power supply areas of those organisations and elsewhere, for the construction or purchase of works for the generation, transmission, supply, and sale of electrical power, for the holding of shares in a limited liability company, and for matters related thereto**

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

**1. Short Title**—This Act may be cited as the Waikato Electricity Authority Act 1988.

## PART I

## CONSTITUTION OF AUTHORITY

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

“Authority” means the Waikato Electricity Authority constituted under this Act or any successor in law of the Waikato Electricity Authority:

“Audit Office” has the meaning assigned to it in section 14 of the Public Finance Act 1977:

“Board” means the Central Waikato Electric Power Board:

“Council” means the Hamilton City Council:

“Constituent territorial authorities” means the Councils of Waikato, Waipa, and Raglan Counties, Huntly and Ngaruawahia Boroughs, and Hamilton City:

“Elector” means any person entitled under any law for the time being in force to vote at an election or poll, as the case may be, held under this Act or under the Local Elections and Polls Act 1976:

“Electric power board” means a Board as defined by section 2 of the Electric Power Boards Act 1925:

“Electricity company” means any company incorporated under the Companies Act 1955 which—

(a) Is licensed under Part III of the Electricity Act 1968, or is otherwise authorised to supply electricity; and

(b) In which not less than 51 percent of the equity share capital of the company is or will be owned by the Authority:

- “Joint Committee” means the committee comprising all the members of the Board and all the members of the Energy Services Standing Committee of the Council immediately before the commencement of this Act:
- 5 “Minister” means the Minister of Energy:
- “Public notice” means a notice published in a newspaper circulating generally in the district or districts of the territorial authority or territorial authorities to which the subject-matter of the notice relates:
- 10 “Territorial authority” shall have the same meaning as in the Local Government Act 1974:
- “Undertaking” means the light, power, and heat undertaking as described in the Hamilton City Gasworks and Electricity Empowering Act 1952; but
- 15 does not include the assets of the Council relating to its gas undertaking.

**3. District of Authority**—For the purposes of this Act the district of the Authority shall be those of the combined supply districts of the Council and the Board, and the supply area of

20 any other territorial authority or electric power board which transfers its assets relating to the generation, transmission, supply, and sale of electrical power to the Authority or to any electricity company.

**4. Constitution of Waikato Electricity Authority**—

25 (1) For the purposes of giving effect to the provisions of this Act there is hereby constituted an authority to be known as the Waikato Electricity Authority.

(2) The Waikato Electricity Authority shall be a body corporate having, subject to the provisions of this Act,

30 perpetual succession and a common seal with power to purchase, take, hold, and transfer property, real and personal, to sue and be sued in any Court, and to do and suffer all other acts and things which a body corporate may lawfully do and suffer.

35 (3) This Act shall come into force for administrative purposes on the 1st day of November 1988, and the Authority shall be constituted on the 1st day of April 1989.

(4) The Authority shall be deemed to be—

40 (a) A local authority under the Public Works Act 1981, the Local Authorities (Members Interests) Act 1968, and the Local Government Official Information and Meetings Act 1987:

- (b) A public body under the Public Bodies Contracts Act 1957.

**5. Members of Authority**—(1) The Authority shall have 8 members comprising—

- (a) Five members to be appointed by the Hamilton City Council, or elected by the electors within the Hamilton City Council district: 5
- (b) One member to be appointed by the Waikato County Council, 1 member appointed by the Waipa County Council and the Ngaruawahia Borough Council jointly, and 1 member appointed by the Raglan County Council and the Huntly Borough Council jointly, or those members shall be elected by the electors within the districts of those territorial authorities: 15

Provided that the Authority may from time to time, by resolution, alter the provisions of this paragraph so that the Authority may decide which territorial authorities or other bodies shall appoint the 3 members referred to, or within which districts the electors shall elect such members to represent the electors within the district of the Authority outside the area of the Hamilton City Council. 20

(2) The first members of the Authority shall be the Joint Committee who shall hold office as members until the 1989 triennial local body elections or until they otherwise vacate their office. 25

(3) The members of the Authority to take office following the 1989 triennial local body elections shall be elected in the districts set out in subsection (1) of this section, and thereafter shall be appointed or elected in accordance with the provisions of this section. 30

(4) The territorial authorities of—

- (a) The Hamilton City Council; and
- (b) The Waikato County Council; and 35
- (c) The Waipa County Council and the Raglan County Council; and
- (d) The Ngaruawahia Borough Council and the Huntly Borough Council—

shall separately determine triennially whether the members shall be appointed by the respective territorial authorities or be elected by the electors within those districts. 40

(5) In making the decision under subsection (4) of this section, each territorial authority shall first call for submissions from the public by public notice.

5 (6) Each territorial authority shall decide whether it will appoint or have elected the member or members for its district in time to comply with all relevant statutory requirements to enable those members (who are to be elected) to be elected at the triennial elections of territorial authorities.

10 (7) In making any appointment under the provisions of this Act, any territorial authority or body making such appointment shall not be restricted to appointing—

(a) A person who is a member of that territorial authority or body; or

15 (b) A person who resides within the district of that territorial authority or body.

(8) Where a member is to be appointed by 2 territorial authorities, or elected by electors within those 2 districts, and the 2 relevant territorial authorities cannot determine whether that member shall be elected or appointed, then that member  
20 shall be elected by the electors within those districts.

(9) The Local Elections and Polls Act 1976 shall, subject to the provisions of this Act, apply to any election of any member or members under this Act.

25 (10) In any district or districts where the territorial authority or territorial authorities decide to appoint a member or members to the Authority, the Local Elections and Polls Act 1976 shall not apply.

(11) Each territorial authority which has decided to appoint a member or members to the Authority shall meet and appoint  
30 such member or members within 21 days after the triennial local body elections. Where a member is to be appointed by 2 territorial authorities, and those territorial authorities cannot agree upon the persons to be appointed, on the first occasion of such disagreement then the appointment shall be made by the  
35 territorial authority having the greatest number of electors on its electoral roll; in the event of subsequent occasions where such territorial authorities fail to agree upon the appointment of a member, then the appointment of such member shall be by rotation between those territorial authorities. No  
40 appointment of any member shall be invalid because the appointment is made outside the prescribed time-limit of 21 days.

(12) In the event that a member is unable to be elected for any reason whatsoever, then the appropriate territorial  
45 authorities shall have the right to appoint such member.

(13) Every member of the Authority appointed under this section shall come into office on the day following that on which that member is appointed and shall continue in office until a new appointment is made following the next triennial local body elections or at any time by resolution of the constituent territorial authority or authorities which made the appointment or until the office of that member is vacated. 5

(14) Every member of the Authority who is elected shall remain in office until the next triennial local body elections or until that member resigns or until the office of that member is vacated. 10

(15) Every member appointed to fill any extraordinary vacancy shall come into office on the day following such appointment and shall hold office only for the residue of the term for which the predecessor of that member was appointed. 15

(16) The Chairman and Deputy Chairman shall be elected at the first meeting of the Authority and each 12 months thereafter.

(17) The Chairman may resign that office in writing signed in his or her own hand delivered to the Secretary in which case or in case the Chairman ceases from any cause to be a member of the Authority then the office of Chairman shall become vacant and the Secretary shall forthwith convene a meeting of the Authority for the election of a new Chairman. 20

(18) When a member vacates office on the Authority for any reason, the constituent Council or combined Councils, as the case may be, shall forthwith either appoint in his or her place another member or may call for an election to replace such member. If the vacancy occurs within 6 months before the date fixed for the next triennial local body elections, the Authority may resolve that the vacancy shall not be filled until the next triennial election. 25 30

**6. Meetings**—(1) The Authority shall hold meetings at such times and places as it from time to time appoints.

(2) The Chairman or the Secretary of the Authority shall give notice in writing to each of the members of the time and place appointed to hold each ordinary meeting and the members shall attend such meetings without further notice. 35

(3) The Chairman shall preside as Chairman of every meeting of the Authority, committee, or subcommittee at which he or she is present or in his or her absence the Deputy Chairman shall be Chairman. 40

(4) If neither the Chairman or Deputy Chairman is present at such meetings the members of the Authority, committee, or

subcommittee present shall elect one of their number to preside at that meeting and he or she shall have and may exercise at that meeting all the functions of the Chairman.

**7. Quorum of Authority, committees, and subcommittees and voting at meetings**—(1) A quorum of the Authority shall consist of such number of members as the Authority from time to time determines. Unless and until a quorum is so determined it shall consist of one half of the members if the number of members is even and the majority of the members if the number is odd.

(2) The Authority may fix a quorum of any committee appointed by it and in default of it so doing the committee may fix the quorum.

(3) A meeting shall be duly constituted if a quorum is present, whether voting or not.

(4) No business shall be transacted at any meeting of the Authority or of any committee unless a quorum of members is present during the whole of the time during which the business is transacted.

(5) The Chairman or other person presiding at any meeting of the Authority or of any committee shall have a deliberative vote and, in the case of equality of votes, shall also have a casting vote.

(6) Every question coming before the Authority or the committee shall be decided by open voting:

Provided that the election of Chairman and Deputy Chairman shall take place in such manner as the Authority thinks fit.

**8. Committees**—(1) The Authority may from time to time appoint standing or special committees consisting of 2 or more of its members, and may refer to any such committee any matters for consideration or enquiry or management or regulation, and may delegate to any such committee any of the powers and duties conferred or imposed upon the Authority by this Act except the power to borrow money or to make a bylaw.

(2) The Authority may at any time and from time to time discharge, alter, continue, or reconstitute any committee, or discharge any member of the committee and appoint another member instead.

(3) Every committee shall, unless discharged by the Authority, be deemed to be discharged on the coming into office of the members elected at or appointed following the

triennial local body election next following the appointment of the committee.

(4) Every such committee shall be subject in all things to the control of the Authority and shall carry out all directions, general or special, of the Authority given in relation to such committee or its affairs. 5

(5) In this section the term "committee" includes a subcommittee.

**9. Qualification of electors and members, and vacancies**—(1) Every person who is registered as a parliamentary elector under the Electoral Act 1956 shall be qualified to be an elector of a district (being one of those districts of a territorial authority mentioned in section 5 (1) (a) and (b) of this Act) if the address in respect of which that person is registered as a parliamentary elector is within that district. 10 15

(2) The following persons shall not be capable of being elected or appointed as a member of the Authority:

(a) Any person who is disqualified from election or appointment by section 112 of the Local Elections and Polls Act 1976: 20

(b) Any person who is convicted of any offence punishable by death or imprisonment for a term of 2 years or more, unless that person has obtained a pardon, or has served the sentence or otherwise suffered the penalty imposed: 25

(c) Any person who is detained in a hospital under the Mental Health Act 1969.

(3) The office of a member shall become vacant if the member—

(a) Dies; or 30

(b) Resigns the office by writing under the member's hand delivered to the Secretary of the Authority; or

(c) Is detained in a hospital under the Mental Health Act 1969; or

(d) Is absent without leave from 4 consecutive ordinary meetings of the Authority; or 35

(e) Is adjudged bankrupt; or

(f) Is convicted of any offence punishable by death or imprisonment for a term of 2 years or more.

(4) In any case to which subsection 3 (f) of this section applies— 40

(a) The disqualification shall not take effect until the expiration of the time for appealing against conviction and, in the event of an appeal against conviction, until the appeal is determined; and



(b) The member concerned shall be deemed to have been granted leave of absence until the expiration of that time, and shall not be capable of acting as a member during the period of that leave of absence.

5 (5) If any person does any act as a member after the person's office has become vacant under this section (other than under subsection 3 (c) of this section) or while on leave of absence under subsection (4) of this section, the person commits an offence and shall be liable on summary conviction to a fine not exceeding  
10 \$100.

**10. Rules of procedure**—The Authority may, subject to the provisions of this Act, make bylaws or pass resolutions—

- 15 (a) Regulating proceedings of the Authority and of committees and subcommittees, and the conduct of meetings:
- (b) Prescribing the time and manner of holding meetings, and regulating the business which may be transacted:
- (c) Directing notices of meeting to be given and prescribing the form, mode, and time of service thereof:
- 20 (d) Regulating debates:
- (e) Prescribing the manner and conditions of altering resolutions:
- (f) Providing for the custody of documents and regulating the custody and use, and the mode and form of  
25 attestation of, the common seal:
- (g) Prescribing the duties of officers and employees:
- (h) Prescribing the form and manner of keeping and authenticating minutes:
- 30 (i) Prescribing forms of and in connection with any proceedings:
- (j) Providing for anything incidental to any of the above matters.

**11. Officers**—(1) The Authority may from time to time  
35 appoint a Secretary and such other persons to be members of its staff as it thinks necessary to assist in the performance of its functions and the exercise of its powers and, subject to any other Act, may pay such persons such salaries or wages and such allowances (including allowances and travelling expenses whilst travelling on the business of the Authority) and in respect  
40 of their attendance at any conference or meeting or any course of study or training that in the opinion of the Authority will render them better fitted to carry out their duties, out of the current funds of the Authority as it thinks fit.

(2) One person may hold 2 or more of such offices.

**12. Salaried staff positions**—All salaried staff positions created by the Authority and all vacancies in those staff positions occurring under the Authority may be publicly advertised and shall be notified among the staff. 5

**13. Remuneration of Chairman, Deputy Chairman, and members**—(1) The Authority is hereby declared to be a statutory Board within the meaning of the Fees and Travelling Allowances Act 1951.

(2) Members of the Authority shall be entitled to receive such remuneration, travelling allowances, or monthly allowances as the Authority may from time to time fix subject to the approval of the Minister of Finance. 10

**14. General powers**—(1) The Authority shall have the general powers to undertake, organise, and operate electricity distribution and sale of electrical power in the district upon such terms and conditions as it considers appropriate. 15

(2) Except as expressly otherwise provided for or varied in this Act, the Authority shall have all the powers and functions of— 20

- (a) A Board constituted under the Electric Power Boards Act 1925; and
- (b) An Electrical Supply Authority licensed under the Electricity Act 1968; and
- (c) A territorial authority pursuant to Part XXX of the Local Government Act 1974: 25

Provided that an electricity company may, within the district of the Authority, carry out the function of the construction, purchase, and operation of works for the generation, transmission, and supply of electric power. 30

(3) All the powers and functions referred to in subsection 2 (b) of this section shall be in addition to and not in substitution for any powers and functions conferred on the Authority by this Act:

Provided that where any conflict occurs between the provisions of this Act and the provisions of the other Acts referred to in this section, the provisions of this Act shall prevail. 35

(4) The Authority shall have power on such terms as it thinks fit to subscribe for, purchase, acquire, hold, sell, transfer, or dispose of shares (whether ordinary, specified preference, bonus, or having any special or reduced rights or privileges), 40

stocks, or interests in any electricity company (whether established before or after the commencement of this Act) which carries on the business of the generation, transmission, supply, and sale of electric power; and the Authority shall  
5 further have power to appoint directors to any such company and to exercise all of the rights, powers, and privileges of a shareholder in any such company.

(5) Notwithstanding subsection (4) of this section, the Authority shall not sell, transfer, or dispose of any shares, stocks, or  
10 interests held in any electricity company unless it has first given public notice of the time and place of the meeting at which a resolution of the proposed sale, transfer, or disposition is to be submitted to the Authority and of the purport of the resolution, which notice shall be given not less than 21 clear days before  
15 the date of the meeting.

(6) Where, pursuant to the subsection (5) of this section, the Authority has given public notice of its intention to pass a resolution to sell, transfer, or dispose of shares, stocks, or  
20 interests in any electricity company, a poll of electors within the districts of the constituent territorial authorities shall be taken on that proposed resolution if not less than 15 percent of the electors of the districts of the constituent territorial authorities, by writing under their hands, give notice delivered or sent by post to the Secretary of the Authority and received  
25 at the office of the Authority not later than 1 day before the day fixed for the proposed resolution to be put to the Authority, demand that a poll be taken on the proposal.

(7) Upon receipt of a valid demand for a poll made and delivered to the Secretary of the Authority—

30 (a) The Authority shall take no further action in regard to the proposal to sell, transfer, or dispose of any of the shares, stocks, or interests; and

(b) The Secretary to the Authority shall cause an electors' list to be made not less than 21 days before the day on  
35 which the poll is to be held.

(8) The day on which a poll is to be taken shall be a day fixed by the Secretary of the Authority, being not less than 35 nor more than 42 clear days after the notice of receipt by the Secretary of the Authority of the demand for a poll:

40 Provided that where the demand for the poll is received by the Secretary of the Authority on any day between the 8th day of November and the 27th day of December in any year, the day to be so fixed shall be a day not less than 35 nor more than 42 clear days after the 27th day of December.

(9) On the day appointed a poll shall be taken in the manner provided by the Local Elections and Polls Act 1976 for the taking of polls other than elections, and every elector in the constituent territorial authorities shall be entitled to vote accordingly. 5

(10) If the majority of valid votes recorded at the poll is in favour of the resolution to sell, transfer, or otherwise dispose of the shares, stocks, or interests as aforesaid, then, but not otherwise, the proposal shall be deemed to be carried and the Authority may proceed with the proposal accordingly; but if 10 the proposal is not carried the Authority shall not so proceed.

(11) The Authority may by resolution from time to time transfer, sell, lend, lease, or otherwise make available any of its assets, including any licence to supply electricity granted under the Electricity Act 1968, on such terms as it thinks fit to any 15 electricity company.

(12) The Authority may from time to time advance money on loan, either secured or unsecured, and on such terms as it thinks fit to any electricity company.

(13) The Authority may from time to time guarantee the 20 payment of all principal and interest and the performance of all obligations by any electricity company in respect of loans made from time to time by any person or company to any electricity company.

(14) The Authority may from time to time enter into and 25 execute agreements, contracts, deeds, and other instruments for the purposes of this section, and do all other things that are reasonably necessary for those purposes.

**15. Bylaws**—The Authority may from time to time make such bylaws as it thinks fit for the purposes of the more 30 effectual carrying out of any of the objects of this Act for regulating or controlling any of the subject matters thereof or for any purpose for which the Authority is by virtue of the provisions of any other Act, authorised to make bylaws.

**16. Form of making bylaws**—(1) Bylaws of the Authority 35 shall be made only in the following manner and subject to the following conditions:

- (a) They shall be made only by special order:
- (b) They may provide a penalty for every breach thereof to an amount fixed by the bylaw, or, if the bylaw so 40 authorises, fixed from time to time by resolution of the Authority:

- (c) They may be amended before the confirmation of the special order making the same:
- (d) They shall have the common seal of the Authority attached thereto:
- 5 (e) They shall come into force on the date to be fixed at the meeting aforesaid, which day shall not be earlier than 7 clear days after the date of the meeting:
- (f) Any bylaw made by the Authority shall override any  
10 bylaws on the same subject made by any local authority.
- (2) Any bylaw may in like manner be altered or revoked.

**17. Tariffs**—Notwithstanding the provisions of regulation 30 of the Electrical Supply Regulations 1984, the Authority and  
15 any electricity company is empowered to apply differential tariffs for an introductory period to be determined by the Authority, such period not to exceed 5 years.

**18. Authority to take over assets**—(1) The Authority shall, on the 1st day of April 1989, take over as a going concern the  
20 undertaking, assets, and liabilities of the Board and all land, buildings, plant, and other assets vested in or controlled by the Board, subject to all charges, encumbrances, estates, and interests affecting the same, and with the benefit and subject to the burden of all contracts, easements, and obligations of the Board.

25 (2) As from the 1st day of April 1989 the said undertaking and all land, easements, and other interests in land shall be vested absolutely in the Authority; and on the production of a statutory declaration by the Secretary of the Authority that any land of the Board is to become vested in the Authority,  
30 together with such plans and documents as the appropriate District Land Registrar may require, entries of the title of the Authority shall be made by the appropriate District Land Registrar on the relevant certificates of title.

35 (3) All debentures and other securities issued or executed by the Board shall be deemed to have been initiated or executed by the Authority under the provisions of this Act which shall, with the necessary modifications and subject to the express provisions thereof, apply to those debentures and securities as  
40 if they had been issued or executed by the Authority under this Act.

(4) As from the 1st day of April 1989 the Board and the electricity activity of the undertaking shall cease to exist and the Authority shall be entitled to exercise all powers,

authorities, and discretions vested in the Board or the electricity activity of the undertaking, and the Authority and any electricity company shall be entitled to the use and benefit of any easements in favour of the Council and any local purpose reserves (for electricity purposes) vested in the Council. 5

(5) All licences under the Electricity Act 1968 held by the Council and the Board shall be assigned or re-issued to the Authority to be effective from the 1st day of April 1989.

(6) Notwithstanding the provisions of any other Act, the Board shall be empowered to transfer or dispose of its electric works to the Authority without payment. 10

(7) Notwithstanding the provisions of the Hamilton City Gasworks and Electricity Empowering Act 1952, the Authority shall, on the 1st day of April 1989, take over as a going concern the fixed assets of the electricity activity of the Council's light, power, and heat undertaking and those current assets and liabilities as agreed between the Authority and the Council. 15

(8) The Authority may, not later than the 1st day of April 1989, take over all or any of the motor vehicles in use by the said electricity activity of the undertaking on the 1st day of November 1988. 20

(9) Upon the assets being taken over they shall become vested in the Authority, which shall be entitled to exercise all powers, authorities, and discretions vested in the said electricity activity of the undertaking. 25

(10) Notwithstanding the provisions of any other Act, the Council shall be empowered to transfer or dispose of its electricity activity to the Authority in accordance with the provisions of this Act.

(11) The provisions of the Public Works Act 1981 and the Local Authorities Loans Act 1956 shall not apply to any transfer of land or assets by the Board and the Council to the Authority, or by the Authority to an electricity company. 30

**19. Compensation**—(1) The Council shall be paid compensation by the Authority of \$2,400,000 on the 1st day of April 1989 for— 35

- (a) Computer facilities; and
- (b) Vehicles; and
- (c) Occupation of the administration building; and
- (d) Land and buildings; and 40
- (e) Furniture and fittings.

(2) In addition to the payment of \$2,400,000, the Authority shall pay to the Council all goods and services tax which is payable by the Council in respect of the supply of those items.

(3) The Authority shall have the right to have the Council provide for a term of 1 year—

- (a) Computer facilities; and
- 5 (b) The 3rd floor of the administration building of the Council in Garden Place, Hamilton; and
- (c) The property of the Council at Hillsborough Terrace, Hamilton; and
- (d) The property of the Council at Clarence Street, Hamilton.

**20. Appropriation of funds**—The Authority shall have no power (except as is provided by **section 19** of this Act) to distribute or appropriate funds or profits from its undertaking or from its shareholding in any company to its constituent territorial authorities for the general purposes of those authorities, but may otherwise distribute its funds or profits pursuant to a resolution of the Authority to its constituent territorial authorities for specific projects of a regional or community nature.

**21. Special orders**—Every special order made under this Act may be made and approved in the same way *mutatis mutandis* as a special order of a territorial authority is required to be made and approved under the Local Government Act 1974.

**22. Banking and investment of money**—(1) All money belonging to the Authority shall, within 3 days after it has come into the hands of the Treasurer, be paid into an account or accounts of the Authority at such bank or banks as the Authority from time to time appoints.

(2) All money shall be paid by the Authority in cash, or by cheque signed by the Treasurer or the Acting Treasurer, or any other officer of the Authority whom the Authority, by resolution, from time to time appoints for the purpose of signing cheques, and countersigned in each case by any member of the Authority whom the Authority from time to time authorises to sign cheques:

35 Provided that it shall be lawful for any money to be paid by the Authority by cheque signed as aforesaid and countersigned by any officer of the Authority whom the Authority, by resolution, from time to time appoints for that purpose.

(3) Every payment of money by the Authority shall be authorised by a prior resolution of the Authority or of a committee thereof to which the power to authorise any payment has been delegated, or shall be submitted to the

Authority or such committee for authorisation at the next ordinary meeting of the Authority or committee, as the case may be.

(4) The Authority may, in any case where it is deemed advisable that any sum of money at credit of any account should be placed on deposit at interest, deposit that sum of money with any bank approved by the Authority or otherwise invest that sum of money in such manner as the Authority in its sole discretion thinks fit.

(5) Notwithstanding anything in **subsection (2)** of this section, it shall be lawful, with the prior consent in writing of the Audit Office and subject to such conditions as the Audit Office prescribes, for any money to be paid by the Authority by cheque bearing a facsimile of the signature of the Treasurer, or of the signatures of the Treasurer or Acting Treasurer, and of any person authorised pursuant to the provisions of this section to countersign cheques, and every cheque bearing such a facsimile shall be deemed to have been duly signed and countersigned in accordance with the provisions of this section.

**23. Reserve for replacement and renewals**—(1) The Authority may from time to time set aside out of its general revenue any money to form a fund or funds for the purpose of replacing or renewing its plant, machinery, and other depreciable assets of a similar nature, or any part or parts thereof, which may from time to time become obsolete or incapable from any other cause of further usefulness in connection with the Authority's undertaking.

(2) The Authority shall pay all money so set aside into a separate bank account or accounts and may invest any part of it in such manner as the Authority in its sole discretion thinks fit.

**24. Superannuation and other benefits for employees**—(1) The Authority shall be deemed to be a local authority for the purposes of the National Provident Fund Act 1950 and section 6 of the Finance Act (No. 2) 1941:

Provided that the Authority shall be under no obligation to provide for superannuation of employees in accordance with the National Provident Fund Act 1950.

(2) The Authority may from time to time pay by way of subsidy such sums as it thinks fit to the funds of any sickness, death, or funeral benefit society, or other like institutions established by its employees or any section of them for the benefit of its employees.



**25. Borrowing powers**—(1) In addition to any other borrowing powers the Authority may from time to time borrow, by way of special loan, such sums as are necessary for the carrying out of the purposes of this Act, such loans to be  
5 raised under the Local Authorities Loans Act 1956.

(2) A copy of the special order of the Authority authorising the raising of a special loan shall be published in the *Gazette* and also 3 times in a daily newspaper or newspapers circulating in the district, and shall be conclusive evidence that all  
10 proceedings or things under this Act in relation thereto and in the making of such special order have been lawfully taken and done.

(3) The provisions of section 4 of the Trustee Act 1956 shall both in respect of trusts heretofore and hereafter created apply  
15 to all bonds, debentures, and other securities issued by the Authority in forming a whole or any portion of any loan which may be raised by the Authority under the authority of this or any other Act.

**26. Security for loans**—Every loan raised or deemed to  
20 have been raised by the Authority may be secured by the Authority pledging as security therefor, subject to the provisions of the Local Authorities Loans Act 1956, all revenues received or receivable by the Authority in respect of the undertaking, service, or activity in respect of which the loan  
25 was raised or deemed to have been raised which the Authority may legally purchase as security.

**27. Roll of electors for polls**—(1) For the purpose of any poll of electors to be taken by the Authority, the rolls of the electors of the constituent territorial authorities taken together,  
30 or so much of those rolls as relates within the district of the Authority or any defined portion of that district, as the case may be, shall be deemed to be the roll of the electors of the district or such defined portion.

(2) It shall be the duty of the Clerk or principal officer of the  
35 constituent territorial authorities, whenever requested so to do by the Authority, to supply to the Authority a certified roll of the electors of such territorial authority or of any defined portion thereof, together with as many copies thereof as the Authority may require.

40 **28. Voting on proposal to borrow money or sell shares**—At any poll taken on a proposal of the Authority to borrow money, or to sell, transfer, or dispose of shares in an

electricity company, only those persons whose names appear on the roll of electors shall be entitled to vote, and every such elector shall have 1 vote only.

**29. Estimated expenditure and income of Authority—**

(1) The Authority shall, during the month of April in every year or as soon thereafter as is practicable, make an estimate showing the estimated income and expenditure of the Authority for the ensuing financial year. 5

(2) In this section, the term “expenditure” includes any deficiency in the revenues of the Authority during the preceding or any former financial year, but does not include capital expenditure; and the term “income” includes money in the hands of the Board at the commencement of the financial year but does not include capital money borrowed under the authority of this Act. 10 15

**30. Books of account—**(1) The Authority shall cause books to be provided and keep a true and accurate account to be entered therein of sums of money received and paid under the authority of this Act for the several purposes for which sums of money have been received and paid. 20

(2) Such books shall at all reasonable times be open to the inspection of any member of the Authority or of any constituent Council who may take copies of or extracts of the same.

(3) The Audit Office shall be the auditor of the Authority and shall have the same duties and powers in respect of moneys and accounts of the Authority and of every person dealing therewith as if the Authority were a local authority within the meaning of the Public Finance Act 1977. 25

(4) Subject to the Electric Power Boards Accounting Regulations 1977, the Authority shall keep such accounts and in such manner as may be prescribed by the Audit Office. The Authority shall be deemed not to be an electric power board for the purposes of the Electric Power Boards Accounting Regulations 1977 if the function of the supply of electricity in its district is carried on by an electricity company. 30 35

**31. Transition period—**For the period from the date of commencement of this Act to the date on which the Authority is constituted—

(a) The Joint Committee shall be empowered to take such steps and appoint such officers as are considered 40

necessary or appropriate to enable the Authority to commence operations when constituted.

(b) Any costs incurred during that period shall be shared by the Board and the Council in the ratio of 3 to 1.

5     **32. Alteration of area**—(1) The Authority and any electricity company may enter into agreements with any electric power board, territorial authority, or public body whereby the assets of such electric power board, territorial authority, or public body relating to the generation,  
10 transmission, distribution, supply, and sale of electric power, shall become the property of the Authority or of an electricity company and the district of the Authority enlarged thereby.

(2) The Authority and any electricity company may enter into such agreements for joint venture, merger, or other  
15 matters the Authority or an electricity company may consider desirable with any body, company, or person.

**33. Savings**—Without limiting the provisions of the Acts Interpretation Act 1924, it is hereby declared that no provision in this Act shall affect any document made or anything  
20 whatsoever done by the Board or the Council under any empowering legislation of either of those bodies; and every such document or thing so far as it is subsisting or in force on the 1st day of April 1989 shall continue and have effect as if had been made or done under this Act notwithstanding that  
25 there may be no corresponding provision under this Act.

**34. Application of Commerce Act 1986**—This Act shall take effect notwithstanding the provisions of the Commerce Act 1986, and it is hereby declared that (notwithstanding the provisions of the Commerce Act 1986) no offence shall have  
30 been committed by the carrying into effect of the provisions of this Act.

## PART II

### POWERS OF ELECTRICITY COMPANY

**35. Interpretation**—In this Part of this Act, unless the  
35 context otherwise requires,—

“Electricity company” means any company incorporated under the Companies Act 1955 which—

(a) Is licensed under Part III of the Electricity Act 1968, or is otherwise authorised, to supply electricity;  
40 and

(b) In which not less than 51 percent of the equity share capital of the company is or will be owned by the Authority:

“Principal executive officer” means the principal executive officer of an electricity company: 5

“Outer area” means any area or areas beyond the limits of the district of the Authority or an Electricity Authority within which area or areas the electricity company is authorised to supply electric power to consumers. 10

**35. Power to enter land to make surveys**—(1) Any surveyor or engineer or other officer appointed by an electricity company may from time to time enter upon any land within the electric power district of the electricity company or outer area, with such assistants as he thinks fit, for the purpose of making any survey or inspection for the proposed works and undertakings of the electricity company; and may fix or set up thereon survey pegs, marks, or poles, and dig or bore into such land so as to ascertain the nature of the soil, and set up the lines of any works thereon. 15 20

(2) In all cases notice shall be given to the owner or the occupier of the land to be entered upon before such entry is made; and the surveyor, engineer, or other officer shall, when required to do so, produce to the owner or occupier of any land the written authority of the principal executive officer of the electricity company to make the survey. 25

(3) If any damage is done by the surveyor, engineer, or other officer in exercise of the powers hereby conferred upon him or her, the electricity company shall be liable to make good the same. 30

**37. Electricity company to be local authority under Public Works Act 1981**—(1) An electricity company may use or acquire land for the purpose of making such surveys as may be necessary, and may take and hold all land required for electric works, and may from time to time temporarily occupy and use such land as may be necessary on either side of the electric works during construction thereof, or for the purposes of the maintenance thereof. 35

(2) An electricity company shall be a local authority for all the purposes of the Public Works Act 1981; and the electric works constructed, purchased, or taken over, and all works of an electricity company carried out in the supply of electricity to consumers shall be deemed to be public works within the meaning of that Act. 40

**38. Power with respect to authorised works**—Without limiting the powers of an electricity company, but subject to the restrictions hereinafter specified, an electricity company may do the following things in respect of any electric works:

- 5 (a) Erect generating works, transmission lines, transformer stations, on, over, or under any land necessary for the construction thereof, and for that purpose construct works of every description and of every material necessary to the working thereof:
- 10 (b) All things necessary to secure water rights and to utilise water required to be used for the generation of electric power:
- (c) Purchase, either for cash or on such terms as it thinks fit, or lease on such terms as may be expedient, such coal  
15 or other fuel-bearing lands as may be necessary for the proper working of the undertaking; and do all things necessary by mining, quarrying, or otherwise to raise any fuel required for generating the electric power:
- 20 (d) Purchase electric energy in bulk from the Crown, the Electricity Corporation of New Zealand Limited, or from any local authority, company, or person authorised to sell the same:
- (e) Erect transformer stations in such places as may be  
25 necessary for the distribution of the electric energy generated or purchased by the electricity company:
- (f) Erect a transmission line or transmission lines along, on, over, or under any road or tramway or public reserve, and alter the level of any road or tramway for that  
30 purpose:
- (g) Erect a transmission line or transmission lines across any river or stream, but so as not to impede the navigation on any navigable river, except as may be provided by a special Act:
- 35 (h) Alter the course or level of any river not navigable or of any stream, water course, ditch, or drain:
- (i) Make and maintain drains or conduits on or under any land adjacent to, or for the purpose of carrying water away from, the works and undertakings of the  
40 electricity company:
- (j) Remove or alter any drain or sewer, or any pipes or other material for the supply of water or gas, belonging to any body or person within or beyond the limits of the operation of the electricity company:

- (k) Erect works and install all machinery and plant necessary for the utilisation and proper treatment of the by-products of coal or other fuel (if any) used in the generation of electric power; and employ chemists or other specialists, either permanently or temporarily, for research and advice thereon: 5
- (l) Sell or otherwise dispose of tar, gas, coke, or other by-products of coal or other fuel (if any) used in the generation of electric power:
- (m) Provide all such buildings, engines, stations, machinery, piers, wharves, roads, bridges, approaches, and other works in connection with the undertaking of the electricity company as it considers necessary: 10
- (n) Enter into contracts with local authorities, public and private companies, and others for the supply to them of electric power in bulk; and such local authorities, public and private companies, and others may distribute such power to consumers either as agents of the electricity company or on their own behalf on such terms and conditions as may be agreed upon: 15 20
- (o) Sell electric energy to any local authority or to consumers generally within the district, in bulk or otherwise, and on such terms and conditions as it thinks fit: 20
- (p) Make such arrangements as may be expedient to consumers, either individually or collectively, whose point of consumption is within the outer area, for the erection and maintenance of a transmission line or transmission lines, and supply of electric power: 25
- (q) Construct all roads, bridges, tramways, or other means of access and transit necessary for the construction and maintenance of the electric works: 30
- (r) Generally do all such acts necessary for constructing, maintaining, altering, repairing, and using the works and all the other undertakings of the electricity company. 35

**39. Electricity company and local authorities may unite in joint contracts and works**—(1) Any electricity company may unite with other electricity companies or with other electric power boards within the meaning of the Electric Power Boards Act 1925, or with other local authorities within the meaning of Part I of the Local Authorities Loans Act 1956, in the execution and maintenance of any works, or the performance of any matter or thing, deemed by all the electricity companies, boards, and local authorities concerned 40

to be of benefit to their respective districts, and being within their several powers; and may agree as to the joint control or management of anything that concerns in any way their respective districts or as to the control or management by one  
 5 or more of those electricity companies, boards, or local authorities of any such thing.

(2) For any such purpose the electricity companies, boards, and other local authorities may enter into contracts between themselves, and enter contracts between themselves or any one  
 10 or more of them on behalf of all of them on the one hand, with any other corporation or person on the other hand, and generally join in any act.

(3) Any electric power board under the Electric Power Boards Act 1925, and any local authority within the meaning of Part I  
 15 of the Local Authorities Loans Act 1956, is hereby empowered to enter into any contract with an electricity company which is of the type specified in this section.

**40. Electricity company may unite with local authorities in respect of use of plant, etc.**—(1) Any  
 20 electricity company may unite with any electric power board within the meaning of the Electric Power Boards Act 1925 or with any other local authority within the meaning of Part I of the Local Authorities Loans Act 1956, in the purchase, hire, or operation or maintenance, of plant, machinery, and equipment  
 25 on such terms and conditions as may be agreed; and for that purpose those electricity companies, boards, and local authorities may enter into contracts (being within their several powers) between themselves or one or more of them on behalf of all of them, with any other corporation or person, and  
 30 generally may join in any act.

(2) For the purposes of this section, any board under the Electric Power Boards Act 1925 or any local authority under Part I of the Local Authorities Loans Act 1956 is hereby  
 35 empowered to enter into any contract with any electricity company of a type specified in this section.

**41. Power of electricity company with respect to private land**—An electricity company may construct tunnels under any private land, or aqueducts or flumes over the same, and may erect poles thereon, and may carry wires over or  
 40 along any such land or lay cables under it, without being bound to acquire the land, with right of way by the best available route to and along all such works and erections for the electricity company's employees or agents from time to time

and at all times, with or without any suitable or available means of conveyance, and with all such tools, machinery, articles, and materials as may be necessary for the construction of such works, or for the maintenance or repairing of the same, or for the doing of anything hereby authorised; and may also deposit and store from time to time upon any land adjoining such works all such machinery and material of any kind as may be used in the construction or repairing of such works. 5

**42. Electricity company may supply electric power to consumers within an area of supply of certain licences—** 10  
Nothing in this Act shall prevent an electricity company from erecting transmission lines, transformer stations, and other works for the distribution and supply of electric power, or from supplying such power to consumers within the area of supply of any licensee under section 21 of the Electricity Act 1968. 15

**43. Alteration of roads, etc. by electricity company not to occasion undue interference—**(1) Where it is found necessary for the construction of electric works to alter any road, tramway, watercourse, sewer, or drain, or any other public work, or any water pipe or gas pipe for the supply of water or gas belonging to a private person or a company, such alterations shall be made by an electricity company in such a manner as to interfere as little as possible with the work so altered, and so as to afford to the public and to every person entitled to use the same an equal use and convenience as before such alteration. 20 25

(2) Before commencing any such alteration the electricity company shall cause a plan thereof to be prepared and submitted to the local authority under whose control the work proposed to be altered is, or to the owner of such sewer, drain, water pipe, or gas pipe, or other work, as the case may be; and if such local authority or owner objects to the proposed alteration, the electricity company shall appoint a competent engineer to confer with such local authority or owner and to agree with the local authority or the owner as to the manner in which such alteration shall be made. 30 35

(3) If no agreement can be reached between the parties the matter shall be referred to 2 Justices of the Peace, who shall make such order as they think fit, and the alteration shall be made in accordance with such order. 40

**44. Temporary use and occupation of land—**Subject to the conditions hereinafter provided, an electricity company



may temporarily occupy and use any land for the purpose of constructing or repairing its electric works, and may do the following things thereon:

- 5 (a) Take stone, gravel, earth, and other materials:
- (b) Deposit thereon any such materials:
- (c) Form and use temporary roads thereon:
- (d) Manufacture bricks or other materials thereon:
- (e) Erect workshops, sheds, and other buildings of a temporary nature thereon.

10 **45. Notice in writing to be given to occupier of intention to occupy land**—(1) The engineer, principal executive officer, or other person having charge of the electric works shall, before occupying or using any land (other than land owned by the electricity company), and except in the case  
15 of accident to the electric works requiring immediate repair, give to the owner or occupier thereof not less than 21 days' notice in writing, and shall state in such notice the use proposed to be made of such land.

(2) The said owner or occupier may, within 10 days after  
20 receiving such notice, and after giving notice to the said engineer or other person of his intention so to do, apply to any District Court Judge, who may thereupon summon such engineer or other person to appear before the Judge at a time and place to be named in the summons.

25 (3) If it appears to the Judge that the use proposed to be made of the said land is unreasonable and unnecessary, or that other neighbouring lands are more fitting to be used for the purpose proposed, the Judge may order that the land in question shall not be occupied or used in the manner proposed.

30 (4) If it appears to the Judge that the use proposed to be made of the said land is reasonable and necessary the Judge may order that the said land may be occupied and used, or material taken therefrom, in such manner and to such extent only and subject to such limitations and restrictions as the  
35 Judge thinks fit; and all persons concerned shall be bound by any such order.

**46. Owner of land temporarily occupied may require electricity company to take it**—The owner of any land temporarily occupied as aforesaid may at any time during such  
40 occupation, by notice in writing to the electricity company, require the electricity company to take the land.

**47. Governor-General may authorise inspection of works, and may require alterations or additions thereto**—During the construction of the electric works and the execution of the works connected therewith, and after the completion thereof, the Governor-General shall be at liberty to 5 direct any engineer or other person to inspect the works, transmission lines, and other works of an electricity company; and upon or after such inspection may require that such additions, alterations, or repairs shall be made by the electricity company as, in the opinion of the Governor-General, are 10 necessary and desirable for the utility and safety of the undertaking and the public. All such additions, alterations, or repairs, shall be made in a manner to be approved by an officer appointed for the purpose by the Minister of Energy.

**48. Compensation under Public Works Act 1981 for land taken or injuriously affected**—Every person having 15 any estate or interest in any land taken under the authority of this Act or injuriously affected thereby, and every person suffering any damage whatever from the exercise of any of the powers conferred by this Act shall be entitled to full 20 compensation for the same from the electricity company. Such compensation shall be determined in the manner provided in the Public Works Act 1981.

**49. Amalgamation of works by electricity companies with boards of contiguous districts**—Subject to the 25 approval of the Governor-General in Council, any electricity companies or boards under the Electric Power Boards Act 1925 in respect of 2 or more contiguous electric power districts, may link up their respective transmission lines for greater security against interruption in the supply, or amalgamate their 30 undertakings, or make such other arrangements as such electricity companies and boards may deem expedient.

**50. Penalty for causing damage to electric works**—Every person who damages electric works, appliances, or 35 conveniences erected, constructed, or used by any electricity company, shall be liable for the amount of such damage, to be recovered by any person authorised on that behalf by the electricity company in any Court of competent jurisdiction; and, if such damage is done wilfully, shall be liable on summary 40 conviction to a fine not exceeding \$1,000.

51. **Penalty for obstructing officers and workmen of electricity company**—Every person who wilfully obstructs any engineer, surveyor, overseer, workman, or other person in the performance of any duty, or in doing any work which he or  
5 she has lawful authority to do under or by virtue of the provisions of this Act, is liable on summary conviction to a fine not exceeding \$100.

52. **Protection of electricity company against claims by consumers**—No person who is a consumer of electric energy  
10 supplied by the Authority or an electricity company shall have any claim against the Authority or an electricity company in the event of any failure of the supply of any such energy through accident, strike, or labour disturbance, drought, or other unavoidable cause.

15 53. **Membership of Electrical Supply Authorities association**—An electricity company shall be deemed to be an electric power board in terms of the definition of the term “Board” for the purposes of the Electricity Supply Association Act 1930.

20 54. **Application of Local Government Act 1974**—An electricity company shall be deemed to be a local authority of the type specified in Part III of the First Schedule to the Local Government Act 1974; and section 26(3) of the Local Government Act 1974 is hereby amended by adding the  
25 following subclause:

“(v) In relation to the Waikato Electricity Authority, means the Minister of Energy.”