

**ANALYSIS**

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| 1. Title | 3. Interpretation |
| 2. Commencement | 4. New Part |

2012, No. 9

An Act to amend the Energy Act 1998.

(22 June 2012)

BE IT ENACTED by the Parliament of the Cook Islands in Session assembled, and by the authority of the same, as follows:

1. Title - This Act is the Energy Amendment Act 2012 and shall be read together with and deemed part of the Energy Act 1998 (herein referred to as "the principal Act").
2. Commencement - This Act comes into force on the date it is assented to by the Queen's Representative.
3. Interpretation - Section 2 of the principal Act is amended by:
 - (a) Deleting the definition of "division";
 - (b) Inserting the following definition -
 "“Office” means the Office of the Energy Commissioner”;
 - (c) Deleting the definition of "Minister" and substituting the following definition -
 "“Minister” means Minister of Energy”;
4. New Part - Part 1 of the principal Act is repealed and the following new Part is inserted after section 2 -

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"PART 1
OFFICE OF THE ENERGY COMMISSIONER

3. Office of the Energy Commissioner – (1) There is established an Office of the Energy Commissioner.

- (2) The head of the office shall be the Energy Commissioner.
- (3) The Energy Commissioner shall be appointed by the Minister.

4. Principal functions of the Office of the Energy Commissioner – The principal functions of the Office of the Energy Commissioner are –

- (a) Promote, plan, develop and implement policy and projects for the generation of energy from different sources, including but not limited to, diesel, gas, coal, photovoltaic, ocean, thermal, wind and biomass generation;
- (b) Facilitate the co-ordination of energy policies and projects to ensure stakeholders in government, private business and community sectors assist in the development and implementation of such policies and projects;
- (c) Facilitate communication between government, private business and community sectors in the development and implementation of energy policies and projects;
- (d) To review any legislation that may affect the energy sector;
- (e) Promote and encourage the safe and efficient use of energy;
- (f) Promote and encourage measures for conservation of all forms of energy;
- (g) Encourage and oversee research in the Cook Islands regarding exploitation of different sources consistent with local requirements and resources;
- (h) Ensure various government agencies comply with energy policies set down by the Minister;
- (i) Ensure standards of safety, efficiency, and economy of operation in respect of generation, transmission, and distribution of energy;
- (j) Monitor electricity tariffs.

5. Responsibility to the Minister - (1) The Energy Commissioner shall report and be responsible to the Minister.

(2) In the exercise of its functions and powers, the Office shall give due regard to the general policy of the Crown in relation to energy as communicated to the Energy Commissioner from time to time in writing by the Minister.

(3) The Office shall comply with any policy direction given by the Minister in writing, unless the Energy Commissioner explains to the satisfaction of the Minister the reasons why the direction should not be followed.

6. Grant of Licences – (1) The Minister, on application made to the Minister in the prescribed form and on payment of the prescribed fees, may grant a licence to any person to –

- (a) Supply energy in or to any specified area; and
- (b) To lay down or place electric supply lines for the conveyance and transmission of energy.

(2) Any person applying for a licence under subsection (1) of this section shall publish a notice of his or her application in the prescribed manner and the licence shall not be granted until all objections received by the Minister within the period prescribed have been considered by the Minister.

(3) Any licence granted under subsection (1) of this section may prescribe conditions regarding the nature and area of supply, and such other general or specified conditions as the Minister may think fit in the public interest.

(4) The grant of an earlier licence by the Minister for any purpose shall not restrict the Minister's power to grant a subsequent licence for a similar purpose to another person within the same area.

7. Delegation of Powers of the Minister – (1) The Minister may by writing under his hand, either generally or particularly, delegate from time to time to the Energy Commissioner all or any of the powers which are conferred on the Minister by this Act.

(2) Subject to any general or special directions given or conditions attached by the Minister, the Energy Commissioner may exercise any powers delegated to him or her in the same manner and with the same effect as if they had been conferred on him directly by this Act.

(3) Any such delegation shall –

- (a) be revocable at will and no such delegation shall prevent the exercise of any power by the Minister;
- (b) until revoked, continue in force according to its tenor, notwithstanding the fact that the Minister by whom the delegation was made, may have ceased to hold office and shall continue to have effect as if made by the Minister's successor.

8. Duties and Powers of the Energy Commissioner – The principal duties and powers of the Energy Commissioner are to –

- (a) Develop and implement the energy policies of government as conveyed by the Minister;
- (b) Plan for the development of energy and the supply of power in the Cook Islands for such period and in such detail as the Minister may from time to time require;
- (c) Regularly advise the Minister of energy developments in the Cook Islands;
- (d) Issue directions and instructions to government agencies as may be required to give full effect to this Act, or any regulations made under, or to implement the energy policies of the government.
- (e) Exercise those powers vested in him or her or delegated by this Act or the regulations;

- (f) Ensure the functions of the Office of the Energy Commissioner are effectively carried out;
- (g) Administer the provisions of this Act and regulations.

9. Appointment of other Officers and Employees – There may be appointed from time to time by the Energy Commissioner, as members of the Public Service, such other officers and employees of the Office of the Energy Commissioner as may be necessary for the administration of this Act.

10. Delegation of Powers of the Energy Commissioner – (1) The Energy Commissioner may by writing under his hand, either generally or particularly, delegate from time to time to such other officer or employee of the Office of the Energy Commissioner or any other person as he or she may think fit, all or any of the powers exercisable by him under this Act or any other enactment but not including his or her power of delegation, provided that the Energy Commissioner shall not delegate any power delegated to him, by the Minister without written consent of the Minister.

(2) 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.

(3) Any delegation under this section –

- (a) may be made to a specified officer or employer of a specified class or be made to the holder or holders for the time being of a specified office or class of office; and
- (b) shall be revocable at will and no such delegation shall prevent the exercise of any power by the Energy Commissioner; and
- (c) until revoked, shall continue in force according to its tenor, notwithstanding the fact that the Energy Commissioner by whom it was made may have ceased to hold office and shall continue to have effect as if made by his or her successor.”

This Act is administered by the Office of the Energy Commissioner