

AMENDED: SEE ACT, 1924 NO. 46

New Zealand.



**WHOLE ACT REPEALED**  
**RPLD: S. 346 1928 No. 21.**

ANALYSIS

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| <p>Title.</p> <ol style="list-style-type: none"> <li>1. Short Title.</li> <li>2. How part of public reserve or domain to be set apart for public work.</li> <li>3. Extension of time for appointment of Assessor to represent respondent on Compensation Court.</li> <li>4. Governor-General may proclaim middle-line of road or main highway, and thereafter take land required therefor.</li> <li>5. Notice to be given to local authority before dedicating land for road.</li> <li>6. On application for leave in connection with timber-cutting rights to construct road or tramway over private lands, Magistrate may make order for substituted service of documents on owners of any Native lands affected.</li> <li>7. As to cost of maintaining drains passing through railway lands.</li> </ol> | <ol style="list-style-type: none"> <li>8. Power to cancel or vary licenses to utilize water-power and to erect electric lines.</li> <li>9. Permits for small water-power installations.</li> <li>10. Trespass on land used for hydro-electric purposes.</li> <li>11. Amending provisions in regard to ballast-pit railways.</li> <li>12. Additional powers of Minister with respect to railways not opened for traffic.</li> <li>13. Section 5 of Amendment Act, 1910 (relative to Government irrigation-works), amended by extending power of Governor-General to take private lands.</li> <li>14. Returns to be furnished by licensees in respect of electric lines.</li> <li>15. Electric lines connecting portions of premises divided by street, &amp;c.</li> <li>16. Section 6 of Amendment Act, 1911, amended.</li> </ol> |
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1923, No. 29.

AN ACT to amend the Public Works Act, 1908.

[29th August, 1923.]

Title.

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

Short Title.

1. This Act may be cited as the Public Works Amendment Act, 1923, and shall be read together with and deemed part of the Public Works Act, 1908 (hereinafter referred to as the principal Act).

How part of public reserve or domain to be set apart for public work.

2. The provisions of section twenty-one of the principal Act shall apply with respect to any part of a public reserve or public domain which is required to be set apart for any public work.

Extension of time for appointment of Assessor to represent respondent on Compensation Court.

3. Section forty-seven of the principal Act is hereby amended by omitting the words "twenty-one days" wherever they occur, and substituting the words "thirty days."

Governor-General may proclaim middle-line of road or main highway, and thereafter take land required therefor.

4. (1.) Where, under the powers conferred on him by the principal Act, the Governor-General desires to construct a road over land not previously acquired or set apart for a road, or where the lines of a main highway as defined under the Main Highways Act, 1922, lie over any land not so acquired or set apart, the Governor-General may issue a Proclamation defining the middle-line of the road or main highway or any part thereof, and in such case the provisions of section one hundred

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APPENDIX

and eighty-eight of the principal Act shall, as far as applicable and with the necessary modifications, apply in respect of the construction of such road or ~~main highway~~ in like manner as if a railway were to be constructed.

(2.) For the purposes of this section all references to the Minister in the said section one hundred and eighty-eight shall be deemed to be references to the Minister or the Main Highways Board, and the reference in paragraph (1) thereof to the Public Works Account shall be deemed to be a reference to the Public Works Account or the Main Highways Account, as in any such case may be required.

(3.) The provisions of sections eighteen and nineteen of the principal Act shall not apply to the taking of land for the construction of a road or ~~main highway~~ in respect of which a Proclamation has been issued as aforesaid.

5. Before dedicating any strip of land to form part of an existing road or street pursuant to the provisions of section one hundred and seventeen of the principal Act, the owner of that land shall give to the local authority having control of the existing road or street not less than forty days' notice in writing of his intention so to do.

6. (1.) Where the land with respect to which any application is made under section one hundred and eighty-four of the principal Act is land owned or occupied by several Natives, and where it is found difficult or impossible to effect service of any document for the purpose of giving effect to the provisions of that section, a Magistrate may, on the *ex parte* application of any person interested, order that substituted service shall be effected by delivering such document to one or more of such owners or occupiers for and on behalf of the others, or of any other of them, as the case may be, and by affixing a copy or copies of such document or documents upon some building, shed, or other permanent place on such land as aforesaid.

(2.) In determining which of such owners or occupiers ought to be so served as aforesaid the Magistrate may, if he thinks fit, obtain the report and recommendations of the Registrar of the Native Land Court of the district in which such land is situate.

(3.) For the purposes of this section the person or persons so served in accordance with an order for substituted service shall be deemed to represent all the owners or occupiers of the land in respect of which an application under section one hundred and eighty-four of the principal Act as aforesaid is being made, and the subsequent proceedings shall accordingly be binding upon all the owners or occupiers of such land.

7. Section two hundred and thirty-one of the principal Act is hereby amended by adding to subsection two the following provisoes:—

“Provided that, notwithstanding anything in the next succeeding section, if any such drain forms part of, or is used in connection with, any system of sewerage which is under the control of any local authority the cost of maintaining the drain shall be borne by that local authority, and if the work of maintenance is carried out by His Majesty shall be recoverable from such local authority as a debt due to the Crown:

“Provided also that nothing herein shall confer upon any local authority the right to enter on any railway as aforesaid for the purposes of any such drain without the prior consent of the Minister

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Notice to be given to local authority before dedicating land for road.

On application for leave in connection with timber-cutting rights to construct road or tramway over private lands, Magistrate may make order for substituted service of documents on owners of any Native lands affected.

As to cost of maintaining drains passing through railway lands.

of Railways, who may grant such consent subject to such terms and conditions as he thinks fit."

Power to cancel or vary licenses to utilize water-power and to erect electric lines.

8. (1.) The Governor-General in Council may at any time, on giving not less than three months' notice in writing of his intention so to do, cancel any license issued under section five of the Public Works Amendment Act, 1908, or under section two of the Public Works Amendment Act, 1911; or may at any time, on the application of the licensee, amend, extend, or vary the terms, conditions, and obligations of any such license; or may issue a new license in lieu of any such license.

(2.) The powers conferred by the last preceding subsection may be exercised in respect of any such license as aforesaid, whether issued before or after the passing of this Act:

Provided that if any such license issued before the commencement of this Act does not in its terms confer express power for the revocation thereof by the Governor-General in Council, or by any other public authority, the licensee shall be entitled to full compensation as a person suffering damage from the exercise of the power conferred by this section, and the provisions of Part III of the principal Act shall apply accordingly in respect of such compensation:

Provided further that it shall be lawful for the Minister to agree with any such licensee for the supply of electric power from other sources to such licensee upon special terms in satisfaction or part satisfaction of the claim of such licensee to compensation.

(3.) Every cancellation, amendment, extension, or variation of a license under either of the aforesaid sections, and every new license issued in lieu of any such license, before the passing of this Act, shall be deemed to have been as validly made or issued as if this section had been in force on the date of such cancellation, amendment, extension, or variation as aforesaid, or the issue of such new license.

Permits for small water-power installations.

9. (1.) Notwithstanding anything to the contrary in the principal Act or in any other Act, the Minister may, by writing under his hand, and subject to such conditions as he thinks fit to prescribe, authorize any person to use water from any fall, river, stream, or other source, on land the property of or in the occupation of that person, for the purpose of generating electricity up to a maximum capacity of twenty-five horse-power for lighting or for mechanical power or other uses. Any such authority may be at any time in like manner revoked.

(2.) Electricity generated pursuant to an authority granted under this section shall be used only by the person to whom such authority is granted for the purposes for which such authority is granted, and subject to the conditions prescribed with reference thereto, and it shall not be lawful for that person to sell or otherwise dispose of any such electricity or to use the same save in accordance with his authority, or for any other person to use the same.

(3.) Notwithstanding anything in the last preceding subsection, an authority granted to any person under this section may, with the consent of the Minister, be assigned to a successor in title or other person for the time being in occupation of the land in respect of which the license is issued.

(4.) Every person to whom an authority is granted or assigned as aforesaid and who commits a breach of any of the requirements of this section is liable to a fine of ten pounds.

10. The provisions of section two hundred and three of the principal Act (relating to trespass on railways in course of construction) shall apply, with the necessary modifications, to trespass on any land taken for works authorized under section two hundred and seventy-two of that Act, and any person trespassing on such land shall be liable and may be dealt with in all respects as if the land were land occupied for the purpose of constructing a railway.

Trespass on land used for hydro-electric purposes.

11. Section nine of the Public Works Amendment Act, 1909, is hereby amended as follows:—

Amending provisions in regard to ballast-pit railways.

(a.) By omitting from subsection one the words “one mile,” and substituting the words “two miles”; and

(b.) By omitting from subsection two the words “in accordance with the provisions of section twenty-nine of the principal Act,” and substituting the words “as if such railway was to be constructed under the provisions of a special Act.”

12. Where pursuant to section eleven of the Public Works Amendment Act, 1909, goods and passengers are being conveyed on a railway prior to its being opened for traffic under the Government Railways Act, 1908, the Minister of Public Works shall, in addition to the powers conferred by that section, have the following powers:—

Additional powers of Minister with respect to railways not opened for traffic.

(a.) He may by notice gazetted fix scales of dues and charges to be paid for the use by any vessel of any wharf, jetty, mooring, berthage, building, crane, or other appliance in connection with the railway, and may in like manner make by-laws regulating the use thereof:

(b.) With respect to goods on which charges are unpaid, or of which the owner is unknown, he shall have all the powers conferred on the Minister of Railways by sections sixteen to eighteen of the Government Railways Act, 1908, and the provisions of those sections shall, with the necessary modifications, apply with respect to such goods.

13. Section five of the Public Works Amendment Act, 1910, is hereby amended by omitting from subsection three the words “prior to the completion of the works,” and substituting the words “before or after the completion of the works.”

Section 5 of Amendment Act, 1910 (relative to Government irrigation-works), amended by extending power of Governor-General to take private lands.

14. (1.) Every person being the holder of a license under section two of the Public Works Amendment Act, 1911, and every person (including the assignee of any such person) who has laid, constructed, put up, placed, or used any electric line under the authority of any special Act or other lawful authority, shall, in the prescribed form, furnish to the Minister of Public Works, not later than the thirtieth day of June in each year, such particulars respecting the erection and operating of any electric line erected pursuant to such license or other authority as may be prescribed by regulations in that behalf.

Returns to be furnished by licensees in respect of electric lines.

(2.) The Governor-General may from time to time, by Order in Council, make regulations prescribing—

(a.) The particulars to be furnished to the Minister pursuant to this section, including (but without limiting the power of the Governor-General to prescribe such other particulars as he thinks fit) particulars of the source and nature of the electrical energy conveyed, transmitted, or distributed over

any such electric lines as aforesaid ; of the cost of establishing, operating, and maintaining such lines ; of the loading thereof ; of electrical energy generated or bought ; and of sales of electrical energy for any purpose :

- (b.) The periods in respect of which such particulars shall be furnished :
- (c.) The keeping of such accounts and records as may be necessary for the proper furnishing of the prescribed particulars, and the form and manner in which such accounts and records shall be kept :
- (d.) Fines, not exceeding ten pounds, for the breach of any such regulation.

Electric lines  
connecting portions  
of premises divided  
by street, &c.

15. For the purposes of section three of the Public Works Amendment Act, 1911, an electric line shall not be deemed to be laid or placed, or intended to be laid or placed, beyond the limits of the premises in which the electricity is generated for the purposes of that line by reason of the fact that the premises are divided by a road, street, railway, or stream, and that the line is laid or placed, or intended to be laid or placed, across such road, street, railway, or stream for the purpose of connecting the two portions of the premises ; but with respect to the laying, placing, or use of any such line the following provisions shall apply :—

- (a.) No person shall lay, construct, put up, place, or use any electric line across any road, street, railway, or stream dividing any premises for the purpose of connecting the two portions of the premises, except under the authority of a permit issued to him by the Minister of Public Works under this section :
- (b.) In issuing any permit the Minister may impose such conditions as to the erection, maintenance, and use of the electric line as he thinks fit :
- (c.) A permit shall not be granted for a longer period than three years from the date of the issue thereof, but may from time to time be renewed by the Minister on the same terms or on such other terms as he thinks fit :
- (d.) The Minister may at any time cancel any permit.

Section 6 of  
Amendment Act,  
1911, amended.

16. Section six of the Public Works Amendment Act, 1911, is hereby amended by omitting the words “to which this Act relates” ; and by inserting, after the words “erected under,” the words “section two hundred and seventy-two of the principal Act or under.”