



**THE GEOTHERMAL ENERGY REGULATIONS 1961,
AMENDMENT NO. 2**

PAUL REEVES, Governor-General

ORDER IN COUNCIL

At Wellington this 23rd day of March 1987

Present:

THE HON. R. O. DOUGLAS PRESIDING IN COUNCIL

PURSUANT to the Geothermal Energy Act 1953 and the Ministry of Energy Act 1977, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Geothermal Energy Regulations 1961, Amendment No. 2, and shall be read together with and deemed part of the Geothermal Energy Regulations 1961* (hereinafter referred to as the principal regulations).

(2) These regulations shall come into force on the 1st day of April 1987.

2. Interpretation—(1) Regulation 2 (1) of the principal regulations is hereby amended by revoking the definition of the term “Engineer”.

(2) The said regulation 2 (1) is hereby amended by inserting, before the definition of the term “geothermal work”, the following definition:

“ ‘Close’, as a verb in relation to a bore, means to seal the bore to make it permanently inoperative by cementing or grouting it to

the surface or by such other means as the Minister may approve from time to time.”.

(3) The said regulation 2 (1) is hereby amended by omitting from the definition of the term “geothermal work” the words “or making”, and substituting the words “making, or maintenance”.

(4) The said regulation 2 (1) is hereby amended by inserting, after the definition of the term “Inspector”, the following definitions:

“‘Secretary’ means the Secretary of Energy appointed in accordance with section 5 of the Ministry of Energy Act 1977:

“‘Suspend’, in relation to a bore, means to render the bore inoperative, but not to the extent of closing it; and ‘suspension’ has a corresponding meaning.”.

(5) The principal regulations are hereby amended by omitting the word “Engineer”, wherever it occurs, and substituting in each case the word “Secretary”.

3. Geothermal Inspectors—(1) Regulation 3 of the principal regulations is hereby amended by revoking subclauses (1) and (2), and substituting the following subclauses:

“(1) For the purposes of the Act and these regulations, there may from time to time be appointed, under the State Services Act 1962, a Chief Geothermal Inspector and such number of persons to be Geothermal Inspectors as may be required.

“(2) The Chief Geothermal Inspector shall have all the powers of and be deemed to be a Geothermal Inspector, and shall have such powers as are specified in the Act or these regulations or as may be reasonably necessary to carry into effect the provisions of the Act or these regulations.

“(2A) There may from time to time be appointed by the Secretary, otherwise than under the State Services Act 1962, such additional number of persons to be Geothermal Inspectors as may be required.

“(2B) No person, by reason only of appointment as a Geothermal Inspector under subclause (2A) of this regulation, shall be regarded as being employed in the State services for the purposes of the State Services Act 1962 or in the Government service for the purposes of the Government Superannuation Fund Act 1956.

“(2C) A person may hold office as a Geothermal Inspector in conjunction with any other office, whether within or outside the State services.

“(2D) The Chief Geothermal Inspector and every Geothermal Inspector shall be supplied by the Secretary with a certificate of appointment.

“(2E) Every such certificate of appointment shall contain—

“(a) A reference to this regulation; and

“(b) The full name of the appointee.”

(2) The said regulation 3 is hereby amended by inserting, after subclause (4), the following subclause:

“(4A) If any Inspector has reasonable cause to believe that a direction under section 12 of the Act to close a bore has not been complied with, or that there has been a failure to comply with any other lawful direction or order given under the Act or these regulations, the Inspector may close the bore or cause it to be closed, or take such steps as are reasonably necessary to cause the direction or order to be complied with, as the case may be; and for those purposes may exercise all or any of the powers conferred by subclause (3) of this regulation.”

(3) The said regulation 3 is hereby amended by revoking subclause (6), and substituting the following subclauses:

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

“(a) The production to an Inspector of any record or other document; and

“(b) The furnishing to an Inspector of any information or particulars; and

“(c) The answering of questions put by an Inspector—
under this regulation as witnesses have in Courts of law.

“(6A) Every Inspector exercising any power of entry under this regulation shall have with him his or her certificate of appointment as an Inspector, and evidence of identity, and shall produce them to the person in charge of the place being entered—

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

“(b) Whenever subsequently reasonably required to do so by the person in charge of the place.”

4. Applications for authorities and licences—(1) Regulation 4 of the principal regulations is hereby amended by revoking subclause (1), and substituting the following subclause:

“(1) Every application for an authority or a licence shall—

“(a) Be made on a form provided by the Secretary for the purpose or in such other manner as the Secretary may approve; and

“(b) Be addressed to the Minister and lodged with the Secretary.”

(2) Regulation 4 (2) of the principal regulations (as amended by section 7 (1) of the Decimal Currency Act 1964) is hereby amended—

(a) By omitting the expression “\$4”, and substituting the expression “\$40”;

(b) By omitting the expression “\$10”, and substituting the expression “\$100”;

(c) By omitting the expression “\$6”, and substituting the expression “\$60”.

(3) Regulation 4 (4) of the principal regulations is hereby amended by omitting the words “or the Minister”.

5. Objections to applications—Regulation 5 (3) of the principal regulations is hereby amended by omitting the words “or having any registered interest therein”, and substituting the words “, unless the Minister is satisfied that such person has consented to the grant of the authority or licence,”.

6. Revoking provisions relating to authorities—Regulation 6 of the principal regulations is hereby amended by revoking subclauses (2) and (3).

7. New regulations inserted—The principal regulations are hereby amended by inserting, after the revoked regulation 14, the following regulations:

“14A. **Classes of licences**—(1) Every licence shall be either a class A licence or a class B licence.

“(2) A class A licence shall authorise the licensee to sink such bore, or to tap, take, use, and apply geothermal energy from such bore, as may be specified in the licence.

“(3) A class B licence shall authorise the licensee to use and apply geothermal energy from such bore as may be specified in the licence so long as a class A licence in respect of that bore is for the time being in force.

“(4) Notwithstanding subclause (3) of this regulation, if a class B licence would cease to be in force because the class A licence for the bore to which the class B licence relates has been revoked on the grounds that the class A licensee has not complied with the terms of the class A licence, the Minister, in his or her discretion, may give written notice to the class B licensee that the class B licence shall continue in force for such period (not exceeding 3 months) as the Minister specifies in the notice.

“(5) Every continuation in force, under subclause (4) of this regulation, of a class B licence shall be subject to—

“(a) The class B licensee paying the rental that would have been payable under the class A licence, had it not been revoked, from the date of revocation of the class A licence; and

“(b) Such other terms and conditions as the Minister specifies in the notice given under the said subclause (4).

“14B. **Rental**—(1) The rental payable pursuant to section 10 (1) (b) of the Act by every person who taps, takes, uses, or applies geothermal energy shall be at the appropriate rate specified in the Schedule to these regulations.

“(2) The rental shall be payable in arrears at such intervals as the Secretary determines from time to time.

“(3) The rental shall be calculated in accordance with the results of a bore inspection by an Inspector, and those results shall be presumed to be accurate in the absence of proof to the contrary.

“(4) The value of the rental so calculated shall remain effective until such time as an Inspector reinspects the bore and finds change has occurred, whereupon the rental shall be amended with effect from the commencement of the then current instalment period.

“(5) The Minister may refund or remit such proportion of any rental, either generally or in any particular case, as the Minister thinks fit.”

8. Revoking provisions relating to taking of land—Regulation 20 of the principal regulations is hereby revoked.

9. Consequential amendment—Regulation 31 of the principal regulations is hereby amended by omitting the words “person carrying out any geothermal work under section 5 of this Act and every”.

10. Schedule added—The principal regulations are hereby amended by adding the Schedule set out in the Schedule to these regulations.

SCHEDULE

Reg. 10

NEW SCHEDULE TO PRINCIPAL REGULATIONS

Reg. 14B(1)

"SCHEDULE

RENTAL

1. The annual rental payable for each bore by class A licensees (other than class A licensees who tap geothermal energy exclusively by means of a downhole heat exchanger or through an air lift bore), and by every other person who taps geothermal energy in the same manner, shall be calculated in accordance with the following formula:

$$\$12,000 + 60 (P - 100)$$

where—

P is the nominal wellhead pressure of the bore (in a clean condition), expressed in kPa gauge, as determined by an Inspector.

2. The annual rental under clause 1 of this Schedule shall be payable in respect of a bore having a diameter of 100 mm. If the diameter of the bore is more or less than 100 mm the annual rental shall be adjusted according to the ratio that the diameter of the bore being assessed bears to 100 mm.

3. The annual rental payable for each bore by class A licensees who tap geothermal energy exclusively by means of a downhole heat exchanger or through an air lift bore, and by every other person who taps geothermal energy in the same manner, shall be \$600.

4. Subject to clause 14A(5) of these regulations, no rental shall be payable by class B licensees."

P. G. MILLEN,
Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the regulations, but is intended to indicate their general effect.

Regulation 2 revokes the definition of "Engineer" and inserts new definitions of "close" and "suspend" in relation to a bore. A definition of "Secretary", being the Secretary of Energy, is also inserted.

References to the "Engineer" throughout the principal regulations are to be read as references to the "Secretary".

In addition, the definition of "geothermal work" is amended so that it includes maintenance of a bore.

Regulation 3, subclause (1) provides for the appointment of a Chief Geothermal Inspector and Geothermal Inspectors, and provides for them to be supplied with certificates of appointment.

Subclause (2) empowers a Geothermal Inspector to enforce the closure of a bore where closure has been directed under section 12 of the Geothermal Energy Act 1953 and to enforce compliance with any other lawful direction or order given under that Act or the principal regulations.

Subclause (3) gives persons required to produce documents and information to an Inspector and to answer questions put by an Inspector the same privileges as witnesses have in Courts of law.

It also requires an Inspector to produce a certificate of appointment and evidence of identity when exercising a power of entry on land.

Regulation 4 allows the Secretary to provide application forms for licences and authorities, and increases application fees.

Regulation 5 provides that persons with a registered interest in land which is subject to an application for a licence will no longer have the right to object to an application. The owner and occupier retain the right of objection. If both the owner and occupier consent to the grant, a licence may be issued forthwith.

Regulation 6 revokes redundant provisions

Regulation 7 inserts new regulations 14A and 14B in the principal regulations.

The new regulation 14A provides for 2 classes of licence, namely, class A licences and class B licences, and sets out the rights exercisable under such licences.

The new regulation 14B prescribes the rental payable under section 10(1)(b) of the Geothermal Energy Act 1953.

Regulations 8 and 9 remove redundant provisions.

Regulation 10 adds a new Schedule to the principal regulations. The Schedule sets out the rental payable under the new regulation 14B.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 26 March 1987.

These regulations are administered in the Ministry of Energy.