

## **ELECTRICITY COMMISSION ACT.**

**Act No. 22, 1950.**

An Act to provide for the constitution of the Electricity Commission of New South Wales and to define its powers authorities duties and functions; to amend the Gas and Electricity Act, 1935-1949, and certain other Acts in certain respects; to repeal the Southern Electricity (Administration) Act, 1942; and for purposes connected therewith. [Assented to, 16th May, 1950.]

BE

No. 22, 1950.

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

## PART I.

## PRELIMINARY.

Short title,  
and com-  
mencement.

1. (1) This Act may be cited as the "Electricity Commission Act, 1950."

(2) This Act other than Part VII shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

(3) Part VII shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette. Such day shall not be earlier than the day appointed and notified pursuant to subsection two of this section.

Division  
into Parts.

2. This Act is divided into Parts, as follows:—

PART I.—PRELIMINARY.

PART II.—CONSTITUTION OF THE COMMISSION.

PART III.—POWERS, AUTHORITIES, DUTIES AND  
FUNCTIONS OF THE COMMISSION.DIVISION 1.—*Control by the Minister.*DIVISION 2.—*Interim powers.*DIVISION 3.—*Construction, etc., of works and  
supply of electricity.*DIVISION 4.—*Development.*DIVISION 5.—*Acquisition of land.*PART IV.—ACQUISITION OF ELECTRICITY UNDER-  
TAKINGS.DIVISION 1.—*The Electric Light and Power Supply  
Corporation Limited and the Parramatta and  
Granville Electric Supply Company Limited.*DIVISION 2.—*Sydney County Council.*DIVISION 3.—*The Commissioner for Railways.*DIVISION 4.—*The Southern Electricity Supply of  
New South Wales.*DIVISION 5.—*Other Electricity Undertakings.*

PART

PART V.—FINANCE.

No. 22, 1950.

DIVISION 1.—*Loan liability of the Commission to the Treasurer.*

DIVISION 2.—*Loans.*

DIVISION 3.—*Accounts and audit.*

PART VI.—SERVANTS OF THE COMMISSION.

DIVISION 1.—*Transfer of officers to the Commission.*

DIVISION 2.—*Appointment of servants.*

DIVISION 3.—*Appeals.*

DIVISION 4.—*Superannuation.*

PART VII.—EMERGENCY PROVISIONS.

PART VIII.—MISCELLANEOUS AND GENERAL.

DIVISION 1.—*Ancillary provisions relating to supply of electricity.*

DIVISION 2.—*Regulations and By-laws.*

DIVISION 3.—*Miscellaneous.*

3. In this Act unless the context or subject matter otherwise indicates or requires— Interpre-  
tation.

“Arbitration” means arbitration conducted in accordance with the provisions of the Arbitration Act, 1902, and, for the purposes of reference to arbitration under that Act, this Act shall be deemed to be a submission between the parties within the meaning of the same.

“Area” has the meaning ascribed thereto in the Local Government Act, 1919, as amended by subsequent Acts.

“By-laws” means by-laws made under this Act.

“Chairman” means the Chairman of the Commission.

“Commission”

**Electricity Commission Act.**

No. 22, 1950.

“Commission” means the Electricity Commission of New South Wales.

“Commissioner” means a member of the Commission and includes the Chairman.

“Council” has the meaning ascribed thereto in the Local Government Act, 1919, as amended by subsequent Acts, and includes any county council constituted under that Act, as so amended, and the Sydney County Council.

“Electricity supply authority” means any person engaged in the supply of electricity to the public, or in the generation of electricity for supply, directly or indirectly, to the public whether by virtue of any Act or otherwise and includes the Water Conservation and Irrigation Commission.

“Generating plant” means any plant equipment or apparatus and appliances used or capable of being used for the purpose of generating electricity.

“Part” means Part of this Act.

“Prescribed” means prescribed by this Act or by the regulations or the by-laws.

“Public Authority” includes the Governor, any Minister of the Crown and any statutory body representing the Crown.

“Regulations” means regulations made under this Act.

“Statutory body” or “Statutory body representing the Crown” includes the Metropolitan Water, Sewerage and Drainage Board, the Hunter District Water Board, the Maritime Services Board of New South Wales, the Commissioner for Railways, the Commissioner for Main Roads, the Commissioner for Road Transport and Tramways, the Water Conservation and Irrigation Commission and any public body which the  
Governor

Governor may by proclamation published in the Gazette under this Act declare to be a statutory body representing the Crown. No. 22, 1950.

“Treasurer” means the Colonial Treasurer.

“Works” means plant and equipment (fixed or mobile), structures, buildings, lines, cables, meters and conveniences and appurtenances for and in connection with the generation, transmission and supply of electricity.

4. The Electricity Development Act, 1945-1948, is amended as follows:— Amendment of Act No. 13, 1946.

(a) by inserting after section fourteen the following new section:— New sec. 14A.

14A. Nothing in this Part of this Act shall limit or otherwise affect the powers, authorities, duties and functions of the Electricity Commission of New South Wales. Part III not to affect Electricity Commission.

(b) (i) by omitting from subsection two of section fifteen the words “but in no case shall any electricity supply authority be required to contribute, in respect of any year ending on the thirtieth day of June, an amount exceeding one hundred thousand pounds”; Sec. 15 (2). (Contributions by electricity supply authorities.)

(ii) by omitting from paragraph (d) of the same subsection the word “and” and by inserting in lieu thereof the words “except as provided in paragraph (f) of this subsection”;

(iii) by inserting in paragraph (e) of the same subsection after the word “subsection” the word “and”;

(iv) by inserting after paragraph (e) of the same subsection the following new paragraph:—

(f) amend the said Schedule by omitting from the first column the name of any electricity supply authority and

No. 22, 1950.

and by inserting in lieu of the name so omitted the words "The Electricity Commission of New South Wales"; and where the said Commission has been substituted for the names of two or more of such electricity supply authorities as aforesaid, the second column of the said Schedule shall be amended by omitting the amounts set out in that column opposite the names of such authorities, and by inserting in that column one amount as applicable to and in respect of the said Commission, which amount shall not exceed the sum of the amounts so omitted.

Sec. 27.  
New subsec.  
(9).

(c) by inserting at the end of section twenty-seven the following new subsection:—

Part VI not  
to affect  
Electricity  
Commission.

(9) Nothing in this Part of this Act shall limit or otherwise affect the powers, authorities, duties and functions of the Electricity Commission of New South Wales.

---

## PART II.

### CONSTITUTION OF THE COMMISSION.

Constitution  
of  
Commission.

5. (1) (a) There shall be constituted an Electricity Commission of New South Wales which shall have and may exercise and discharge the powers, authorities, duties and functions conferred and imposed upon it by or under this or any other Act.

(b)

(b) The Commission shall consist of five <sup>No. 22, 1950.</sup> commissioners appointed by the Governor.

(c) Two of such commissioners shall, in and by the instruments by which they are appointed, be respectively the Chairman and Vice-Chairman of the Commission.

(d) In the case of the illness or absence of the Chairman, the Vice-Chairman shall act in his place, and whilst so acting shall have the immunities, powers, authorities and duties of the Chairman.

(e) In the case of the illness or absence of any commissioner, other than the Chairman, the Governor may appoint a deputy to act in the place of such commissioner during his illness or absence.

(f) Where in pursuance of paragraph (d) of this subsection the Vice-Chairman is acting in the place of the Chairman the Governor may appoint a deputy to act in the place of the Vice-Chairman; and if one of the other commissioners is appointed as such deputy, the Governor may appoint a deputy to act in the place of that commissioner.

(g) A deputy appointed under this subsection shall have the immunities, powers, authorities and duties of the commissioner in whose place he acts.

(h) A deputy appointed under this subsection may be paid such remuneration for his services, including fees and allowances, as the Governor may determine.

(i) No person shall be concerned to inquire whether or not any occasion has arisen requiring or authorising the Vice-Chairman to act in the place of the Chairman or a deputy to act in the place of a commissioner or as to the necessity or propriety of any appointment of a deputy; and all acts or things done or omitted by the Vice-Chairman or a deputy when so acting as aforesaid shall be as valid and effectual and shall have the same consequences as if the same had been done or omitted by the Chairman or the commissioner in whose place such Vice-Chairman or deputy as the case may be is acting.

**Electricity Commission Act.**

No. 22, 1950.

(2) (a) A commissioner shall, subject to this Act, be appointed for such term, not exceeding seven years, as may be specified in the instrument of appointment, and be eligible for re-appointment from time to time.

Any such re-appointment shall be for such term, not exceeding seven years, as may be specified in the instrument of re-appointment.

(b) On the occurrence of any vacancy in the office of a commissioner the person appointed to fill the vacant office shall, subject to this Act, hold office for the remainder of the unexpired term of the vacant office.

(c) A person who is of or above the age of sixty-five years shall not be appointed as a commissioner.

(3) (a) Each commissioner shall receive such remuneration, fees and allowances as the Governor may from time to time determine.

(b) Where by or under any Act provision is made requiring the holder of an office specified therein to devote the whole of his time to the duties of his office, or prohibiting him from engaging in employment outside the duties of his office, such provision shall not operate to disqualify him from holding that office and also the office of a commissioner (but not the office of Chairman) under this Act, or from accepting and retaining any remuneration, fees or allowances payable to a commissioner under this subsection.

(c) The office of a commissioner (other than the Chairman) shall not for the purposes of the Constitution Act, 1902, or any Act amending that Act, be deemed to be an office or place of profit under the Crown.

(4) The provisions of the Public Service Act, 1902, or of any Act amending that Act, shall not apply to or in respect of the appointment of a commissioner and a commissioner shall not be subject to any such Act during his term of office.

(5)



(5) (a) Each commissioner before entering upon the duties of his office shall take an oath of allegiance under and in accordance with the provisions of the Oaths Act, 1900-1936, and shall make and subscribe the following declaration of office:—

No. 22, 1950.

I ..... having been appointed a commissioner of The Electricity Commission of New South Wales do hereby declare that I will truly and faithfully fulfil the duties of that office according to the best of my judgment and ability.

(b) If a person, after having been afforded an opportunity of taking such oath of allegiance and making and subscribing such declaration, neglects to do so for a period of one month or such extended period as the Governor may appoint pursuant to paragraph (c) of this subsection after the date on which he is appointed, he shall on the expiration of such period of one month, or extended period, as the case may be, be deemed to have declined to accept office.

(c) Where the Governor is satisfied that the delay in taking such oath and making and subscribing such declaration is unavoidable he may extend the time for taking such oath and making and subscribing such declaration for any period not exceeding six months.

(d) Any person who is deemed to have declined to accept office shall not be eligible to be re-appointed to fill the vacancy created.

(6) A commissioner shall be deemed to have vacated his office—

(a) if, being the Chairman, he engages in New South Wales during his term of office in any paid employment outside the duties of his office otherwise than in accordance with any approval of the Governor so to do;

(b) if he becomes bankrupt, compounds with his creditors, or makes any assignment of his remuneration, fees, allowances or estate for their benefit;

(c)

**Electricity Commission Act.****No. 22, 1950.**

- (c) if, being the Chairman, he absents himself from duty for a period exceeding fourteen consecutive days, except on leave granted by the Minister (which leave the Minister is hereby authorised to grant) unless such absence is occasioned by illness or other unavoidable cause;
- (d) if, being a commissioner other than the Chairman, he is absent from four consecutive ordinary meetings of the Commission without leave granted by the Commission;
- (e) if he becomes an insane person or patient or an incapable person within the meaning of the Lunacy Act, 1898-1949;
- (f) if he is convicted in New South Wales of a felony or of a misdemeanour which is punishable by imprisonment for twelve months or upwards, or if he is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be a felony or a misdemeanour which is punishable as aforesaid;
- (g) if he resigns his office by writing under his hand addressed to the Governor;
- (h) if he declines office or is deemed to have declined office;
- (i) if not being the Chairman he is removed from office by the Governor.

A commissioner shall be deemed to have vacated his office upon the day upon which he attains the age of sixty-five years.

(7) The Governor may, for any cause which appears to him sufficient, remove a commissioner not being the Chairman from office.

(8) (a) The Chairman may be suspended from his office by the Governor for misbehaviour or incompetence, but shall not be removed from office except as provided in this subsection.

(b)

(b) The Minister shall cause to be laid before **Parliament** a full statement of the grounds of suspension if Parliament is then in session, and if not, then within seven sitting days after the commencement of the next session. **No. 22, 1950.**

(c) The Chairman suspended under this section shall be restored to office unless each House of Parliament, within twenty-one days from the time when such statement has been laid before it, declares by resolution that the Chairman ought to be removed from office, and if each House of Parliament within the said time does so declare, the Chairman shall be removed by the Governor accordingly.

(9) A person who, at the date of his appointment as Chairman, is an officer of the Public Service and who ceases to be Chairman from any cause whatsoever, otherwise than in pursuance of subsections six seven and eight of this section (paragraph (g) of subsection six excepted), shall if he is under the age of sixty years be appointed to some office in the Public Service not lower in classification and salary than that which he held immediately before his appointment as Chairman.

(10) (a) Nothing contained in this Act shall affect the rights accrued or accruing under the Public Service Act, 1902, or under the Superannuation Act, 1916-1948, or any Act amending such Acts, to any person appointed as Chairman who is at the time of his appointment or has been at any time previous thereto an officer of the Public Service or an employee within the meaning of the Superannuation Act, 1916-1948, or any amendment thereof.

(b) Any officer of the Public Service or any person who is an employee within the meaning of the Superannuation Act, 1916-1948, or any amendment thereof, who is appointed as Chairman shall continue to contribute to any fund or account and shall be entitled to receive any deferred or extended leave and any payment, pension or gratuity as if he were an officer or employee

**Electricity Commission Act.**

**No. 22, 1950.** employee within the meaning of the Public Service Act, 1902, or the Superannuation Act, 1916-1948, as the case may be, or any Act amending such Acts, and for such purpose his service as Chairman shall be deemed to be service for the purpose of such Acts.

Commis-  
sion to be  
body cor-  
porate—  
Proceed-  
ings of  
Commis-  
sion.

**6.** (1) The Commission shall be a body corporate, with perpetual succession and a common seal, and may sue or be sued in its corporate name, and shall be capable of purchasing, holding, granting, demising, disposing of or otherwise dealing with real and personal property, and of doing and suffering all such acts and things as bodies corporate may by law do and suffer.

(2) The corporate name of the Commission shall be "The Electricity Commission of New South Wales."

(3) The common seal shall be kept in the custody of the Chairman and shall not be affixed to any instrument except in pursuance of a resolution of the Commission.

Any instrument executed in pursuance of any such resolution shall be attested by the signature of any two commissioners.

(4) (a) The procedure for the calling of meetings of the Commission and for the conduct of business at such meetings shall be as determined by the Commission.

(b) Three of the commissioners shall form a quorum, and any duly convened meeting at which a quorum is present shall be competent to transact any business of the Commission and shall have and may exercise and discharge all the powers, authorities, duties, and functions of the Commission.

A decision of a majority of the commissioners present at a meeting of the Commission shall be the decision of the Commission.

(c) At any meeting of the Commission the Chairman shall preside. In the absence of the Chairman and Vice-Chairman from a meeting, the commissioners present may choose one of their number to preside as chairman of that meeting.

At

At any meeting of the Commission the Chairman or the commissioner presiding as chairman (as the case may be) shall have a deliberative vote, and if the voting is equal, a casting vote. No. 22, 1950.

(5) The Commission shall cause full and accurate minutes to be kept of its proceedings at formal meetings, and submit to the Minister a copy of the minutes of each formal meeting within one week after the date on which each such formal meeting is held.

(6) No act or proceeding of the Commission shall be invalidated or prejudiced by reason only of the fact that at the time when such act or proceeding was done, taken or commenced, there was a vacancy in the office of a commissioner.

(7) (a) No matter or thing done, and no contract entered into by the Commission, and no matter or thing done by any commissioner or by any other person whomsoever acting under the direction of the Commission shall, if the matter or thing was done or the contract was entered into bona fide for the purpose of executing this Act, subject them or any of them personally to any action, liability, claim, or demand whatsoever.

(b) Nothing in this subsection shall exempt any commissioner from liability to be surcharged with the amount of any payment which is disallowed by the Auditor-General in the accounts of the Commission, and which such commissioner authorised or joined in authorising.

---

### PART III.

#### POWERS, AUTHORITIES, DUTIES AND FUNCTIONS OF THE COMMISSION.

##### DIVISION 1.—*Control by the Minister.*

7. In the exercise and discharge of its powers, authorities, duties and functions the Commission shall be subject in all respects to the control and direction of the Minister. Control  
and  
direction  
of Minister.

##### DIVISION

No. 22, 1950.

Particular  
powers in  
certain  
cases.DIVISION 2.—*Interim powers.*

8. (1) Without prejudice to the generality of any other provision of this Act, the Commission may, in relation to each of the following electricity supply authorities, that is to say, the Sydney County Council, the Commissioner for Railways, and the Administrator of the Southern Electricity Supply of New South Wales, exercise all or any of the powers set out in subsection two of this section.

(2) (a) Where in the opinion of the Commission the existence of any circumstance relating to or affecting the electricity supply authority, or the performance or non-performance of any act by the electricity supply authority would at any time—

- (i) prejudice the supply of electricity to the public, or
- (ii) provide a better supply of electricity to the public, or
- (iii) delay the construction of any works by or on behalf of the electricity supply authority,

the Commission may give such directions as it may consider appropriate to the electricity supply authority.

(b) The Commission may direct the electricity supply authority, on such terms as the Commission may specify, to make available on loan any officers, servants or employees, employed by the said authority in the design, construction or operation of power stations or transmission lines to any other electricity supply authority.

Any person so directed to be transferred on loan shall retain all the rights and privileges appertaining to his office, service or employment before such a transfer, as if he had not been so transferred on loan.

(c) The Commission may direct the electricity supply authority to interchange electricity between its power stations and the power stations of any other electricity supply authority (including the Commission) and may give directions in relation to the use of plant and equipment requisite for such interchange.

Such

Such interchange of electricity shall be made upon such terms as may be mutually agreed upon by the electricity supply authorities concerned, and in default of such agreement within the time specified in such direction, upon such terms as the Minister may direct. No. 22, 1950.

(3) The powers conferred on the Commission by this section to issue directions to an electricity supply authority shall include the power to issue any such direction to the General Manager of the Sydney County Council.

(4) If any direction issued by the Commission pursuant to the provisions of this section to an electricity supply authority (including the General Manager of the Sydney County Council) involves the said authority in any expenses or additional costs which would not otherwise have been incurred, or in any loss in revenue, the Commission shall pay the amount of such expenses or additional costs to such electricity supply authority or reimburse such authority such loss of revenue, as the case may require. In the event of the Commission and the electricity supply authority concerned failing to agree as to the amount which should be paid or reimbursed by the Commission, such amount shall be determined by the Minister.

(5) Any person refusing or failing to comply with any direction issued by the Commission pursuant to the provisions of this section, within the time specified in such direction for compliance therewith, shall be guilty of an offence against this Act and shall be liable to a penalty of not more than five hundred pounds and to a further penalty of not more than fifty pounds for each day on which the offence is continued after the expiration of the time indicated in such direction for compliance therewith:

*DIVISION 3.—Construction, etc., of works and supply of electricity.*

9. (1) The Commission may, subject to this Act— Powers of  
Commission.
- (a) maintain and operate and where necessary, improve and extend all works for or in relation to the generation and supply of electricity for the

No. 22, 1950.

the time being vested in it, and construct any new, additional or supplementary works or acquire any works or property for or in relation to the generation and supply of electricity;

- (b) supply electricity to any person within or outside the State on such terms as may be agreed upon between the parties;
- (c) with the approval of the Minister conduct any business arising out of or ancillary to the generation and supply of electricity and construct any works or acquire any works or property and maintain and operate the same for the purposes of conducting any such business; and
- (d) purchase electricity from any person within or outside the State.

(2) (a) The Commission shall not supply electricity to any person for use within the area of any council or the County District of any County Council without the consent of the council concerned.

(b) Paragraph (a) of this subsection shall not apply to or in respect of—

- (i) the supply of electricity to the Commissioner for Railways or the Commissioner for Road Transport and Tramways for use in providing motive power for electric trains, trams, or trolley-buses;
- (ii) the supply of electricity with the approval of the Minister to any statutory body representing the Crown or any Department of the Government of the Commonwealth or of the State or, except in the County District of the Sydney County Council or any area supplied at the commencement of this Act by the Electric Light and Power Supply Corporation Limited to any person who requires a large supply of electricity for industrial, manufacturing or like purposes;
- (iii) the supply of electricity to any person or premises, where, immediately before the day appointed in pursuance of section thirty-one of this



this Act, that person or premises was receiving a supply of electricity from the Administrator of the Southern Electricity Supply of New South Wales;

No. 22, 1950.

- (iv) the supply of electricity to any person or premises, where, immediately before the day appointed in pursuance of section twenty-five of this Act, that person or premises was receiving a supply of electricity from the Commissioner for Railways.

**10.** The provisions of Part III of the Public Works Act, 1912, as amended by subsequent Acts, shall not extend to any works constructed or proposed to be constructed by the Commission.

Public Works Act, 1912,—  
Part III excluded.

**11.** (1) The Commission may make and enter into contracts or agreements with any person for the performance of services, or for the supply of goods, machinery, or material, in connection with the exercise or discharge by the Commission of its powers, authorities, duties and functions.

Contracts. cf. Act No. 50, 1924, sec. 34.

(2) All persons contracting with the Commission shall be deemed for the purposes of the Constitution Act, 1902, to be public contractors.

(3) Any contract or agreement authorised by this or any other section of this Act shall be in the name of the Commission and may be made as follows, that is to say—

with respect to any contract which if made between private persons would be by law required to be in writing and signed by the parties to be charged therewith or in writing and under seal the Commission may make such contract in writing and under their common seal and in the same manner may vary or discharge the same;

with respect to any contract which if made between private persons would by law be valid although made by parol only and not reduced into writing the Chairman of the Commission may make such contract.

**No. 22, 1950.**

contract by parol only without writing and in the same manner may vary or discharge the same.

(4) The provisions of subsection seven of section four hundred and eighteen of the Local Government Act, 1919, as amended by subsequent Acts, shall not apply to any contract between the Commission and a council for the supply by the Commission to the council of electricity in bulk or for the taking by the Commission from the council of a supply of electricity in bulk.

**Commission to supply sufficient electricity for Railways and Road Transport.**

**12.** (1) On and after the day appointed in pursuance of section twenty-five of this Act for the transfer to the Commission of the electricity undertaking of the Commissioner for Railways as provided in Division 3 of Part IV of this Act, it shall be the duty of the Commission to take all such steps as may be necessary to ensure that, as far as is reasonably practicable, sufficient electricity shall at all times be supplied to the Commissioner for Railways and the Commissioner for Road Transport and Tramways for use in providing motive power for electric trains, trams and trolley-buses.

(2) (a) Electricity supplied by the Commission for the uses prescribed in subsection one of this section shall be charged for by the Commission at cost, and the Commission may, if it thinks fit, charge at cost for electricity supplied to the Commissioner for Railways and the Commissioner for Road Transport and Tramways for uses other than those prescribed in that subsection.

(b) In determining the cost for the purposes of this subsection, allowance shall be made for depreciation and other proper charges, and shall be such rate or amount as is mutually agreed upon between the Commission and the Commissioner for Railways or the Commission and the Commissioner for Road Transport and Tramways, as the case may be. In default of agreement in any such case the cost shall be determined by the Governor.

**DIVISION**

## Electricity Commission Act.

259

### DIVISION 4.—*Development.*

No. 32, 1850.

**13.** Subject to this Act the Commission shall have power—

Develop-  
ment.

- (a) to promote and encourage the development and use of the natural resources of the State in connection with the generation of electricity and without limiting the generality of the foregoing provisions of this paragraph to carry out all necessary investigations, surveys, borings and gauging of streams to ascertain the existence nature and extent of water power suitable for use in connection with the generation of electricity and to make and conclude any agreements with the Water Conservation and Irrigation Commission the Snowy Mountains Hydro-electric Authority the River Murray Commission or any statutory body representing the Crown relating to the use of water for hydro-electric generation;
- (b) to promote and encourage the use of electricity and especially the use thereof for industrial and manufacturing purposes and for the purposes of primary production; and
- (c) to advise any person engaged in the generation, transmission, supply, distribution or use of electricity upon any matter concerning the generation, transmission, supply, distribution or use of electricity.

### DIVISION 5—*Acquisition of land.*

**14.** The Commission may for the purposes of this Act acquire land by lease, purchase, appropriation or resumption in accordance with the provisions of this Division of this Part.

Acquisi-  
tion of  
land.  
cf. Act No.  
41, 1919,  
sec. 532.

**15.** Where the Commission proposes to acquire land for any purpose it may also acquire other land adjoining or in the vicinity of such land.

Other  
adjoining  
land.  
*Ibid.*

**16.** sec. 535.

No. 22, 1950.  
 Com-  
 pul-  
 sory  
 acquisition.  
 cf. Act No.  
 8, 1929,  
 sec. 29A.

**16.** (1) Where the Commission proposes to acquire land, including land previously appropriated or resumed for any purpose, by appropriation or resumption, it may apply to the Governor through the Minister.

(2) The Commission shall make provision to the satisfaction of the Governor for payment of compensation for the land, together with interest and all necessary charges and expenses incidental to the appropriation or resumption.

(3) The Governor may authorise the appropriation or resumption of the land.

(4) Thereupon the Governor may—

(a) appropriate or resume the land by Gazette notification under Division I of Part V of the Public Works Act, 1912; and

(b) notify that the land is vested in the Commission.

(5) Thereupon the land shall vest in the Commission.

(6) For the purposes of the Public Works Act, 1912, such appropriation or resumption shall be deemed to be for the purpose of carrying out an authorised work within the meaning of that Act.

(7) Where land is vested in the Commission under this section the Commission may notwithstanding anything contained in any other Act, but subject to the provisions of section seventeen of this Act, sell, lease, exchange or otherwise deal with or dispose of such land.

Land not  
 to be sold,  
 etc.,  
 without  
 Minister's  
 approval.

**17.** The Commission shall not sell, lease, exchange or otherwise deal with or dispose of land acquired by it under this Division of this Part, or vested in it by or under the provisions of this Act, except with the approval of the Minister, and subject to such terms and conditions as the Minister may attach to his approval: Provided that the approval of the Minister shall not be required to a lease of any such land by the Commission for a term which is less than three years.

PART

---

PART IV.

No. 22, 1950.

ACQUISITION OF ELECTRICITY UNDERTAKINGS.

DIVISION 1.—*The Electric Light and Power Supply Corporation Limited and the Parramatta and Granville Electric Supply Company Limited.*

18. (1) As soon as practicable after the constitution of the Commission under this Act the Commission shall offer to negotiate with the Electric Light and Power Supply Corporation Limited and the Parramatta and Granville Electric Supply Company Limited with the object of reaching agreement for the acquisition by the Commission of the undertakings conducted by those corporations. **Acquisition of undertakings of certain corporations by negotiation.**

(2) No agreement entered into pursuant to the provisions of subsection one of this section shall be binding on any party thereto or be of any force or effect in law or equity unless the agreement is ratified by the legislature.

DIVISION 2.—*Sydney County Council.*

19. In this Division unless the context or subject matter otherwise requires— **Definitions.**

“County Council” means the Sydney County Council.

20. Upon and after a day to be appointed by the Governor and notified by proclamation published in the Gazette (in this Division referred to as “the appointed day”) that part of the electricity undertaking conducted by the County Council which comprises the generation of electricity and the supply of electricity in bulk shall be transferred to the Commission under and in accordance with the provisions of this Act. **Transfer.**

21. On and from the appointed day the following provisions shall have effect:— **Rights, liabilities, and property.**

- (a) All real and personal property (whether situated in New South Wales or elsewhere) and all right and interest therein and all management and

No. 22, 1950.

and control of any land or thing which, immediately before the appointed day, is vested in or belongs to the County Council and is held or used by it for or in connection with that part of its electricity undertaking which is transferred by this Act to the Commission, shall vest in and belong to the Commission.

- (b) All moneys, liquidated and unliquidated claims which, immediately before the appointed day are payable to or recoverable by the County Council in relation to that part of its electricity undertaking which is transferred by this Act to the Commission, shall be moneys, liquidated and unliquidated claims payable to or recoverable by the Commission.
- (c) All suits, actions and proceedings pending immediately before the appointed day at the suit of the County Council in respect of any matter or claim which relates to that part of the said electricity undertaking so transferred, shall respectively be suits, actions and proceedings pending at the suit of the Commission.
- (d) All contracts, agreements and undertakings entered into with and all securities lawfully given to or by the County Council in respect of that part of the said electricity undertaking so transferred and in force immediately before the appointed day shall be deemed to be contracts, agreements and undertakings entered into with and securities given to or by the Commission.
- (e) The Commission may pursue the same remedies for the recovery of any such moneys and claims, and for the prosecution of such suits, actions and proceedings as the County Council might have done but for this Act.
- (f) The Commission may enforce and realise any security or charge existing immediately before the appointed day in favour of the County Council

Council in respect of any such moneys and claims as if such security or charge were existing in favour of the Commission. **No. 22, 1950.**

- (g) All debts due and moneys payable by the County Council relating to that part of the said electricity undertaking so transferred and all claims liquidated or unliquidated recoverable against the County Council relating to that part of the said electricity undertaking so transferred shall be debts due and moneys payable by and claims recoverable against the Commission.
- (h) No attornment by a lessee of any land vested in the Commission by this section shall be necessary.

**22.** (1) The County Council and the Commission shall as soon as practicable after the constitution of the Commission arrange and agree upon a division of the assets, debts and liabilities of the County Council, so that the assets, debts and liabilities to be transferred by this Act shall be defined. Division  
of assets  
and  
liabilities.

(2) For the purposes referred to in subsection one of this section two joint committees shall be constituted and shall be called respectively "the Technical Joint Committee" and "the Finance Joint Committee."

(3) (a) The Technical Joint Committee shall consist of five members as follows:—

- (i) The chairman, who shall be appointed by the Minister from a panel of names of engineers prepared by the President of the Institution of Engineers, Australia, and who shall convene all meetings of the Technical Joint Committee and preside at such meetings.
- (ii) Two members who shall be appointed by the County Council to be representatives of that Council.
- (iii) Two members who shall be appointed by the Commission to be representatives of the Commission.

(b)

**Electricity Commission Act.****No. 22, 1950.**

(b) In the case of any difference between the representatives of the County Council and the representatives of the Commission, such difference shall be determined as the chairman shall direct.

(c) The functions of the Technical Joint Committee shall be—

- (i) to determine what assets, being land and works of the County Council, are to be transferred to the Commission by this Act;
- (ii) to determine what books, documents, records and papers held by the County Council, being books, documents, records and papers which relate to the land and works referred to in subparagraph (i) of this paragraph, and which are necessary or expedient in order to enable the Commission to continue the generation of electricity and the supply of electricity in bulk in and from such land and works are to be handed over to the Commission;
- (iii) to determine whether any land or works of the County Council not transferred to the Commission by this Act shall be made available by the County Council for use by the Commission, and the terms and conditions of such user;
- (iv) to determine whether any land or works of the County Council not transferred to the Commission by this Act shall be made available by the County Council for joint use by the Commission and the County Council, and the terms and conditions of such user.

(d) Where a determination has been made under this subsection on the matters referred to in paragraph (c) of this subsection, a sufficient record thereof shall be filed in the offices of the County Council and the Commission and a copy transmitted to the Minister for record purposes.

(4)



(4) (a) The Finance Joint Committee shall No. 22, 1950.  
consist of five members as follows:—

- (i) The Auditor-General (or his nominee) who shall be chairman and who shall convene all meetings of the Finance Joint Committee and preside at such meetings.
- (ii) Two members who shall be appointed by the County Council to be representatives of that Council.
- (iii) Two members who shall be appointed by the Commission to be representatives of the Commission.

(b) In the case of any difference between the representatives of the County Council and the representatives of the Commission, such difference shall be determined as the Auditor-General shall direct.

(c) The functions of the Finance Joint Committee shall be—

- (i) to determine what assets of the County Council (in addition to those referred to in subparagraph (i) of paragraph (c) of subsection three of this section) are to be transferred to the Commission by this Act;
- (ii) to determine in accordance with subsection five of this section what debts and liabilities of the County Council are to be transferred to the Commission by this Act;
- (iii) to determine how the expense of meeting payments on account of leave or upon retirement or death of a servant of the County Council transferred to the service of the Commission by this Act should be apportioned between the County Council and the Commission;
- (iv) to determine what books, documents, records, and papers, in addition to those referred to in subparagraph (ii) of paragraph (c) of subsection three of this section, are to be handed over to the Commission.

(d)

No 22, 1950.

(d) Where a determination has been made under this subsection on the matters referred to in paragraph (c) of this subsection, a sufficient record thereof shall be filed in the offices of the County Council and the Commission and a copy transmitted to the Minister for record purposes.

(5) The determination for the purposes of subparagraph (ii) of paragraph (c) of subsection four of this section shall as far as practicable be made on the basis of the values of the assets and the amounts of the debts and liabilities disclosed in the certified accounts of the County Council as at the appointed day, and the apportionment of the said debts and liabilities shall be made in such a manner that the amount of the debts and liabilities of the County Council for which the Commission shall assume responsibility under this Act shall bear the same proportion to the total amount of the debts and liabilities of the County Council as disclosed by those certified accounts, as the value of the assets to be transferred to the Commission by this Act bears to the total value of the assets of the County Council as disclosed by those certified accounts.

(6) The expenses of the Technical Joint Committee and of the Finance Joint Committee shall be charged to the Commission.

Indemnity.

**23.** (1) The Commission shall as from the appointed day indemnify and keep harmless the County Council against all claims against the County Council in respect of such of the moneys borrowed by the County Council and such of the liability imposed on the County Council by section fifty of the Gas and Electricity Act, 1935-1949, as may be determined by the Finance Joint Committee or directed by the Auditor-General pursuant to subsection four of section twenty-two of this Act, and against such of the claims for any other liabilities incurred by the County Council as may be so determined or directed.

(2) The Commission shall pay all interest accruing due in respect of such of the moneys borrowed by the County Council and such of the liability imposed on the County Council by section fifty of the Gas and Electricity Act, 1935-1949, as may be determined by the

Finance

Finance Joint Committee or directed by the Auditor-General pursuant to subsection four of section twenty-two of this Act, and make the contributions required by law, or by any agreement to the sinking funds established in connection with such borrowed moneys or such liability.

No. 22, 1950.

(3) (a) Nothing contained in this Division of this Part shall prejudice or affect the security rights, powers, authorities and remedies of any holder of a bond, debenture, mortgage deed or other security given by the County Council before the appointed day or by the Municipal Council of Sydney before the first day of January, one thousand nine hundred and thirty-six, but such holder shall have and continue to have during the currency of his bond, debenture, mortgage deed or other security the same security rights, powers, authorities and remedies in respect of the assets of the Commission, and the revenue therefrom, as if the said bond, debenture, mortgage deed or other security had been given by the Commission instead of by the County Council or the Municipal Council of Sydney as the case may be.

(b) Nothing contained in this Division of this Part—

- (i) shall prejudice or affect the rights and remedies, against the County Council, its revenues and assets, of the holder of any bond, debenture, mortgage deed or other security given by that Council before the appointed day; or
- (ii) shall prejudice or affect the rights and remedies against the Council of the City of Sydney, its revenues and assets, of the holder of any bond, debenture, mortgage deed or other security given by the Municipal Council of Sydney before the first day of January, one thousand nine hundred and thirty-six.

(4) Any loan raised by the Commission shall rank pari passu with any liability imposed on the Commission by this section.

**24.** The County Council shall not, on or after the appointed day, generate electricity except for such purposes as the Commission may from time to time approve.

County Council not to generate electricity.

DIVISION

No. 22, 1950.

DIVISION 3.—*The Commissioner for Railways.*

Transfer.

**25.** Upon and after a day to be appointed by the Governor and notified by proclamation published in the Gazette (in this Division referred to as “the appointed day”) that part of the undertaking conducted by the Commissioner for Railways which comprises the generation and supply of electricity shall be transferred to the Commission under and in accordance with the provisions of this Act.

Rights,  
liabilities  
and  
property.

**26.** On and from the appointed day the following provisions shall have effect:—

- (a) All real and personal property (whether situated in New South Wales or elsewhere) and all right and interest therein and all management and control of any land or thing which, immediately before the appointed day, is vested in or belongs to the Commissioner for Railways and is held or used by him for or in connection with that part of his undertaking which is transferred by this Act to the Commission, shall vest in and belong to the Commission.
- (b) All moneys, liquidated and unliquidated claims which, immediately before the appointed day are payable to or recoverable by the Commissioner for Railways in relation to that part of his undertaking which is transferred by this Act to the Commission, shall be moneys, liquidated and unliquidated claims payable to or recoverable by the Commission.
- (c) All suits, actions and proceedings pending immediately before the appointed day at the suit of the Commissioner for Railways in respect of any matter or claim which relates to that part of the said undertaking so transferred, shall respectively be suits, actions and proceedings pending at the suit of the Commission.
- (d) All contracts, agreements and undertakings entered into with and all securities lawfully  
given

given to or by the Commissioner for Railways <sup>No. 22, 1950.</sup> in respect of that part of the said undertaking so transferred and in force immediately before the appointed day shall be deemed to be contracts, agreements and undertakings entered into with, and securities given to or by the Commission.

- (e) The Commission may pursue the same remedies for the recovery of any such moneys and claims, and for the prosecution of such suits, actions and proceedings as the Commissioner for Railways might have done but for this Act.
- (f) The Commission may enforce and realise any security or charge existing immediately before the appointed day in favour of the Commissioner for Railways in respect of any such moneys and claims as if such security or charge were existing in favour of the Commission.
- (g) All debts due and moneys payable by the Commissioner for Railways solely relating to that part of the said undertaking so transferred and all claims liquidated or unliquidated recoverable against the Commissioner for Railways solely relating to that part of the said undertaking so transferred shall be debts due and moneys payable by and claims recoverable against the Commission.
- (h) No attornment by a lessee of any land vested in the Commission by this section shall be necessary.

**27.** (1) The Commissioner for Railways and the Commission shall as soon as practicable after the constitution of the Commission arrange and agree upon a division of the assets, debts and liabilities of the Commissioner for Railways, so that the assets, debts and liabilities to be transferred by this Act shall be defined.

Division of  
assets and  
liabilities.

In this section the expression "debts and liabilities" does not include the capital debt as defined in subsection two of section 41J of the Government Railways Act, 1912-1945.

(2)

No. 22, 1950.

(2) For the purposes referred to in subsection one of this section two joint committees shall be constituted and shall be called respectively "the Technical Joint Committee" and "the Finance Joint Committee."

(3) (a) The Technical Joint Committee shall consist of five members as follows:—

- (i) The chairman, who shall be appointed by the Minister from a panel of names of engineers prepared by the President of the Institution of Engineers, Australia, and who shall convene all meetings of the Technical Joint Committee and preside at such meetings.
- (ii) Two members who shall be appointed by the Commissioner for Railways to be representatives of that Commissioner.
- (iii) Two members who shall be appointed by the Commission to be representatives of the Commission.

(b) In the case of any difference between the representatives of the Commissioner for Railways and the representatives of the Commission, such difference shall be determined as the chairman shall direct.

(c) The functions of the Technical Joint Committee shall be—

- (i) to determine what assets, being land and works of the Commissioner for Railways, are to be transferred to the Commission by this Act;
- (ii) to determine what books, documents, records, and papers held by the Commissioner for Railways being books, documents, records, and papers which relate to the land and works referred to in subparagraph (i) of this paragraph, and which are necessary or expedient in order to enable the Commission to continue the generation and supply of electricity in and from such land and works are to be handed over to the Commission;
- (iii)

- (iii) to determine whether any land or works of the Commissioner for Railways not transferred to the Commission by this Act shall be made available by the Commissioner for Railways for use by the Commission, and the terms and conditions of such user; No. 22, 1950.
- (iv) to determine whether any land or works of the Commissioner for Railways not transferred to the Commission by this Act shall be made available by the Commissioner for Railways for joint use by the Commission and that Commissioner, and the terms and conditions of such user.

(d) Where a determination has been made under this subsection on the matters referred to in paragraph (c) of this subsection, a sufficient record thereof shall be filed in the offices of the Commissioner for Railways and the Commission and a copy transmitted to the Minister for record purposes.

(4) (a) The Finance Joint Committee shall consist of five members as follows:—

- (i) The Auditor-General (or his nominee) who shall be chairman and who shall convene all meetings of the Finance Joint Committee and preside at such meetings.
- (ii) One member who shall be appointed by the Commissioner for Railways to be a representative of that Commissioner.
- (iii) One member who shall be appointed by the Under Secretary to the Treasury to be a representative of the Treasurer.
- (iv) Two members who shall be appointed by the Commission to be representatives of the Commission.

(b) In the case of an equal division of votes on any matter before the Finance Joint Committee, the matter at issue shall be determined as the Auditor-General shall direct.

(c)

**Electricity Commission Act.**

No. 22, 1950.

(c) The functions of the Finance Joint Committee shall be—

- (i) to determine what assets of the Commissioner for Railways (in addition to those referred to in subparagraph (i) of paragraph (c) of subsection three of this section) are to be transferred to the Commission by this Act;
- (ii) to determine (by apportionment or otherwise) what debts and liabilities of the Commissioner for Railways are to be transferred to the Commission by this Act;
- (iii) to determine how the expense of meeting payments on account of leave or upon retirement or death of an officer of the Commissioner for Railways transferred to the service of the Commission by this Act should be apportioned between the Commissioner for Railways and the Commission;
- (iv) to determine what books, documents, records, and papers, in addition to those referred to in subparagraph (ii) of paragraph (c) of subsection three of this section, are to be handed over to the Commission.

(d) Where a determination has been made under this subsection on the matters referred to in paragraph (c) of this subsection, a sufficient record thereof shall be filed in the offices of the Commissioner for Railways and the Commission and a copy transmitted to the Minister for record purposes.

(5) The expenses of the Technical Joint Committee and of the Finance Joint Committee shall be charged to the Commission.

Apportionment of capital debt.

**28.** (1) (a) The Finance Joint Committee, after carrying out such investigations in relation to the capital debt (as defined in subsection two of section 41J of the Government Railways Act, 1912, as amended by subsequent Acts) as it deems necessary for the purpose, shall prepare and present to the Governor a report setting out the proportion of that capital debt for which

**in**



in the opinion of the majority of that Committee the Commission should assume liability. No. 22, 1950.

(b) The Commission shall as from the appointed day assume liability to the Treasurer for such part of the said capital debt as the Governor may notify by proclamation published in the Gazette.

(c) The amount of such liability so assumed by the Commission shall as and from the appointed day be deducted from the capital debt as defined in subsection two of section 41J of the Government Railways Act, 1912, as amended by subsequent Acts.

(2) The liability assumed by the Commission pursuant to subsection one of this section shall, as and from the appointed day, become and be part of the loan liability to the Treasurer as defined in section thirty-five of this Act.

**29.** The Commissioner for Railways shall not, on or after the appointed day, generate electricity, except for such purposes as the Commission may from time to time approve. Restriction of the power of the Commissioner for Railways to generate electricity.

*DIVISION 4.—The Southern Electricity Supply of New South Wales.*

**30.** In this Division unless the context or subject matter otherwise requires— Definitions.

“Administrator” means the Administrator of the Southern Electricity Supply of New South Wales.

“Works” has the meaning ascribed thereto in the Southern Electricity (Administration) Act, 1942, as amended by subsequent Acts.

**31.** On and from a day to be appointed by the Governor and notified by proclamation published in the Gazette (in this Division of this Part referred to as “the appointed day”) the following provisions shall have effect:— Transfer.

(a) All control and administration of works exercisable by the Administrator immediately before the appointed day under the Southern Electricity

**Electricity Commission Act.****No. 22, 1950**

Electricity (Administration) Act, 1942, as amended by subsequent Acts, shall be exercisable by the Commission under and in accordance with this Act.

- (b) All real and personal property and all right and interest therein which, immediately before the appointed day is vested in or belongs to the Minister for Public Works as constructing authority, and which immediately before that day is held or used for the purposes of or in connection with the works or any part thereof shall vest in and belong to the Commission.
- (c) All personal property, including all books and documents, which immediately before the appointed day belong to the Administrator shall belong to the Commission.
- (d) All moneys liquidated and unliquidated claims which immediately before the appointed day are payable to or recoverable by the Administrator or which immediately before that day are payable to or recoverable by the Minister for Public Works as constructing authority in relation to or in connection with any real or personal property, which is vested in or belongs to the Commission by virtue of this section, shall be moneys liquidated and unliquidated claims payable to or recoverable by the Commission.
- (e) (i) All moneys standing at the credit of the Southern Electricity Supply Working Account in the Special Deposits Account in the Treasury immediately before the appointed day shall be held by the Treasurer at the credit of the Commission, and may be withdrawn by the Commission at such times and in such manner as the Treasurer may approve.  
(ii) All moneys standing at the credit of the Southern Electricity Supply Depreciation Reserve Account in the Special Deposits Account in the Treasury immediately before  
the

the appointed day shall be paid by the Treasurer at the request of the Commission. No. 22, 1950.

- (f) (i) All suits, actions, and proceedings pending immediately before the appointed day at the suit of the Administrator, shall be respectively suits, actions, and proceedings pending at the suit of the Commission.
- (ii) All suits, actions, and proceedings pending immediately before the appointed day at the suit of the Minister for Public Works as constructing authority in relation to or in connection with any real or personal property or any right or interest therein which is vested in or belongs to the Commission by virtue of this section shall be respectively suits, actions, and proceedings pending at the suit of the Commission.
- (g) (i) All contracts, agreements, and undertakings entered into with and all securities lawfully given to or by the Administrator and in force immediately before the appointed day shall be deemed to be contracts, agreements, and undertakings entered into with and securities given to or by the Commission.
- (ii) All contracts, agreements, and undertakings entered into with and all securities lawfully given to or by the Minister for Public Works as constructing authority for the purposes of the works or any part thereof and in force immediately before the appointed day shall be deemed to be contracts, agreements, and undertakings entered into with and securities given to or by the Commission.
- (h) The Commission may pursue the same remedies for the recovery of any such moneys and claims and for the prosecution of such suits, actions, and proceedings as the Administrator or the Minister for Public Works, as the case may be, might have done but for this Act.

(i).

No. 22, 1950.

- (i) The Commission may enforce and realise any security or charge existing immediately before the appointed day in favour of the Administrator or the Minister for Public Works, as the case may be, in respect of any such moneys or claims as if the security or charge were existing in favour of the Commission.
- (j) (i) All debts due, and moneys payable by the Administrator, and all claims liquidated or unliquidated recoverable against the Administrator shall be debts due, moneys payable by and claims recoverable against the Commission.
- (ii) All debts due, and moneys payable by the Minister for Public Works in relation to or in connection with any real or personal property or any right or interest therein which is vested in or belongs to the Commission by virtue of this section, and all claims liquidated or unliquidated in relation to or in connection with any such real or personal property or right or interest therein shall be debts due, moneys payable by and claims recoverable against the Commission.
- (k) Where under any Act in force immediately before the appointed day, the Minister for Public Works as constructing authority is authorised to carry out any Southern Electricity Work, the said Minister shall be deemed to be divested of such authority, and it shall be the duty of the Commission to carry out such work under and in accordance with this Act.

Without prejudice to the generality of any other provision of this Division all contracts and agreements entered into by the said Minister for purposes of or relating to the carrying out of any such work, and in force  
immediately

immediately before the appointed day, shall be deemed to be contracts and agreements entered into by the Commission. No. 22, 1950.

In this paragraph "Southern Electricity Work" means any of the works specified in section six of the Southern Electricity (Administration) Act, 1942, as amended by subsequent Acts, as in force immediately before the appointed day, or any part of such works.

- (1) No attornment by a lessee of any land vested in the Commission by this section shall be necessary.

**32.** (1) As soon as practicable after the appointed day the Committee of Review constituted under section thirty-six of this Act shall cause to be notified in the Gazette the amount of liability to the Treasurer which shall be assumed by the Commission in relation to or in connection with any real or personal property which is vested in or belongs to the Commission by virtue of this Division, and the amount thereof which shall bear interest. Liability of Commission to Treasurer.

(2) The liability assumed by the Commission pursuant to subsection one of this section shall, as and from the appointed day, become and be part of the loan liability to the Treasurer as defined in section thirty-five of this Act.

**33.** Upon the appointed day—

- (a) The Southern Electricity (Administration) Act, 1942, is repealed. Consequential repeals and amendments.  
Act No. 3, 1942.
- (b) The Wyangala Dam Hydro-electric Development (Construction) Act, 1945, is amended by omitting section five. Act No. 15, 1945, sec. 5.
- (c) The Lake Illawarra and Cowra Power Stations (Construction) Act, 1949, is amended by omitting section five. Act No. 2, 1949, sec. 5.

(d)

No. 22, 1950.  
Act No. 2,  
1950, s. 5.

- (d) The Hume Dam Hydro-electric Development (Construction) Act, 1950, is amended by omitting section five.

DIVISION 5.—*Other Electricity Undertakings.*

Acquisition  
by agree-  
ment of  
other elec-  
tricity  
under-  
takings.

**34.** (1) The Commission may at any time acquire the whole or any part of any power station or transmission line conducted and operated by an electricity supply authority other than an electricity supply authority referred to in Division 1, Division 2, Division 3 or Division 4 of this Part.

(2) No such acquisition shall be effected otherwise than by agreement between the Commission and the electricity supply authority concerned, and no such agreement shall be binding on either of the parties thereto, nor shall it have any force or effect in law or equity unless and until the approval of the Governor has been signified in writing upon such agreement or a certified copy thereof.

(3) Nothing in this section shall be construed as empowering the Commission to supply electricity otherwise than in accordance with the provisions of Division 3 of Part III of this Act and subject to the conditions restrictions and limitations contained in that Division.

---

PART V.

FINANCE.

DIVISION 1.—*Loan liability of the Commission to the Treasurer.*

Loan  
liability  
to the  
Treasurer.

**35.** For the purposes of this Act, the loan liability of the Commission to the Treasurer on behalf of the State (in this Act referred to as "the loan liability to the Treasurer") shall comprise—

- (a) any loan moneys provided from time to time by the Treasurer for the Commission;
- (b) any liability to the Treasurer assumed by the Commission pursuant to section twenty-eight of this Act; and

(c)

- (c) any liability to the Treasurer assumed by the Commission pursuant to section thirty-two of this Act. No. 22, 1950.

**36.** (1) (a) There shall be constituted a committee (in this Act referred to as "the Committee of Review") which shall have the functions and the duties prescribed by this Act. Loan  
liability.  
Committee  
of Review.  
cf. Act No.  
30, 1912,  
sec. 41J (1).

(b) The Committee of Review shall consist of the persons for the time being holding the following offices, that is to say, the Auditor-General, the Chairman of the Commission and the Under Secretary to the Treasury, each of whom may appoint in writing a representative to act on his behalf.

(c) The Auditor-General (or his representative so appointed) shall be the chairman of the Committee of Review.

(d) The regulations may prescribe the procedure to be followed by the Committee of Review.

(2) The functions of the Committee of Review shall be—

- (a) to determine the amount of the liability to be assumed by the Commission pursuant to section thirty-two of this Act;
- (b) to determine how the expense of meeting payments on account of leave or upon retirement or death of an officer or employee of the Public Service transferred to the service of the Commission should be apportioned between the Treasurer and the Commission;
- (c) to certify to the Governor, as soon as practicable after the close of each financial year—
- (i) the amount of the loan liability to the Treasurer at the close of such financial year, having regard to loan moneys provided for the Commission during that financial year, the amount of any liability assumed by the Commission pursuant

No. 22, 1950.

pursuant to section twenty-eight or section thirty-two of this Act during that financial year and to any repayment by the Commission during that financial year in respect of the loan liability to the Treasurer;

- (ii) the amount (if any) which should be added to or deducted from that part of the loan liability to the Treasurer which does not bear interest.

Payment of interest and sinking fund charges.

**37.** (1) In respect of the loan liability of the Commission to the Treasurer as determined in accordance with section thirty-six of this Act the Commission shall pay to the Colonial Treasurer such amounts for interest, exchange, sinking fund contributions and other charges as the Colonial Treasurer may from time to time determine:

Provided that the amounts so determined in any year shall, unless the Colonial Treasurer otherwise directs, be the amounts chargeable in that year.

(2) The amounts determined by the Colonial Treasurer under subsection one of this section shall not exceed the amounts which the Colonial Treasurer calculates as being as nearly as practicable sufficient to recoup the State for interest, exchange, sinking fund contributions and other charges payable by the State in respect of the loan liability of the Commission to the Treasurer.

(3) Payments by the Commission in accordance with the provisions of subsection one of this section shall be made in such amounts and at such times as the Colonial Treasurer may from time to time direct.

#### DIVISION 2.—*Loans.*

Temporary accommodation.  
cf. Act No. 50, 1924, sec. 71.

**38.** (1) For the temporary accommodation of the Commission it may obtain advances by overdraft of current account in any bank or banks upon the credit of the Commission's funds to such extent as may from time to time be approved by the Governor.

(2)



(2) The Treasurer may advance such moneys to the Commission as the Governor may approve upon such terms and conditions as to repayment and interest as may be agreed upon. No. 22, 1950.

(3) The Commission may subject to the conditions and upon the terms prescribed by the by-laws receive money on deposit at short call or on fixed deposit.

**39.** The Commission may from time to time with the approval of the Governor borrow money for— Purposes for which money may be borrowed. cf. Act No. 50, 1924, sec. 72.

- (a) the construction or acquisition of works;
- (b) the acquisition of any electricity undertaking under the provisions of Part IV of this Act, or any purpose connected with such acquisition;
- (c) the discharge of any liability imposed on the Commission by section twenty-three of this Act;
- (d) the renewal of loans; and
- (e) the discharge or partial discharge of any indebtedness to the Treasurer or to any bank.

**40.** Loans to the Commission shall be deemed to be secured upon the income of the Commission from whatever source arising. Security for loans. Ibid. sec. 74.

**41.** (1) There shall be a reserve for loan repayment in every fund of the Commission in respect to which any renewal or other loan or any part thereof has been raised by the Commission. Reserves for repayment. Ibid. sec. 75.

(2) The Commission shall during each year transfer to the reserve for loan repayment from the moneys of the appropriate fund a sum not less than the Commission in its application for approval of the loan intimated that it proposed to set apart as aforesaid.

(3) Where any land or property of any kind which has been provided out of loan moneys is sold before the loan has been wholly repaid the net proceeds of the sale shall be added to the reserve for loan repayment in the appropriate fund or paid directly to the lender or used for the provision or purchase of other land or property chargeable upon the fund to which the proceeds belong.

(4)

No. 22, 1950.

(4) Moneys held as reserve for loan repayment may be invested in Government securities of the Commonwealth of Australia or of the State of New South Wales, or in debentures or inscribed stock in any loan of the Commission, or in any securities guaranteed by the Government of the said State, or in debentures or securities issued by the Sydney County Council or the Sydney City Council, or in such other securities as the Governor may approve or as may be prescribed by the regulations in each case at their current market price. Any interest or profits realised on such investments shall be added to and form part of the reserve for loan repayment. All moneys paid into the reserve for loan repayment in any fund may be applied in or towards repayment of any renewal or other loan raised in respect of the same fund, but except where otherwise provided may not be applied for any other purpose.

(5) Where the Commission decides to cancel debentures and inscribed stock of the Commission purchased from the reserve for repayment of the loan for which they were issued, then, in addition to the sums otherwise payable to the reserve for loan repayment in respect of that loan, the Commission shall, subject to any agreement to which it is a party whereby it undertakes to pay interest at a higher rate to such reserve, pay to such reserve interest at the rate of four and one-half per centum per annum on the face value of the cancelled securities from the date of their cancellation until the maturity of the loan.

(6) If after a loan raised in respect of any fund has been repaid, there remains in the reserve for repayment of that loan any balance, such balance may be transferred to the current account of that fund.

(7) The reserve for loan repayment shall not be subject to seizure in satisfaction of any debt other than for loans primarily charged on the income of the fund in which the reserve is provided.

Debentures, etc.  
cf. Act  
No. 50,  
1924,  
sec. 76.

**42.** (1) For securing repayment of the principal and interest on any money borrowed, the Commission may issue debentures or inscribed stock as prescribed by the regulations.

(2)

(2) Every such debenture and every coupon originally annexed to the debenture and whether separated therefrom or not shall be transferable by simple delivery. No. 22, 1950.

(3) Inscribed stock shall be transferable in the books of the Commission in accordance with the regulations.

(4) Debentures or inscribed stock issued under this Act shall both as regards the issue and transfer thereof for full consideration or money or money's worth be deemed to be included in the general exemptions from stamp duty under Part III of the Stamp Duties Act, 1920-1949, contained in the Second Schedule to that Act.

(5) The holder of a coupon originally annexed to a debenture and whether separated therefrom or not shall be entitled to receive payment from the Commission of the interest mentioned in the coupon upon the presentation of the same on or after the date when and at the place where the interest is payable.

(6) The due repayment of the debentures and stock and the interest thereon shall be a charge upon the income and revenue of the Commission and is hereby guaranteed by the Government. Any liability arising from such guarantee shall be payable out of moneys provided by Parliament. Such charge shall not prejudice or affect the power of the Commission to sell or convey any property vested in it free of any such charge.

**43.** (1) (a) Notwithstanding the foregoing provisions of this Act any money which the Commission is authorised to borrow may be borrowed by a loan raised wholly or in part in the form of debentures or bonds in such country as the Governor may approve, and may be negotiated and raised in any currency. Raising  
loan in  
any country.  
cf. Act No.  
50, 1924,  
sec. 76A.

(b) Such debentures or bonds may be in such form and contain such terms, conditions, and provisions whether with respect to period, interest, or amount, or with

No. 22, 1950. with respect to any other matter whatsoever as the Commission shall think fit, and shall be transferable by simple delivery if such debentures or bonds shall so provide.

(c) The provisions of this Division of this Part other than subsection one of section forty-two and subsections three and four of section forty-five of this Act shall extend and apply as well to bonds as to debentures issued and to moneys borrowed under this section.

(2) The Commission may in respect of any loan so raised agree that a sinking fund shall be established and controlled at such place by such person and in such manner as may be found necessary or expedient in the circumstances of the case, and where any such sinking fund is so established the provisions of section forty-one of this Act shall apply with regard to that loan only in respect of the amount, if any, the repayment of which is not provided for by the sinking fund established under the agreement.

(3) In connection with the raising of any loan under this section, the Commission may enter into such agreements as the Commission shall think fit with respect to the form of such debentures or bonds, or for the sale of such debentures or bonds, or the granting of an option to purchase such debentures or bonds, or for services to be performed by any person in Australia or in any other part of the world in connection with such loan or with the issue, management, and redemption of or otherwise with respect to such debentures or bonds, and such agreements may be upon such terms and conditions and may contain such provisions for the giving or receipt of consideration as the Commission shall think fit.

Copies of any such agreement shall be forwarded to the Minister who shall cause the same to be laid before both Houses of Parliament as soon as possible after the loan is raised.

(4) The Governor may upon the recommendation of the Commission appoint two or more persons to negotiate in any country the terms and conditions of any  
loan

loan raised outside Australia and for and on behalf of the Commission to enter into all such agreements as the Commission is by this section authorised to enter into and to sign, execute, or otherwise perfect all such agreements, debentures, or bonds as are by this section provided for, or to enter into all such agreements and execute all such securities and to do all such things as may be necessary or convenient to be done for the purpose of raising any loan under this Act, and may upon the like recommendation revoke or vary any such appointment and make any fresh appointment. No. 22, 1950.

The production of a copy of the Gazette containing a notification of any such appointment or revocation as aforesaid shall in favour of a lender or of any holder of a security be conclusive evidence of the appointment or revocation.

(5) All debentures or bonds bearing the signatures of such persons so appointed in that behalf shall be deemed to be securities lawfully issued under seal by the Commission and shall be deemed to be secured upon the income of the Commission from whatsoever source arising, and all agreements purporting to be made under the authority of this section and bearing the signatures of such persons shall be deemed to have been lawfully made by the said Commission, and if the same shall purport to have been sealed by such persons to have been lawfully executed by the Commission under seal. Securities to be deemed to be lawfully issued.

A holder of any such debenture or bond shall not be bound to inquire whether the issue of such security was in fact duly authorised.

**44.** (1) Any trustee unless expressly forbidden by the instrument (if any) creating the trust, may invest any trust moneys in his hands in stock inscribed by the Commission, and the investment shall be deemed to be an investment authorised by the Trustee Act, 1925, or any Act amending or replacing that Act. Trustees. cf. Act No. 50, 1924, sec. 78.

(2) Any debenture issued or stock inscribed by the Commission shall be a lawful investment for any moneys

**No. 22, 1950.** moneys which any company, council, or body corporate incorporated by any Act of the Parliament of New South Wales is authorised or directed to invest in addition to any other investment expressly provided for the investment of such moneys.

(3) No notice of any trust expressed, implied, or constructive, shall be received by the Commission or by any servant of the Commission in relation to any debenture or coupon issued or stock inscribed by the Commission.

**Lost  
debentures.  
cf. Act  
No. 50, 1924,  
sec. 79.**

**45.** (1) If any debenture issued by the Commission is lost or destroyed or defaced before the same has been paid, the Commission may, subject to the provisions of this section, issue a new debenture in lieu thereof.

(2) The new debenture with interest coupon annexed shall bear the same date, number, principal sum, and rate of interest as the lost, destroyed, or defaced debenture.

(3) When the debenture is lost or destroyed the new debenture shall not be issued unless and until—

- (a) a judge of the Supreme Court has been satisfied by affidavit of the person entitled to the lost or destroyed debenture, or of some person approved by the judge, that the same has been lost or destroyed before it has been paid off;
- (b) such advertisement as the judge may direct has been published;
- (c) six months have elapsed since the publication of the last of the advertisements; and
- (d) sufficient security has been given to the Commission to indemnify it against any double payment if the missing debenture be at any time thereafter presented for payment.

(4) When the debenture is defaced the new debenture shall not be issued unless and until the defaced debenture is lodged with the Commission for cancellation.

(5)

(5) The provisions of this section shall, *mutatis mutandis*, extend to the case of a lost, destroyed, or defaced coupon. No. 22, 1950.

(6) In case of the loss, theft, destruction, mutilation, or defacement of any debenture or bond issued under section forty-three of this Act, a duplicate or new debenture or bond may be issued upon proof to the satisfaction of the Commission of such loss, theft, or destruction, or upon surrender of the mutilated or defaced debenture or bond, as the case may be, and upon the Commission receiving security or indemnity satisfactory to it against any double payment if the missing debenture or bond be at any time thereafter presented for payment.

**46.** (1) If for six months default is made by the Commission in making any payment, whether of principal or interest, to the holder of any debenture, or coupon, issued or stock inscribed by the Commission, the holder thereof may apply to the Supreme Court in its equitable jurisdiction, in accordance with rules of court, for the appointment of a receiver of the income of the Commission. Receivers.  
cf. Act  
No. 50, 1924,  
sec. 80.

(2) A receiver may be appointed in respect of the income of the Commission either generally or as regards specified income.

(3) The Court may make such orders and give such directions as it may deem proper for and with respect to—

- (a) the appointment of a receiver;
- (b) the removal of a receiver;
- (c) the appointment of a receiver in place of a receiver previously appointed.

(4) The receiver shall be deemed to be an officer of the Court, and shall act under its directions.

**47.** (1) A receiver shall have power to collect all income payable to the Commission which he has by order of the Court been so authorised to collect and for the purposes Powers and  
duties of  
receivers.  
*Ibid.* sec. 81.

**No. 22, 1950.** purposes of this subsection the receiver shall be deemed to be the Commission and may exercise all the powers of the Commission.

(2) The receiver shall discharge such duties of the Commission or of any servants of the Commission as may be prescribed by the regulations.

Commission to receiver. cf. Act No. 50, 1924, sec. 82.

**48.** The receiver shall be entitled to such commission or remuneration for his services as the Court may order, and the commission or remuneration shall be payable out of the income for and in respect of which he has been appointed receiver.

Application of money received. *Ibid.* sec. 83.

**49.** The receiver shall, subject to any order of the Court, pay and apply all moneys received by him in the following order, that is to say—

- (a) firstly, in payment of the costs, charges, and expenses of collection, and of his commission or remuneration;
- (b) secondly, in the payment of the amount due and payable to the holder of the debenture or inscribed stock or coupon, as the case may be;
- (c) thirdly, in payment of all the residue of the moneys to the Commission.

Protection of investors. *Ibid.* sec. 85.

**50.** (1) A person advancing money to the Commission shall not be bound to inquire into the application of the money advanced, or be in any way responsible for the non-application or misapplication thereof.

(2) A notification in the Gazette of the approval of the Governor having been given to a borrowing by the Commission shall, in favour of a lender and of any holder of a security given by the Commission, be conclusive evidence that all conditions precedent to the borrowing have been complied with, and where the approval notified is to the borrowing by the Commission in a country outside New South Wales and in a particular currency shall also be conclusive evidence in favour of such persons of the approval of the Governor to the borrowing in the country and in the currency specified in the notification.



**51.** All debentures, bonds, or other securities which are secured upon the income and revenue of the Commission shall rank *pari passu* without any preference one above another by reason of priority of date or otherwise.

No. 22, 1950.

Debentures and bonds to rank *pari passu*.

cf. Act No. 50 1924, sec. 85a.

**52.** If the Commission borrows any money without having first obtained the approval of the Governor, each commissioner holding office who has knowingly and wilfully or for personal benefit or advantage, consented to the borrowing shall be liable to a penalty of five hundred pounds.

Penalty for illegal borrowing. *Ibid.* sec. 86.

The action to recover the penalty shall not be taken without the written consent of the Attorney-General.

DIVISION 3.—*Accounts and audit.*

**53.** (1) The Commission shall cause books to be provided and kept, and true and regular accounts to be entered therein in respect of each fund established by it so as to show—

Accounts generally. *Ibid.* sec. 109.

- (a) the assets, liabilities, income and expenditure in respect of the fund; and
- (b) the sources of income and purposes of expenditure in respect of the fund.

(2) The accounts of the Commission shall be kept as prescribed by the regulations.

**54.** The expenditure of each fund shall, subject to any provisions made by or under this Act, be charged against income and capital as nearly as may be in accordance with commercial principles.

Charging expenditure generally. *Ibid.* sec. 110.

**55.** (1) The Commission shall cause to be prepared an annual statement of accounts and a balance-sheet, each of which shall be in a form approved by the Auditor-General, and shall also cause to be prepared an annual report of its operations.

Annual statements. *Ibid.* sec. 111.

(2) The Commission shall furnish to the Minister a copy of such statement, balance-sheet and report.

(3)

No. 22, 1950.

(3) The report shall be laid before both Houses of Parliament.

Audit.

cf. Act No.  
50, 1924, sec.  
112.

**56.** (1) The statement of accounts and balance-sheet so prepared shall be audited and reported upon by the Auditor-General, who shall have in respect to the accounts of the Commission all the powers conferred on the Auditor-General by any law now or hereafter to be in force relating to the audit of the public accounts, as well as all powers conferred by this Act.

(2) The Auditor-General shall report to the Commission and the Minister—

(a) whether or not in his opinion—

- (i) due provision has been made for the repayment of loans; and
- (ii) the value of assets has (so far as he can judge) been in all cases fairly stated; and
- (iii) due diligence and care have been shown in the collection and banking of income; and
- (iv) the expenditure incurred has been duly authorised, vouched, and supervised; and
- (v) proper account has been kept of plant, stores, and materials; and
- (vi) any of the moneys or other property of the Commission have been misappropriated or improperly or irregularly dealt with; and

(b) as to any other matters which in his judgment call for special notice or which are prescribed by the regulations.

(3) Towards defraying the cost and expenses of the audit by the Auditor-General the Commission shall at such periods as the Minister may direct pay to the Treasurer for credit of the Consolidated Revenue Fund, the amount involved as certified by the Auditor-General.

PART

## PART VI.

No. 22, 1950.

## SERVANTS OF THE COMMISSION.

DIVISION 1.—*Transfer of officers to the Commission.*

**57.** In this Part unless the context or subject matter otherwise requires— Interpretation.

“Administrator” means the Administrator of the Southern Electricity Supply of New South Wales.

“County Council” means the Sydney County Council.

**58.** (1) The Commission may, with the approval of the Minister of the Department concerned, make use of the services of any officer or employee of the Public Service. Use of services of officers, etc.

(2) The Commission may, with the approval of the Governor, make use of the services of any of the officers, employees or servants of the County Council or of the Commissioner for Railways, and the County Council or the said Commissioner, as the case may be, shall take all necessary steps to give effect to such approval:

Provided that this subsection shall cease to have effect—

- (a) in relation to servants of the County Council—on the appointed day referred to in Division 2 of Part IV of this Act; and
- (b) in relation to officers of the Commissioner for Railways—on the appointed day referred to in Division 3 of Part IV of this Act.

**59.** (1) (a) Upon and after the appointed day referred to in Division 2 of Part IV of this Act, such servants of the County Council as the Governor, on the recommendation of the joint committee constituted under paragraph (b) of this subsection, may direct, and such servants of the County Council, as are transferred or appointed to the service of the Commission before the said appointed day, shall become and be servants of the Commission. Transfer of officers.  
cf. Act No. 42, 1935, s. 47 (2).

(b)

**Electricity Commission Act.****No. 22, 1950.**

(b) For the purposes of paragraph (a) of this subsection there shall be constituted a joint committee which shall consist of five members, as follows:—

- (i) the chairman, who shall be nominated by the Chairman of the Public Service Board, and who shall convene all meetings of the joint committee and preside at such meetings;
- (ii) two members who shall be appointed by the County Council to be representatives of that Council;
- (iii) two members who shall be appointed by the Commission to be representatives of the Commission.

(c) Such joint committee shall consider and make recommendations to the Governor as to which servants of the County Council should be transferred to the service of the Commission.

(d) In the case of any difference between the representatives of the County Council and the representatives of the Commission such difference shall be determined as the chairman of the joint committee shall direct.

(2) (a) Upon and after the appointed day referred to in Division 3 of Part IV of this Act, such officers of the Commissioner for Railways, as the Governor, on the recommendation of the joint committee constituted under paragraph (b) of this subsection, may direct, and such officers of the Commissioner for Railways, as are transferred or appointed to the service of the Commission before the said appointed day, shall become and be servants of the Commission.

(b) For the purposes of paragraph (a) of this subsection there shall be constituted a joint committee which shall consist of five members as follows:—

- (i) the chairman, who shall be nominated by the Chairman of the Public Service Board, and who shall convene all meetings of the joint committee and preside at such meetings;

(ii)

- (ii) two members who shall be appointed by the <sup>No. 22, 1950.</sup> Commissioner for Railways to be his representatives;
- (iii) two members who shall be appointed by the Commission to be representatives of the Commission.

(c) Such joint committee shall consider and make recommendations to the Governor as to which officers of the Commissioner for Railways should be transferred to the service of the Commission.

(d) In the case of any difference between the representatives of the Commissioner for Railways and the representatives of the Commission such difference shall be determined as the chairman of the joint committee shall direct.

(e) In this subsection the word "officer" has the meaning ascribed to that word in paragraph (g) of section three of the Government Railways Act, 1912, as amended by subsequent Acts.

(3) (a) Upon and after the appointed day referred to in Division 4 of Part IV of this Act, such officers and employees of the Public Service as are engaged in or in connection with the Southern Electricity Supply of New South Wales, or the exercise by the Administrator of his powers and functions and as the Governor, upon the recommendation of the joint committee constituted under the provisions of paragraph (b) of this subsection, may direct, and such officers and employees of the Public Service who are transferred or appointed to the service of the Commission before such appointed day shall become and be servants of the Commission.

(b) For the purposes of paragraph (a) of this subsection and of subsection four of this section there shall be constituted a joint committee which shall consist of five members as follows:—

- (i) the chairman, who shall be a person mutually agreed upon by the Commission and the Public Service

No. 22, 1950

Service Board, and who shall convene all meetings of the joint committee and preside at such meetings;

- (ii) two members who shall be appointed by the Public Service Board to be representatives of that Board;
- (iii) two members who shall be appointed by the Commission to be representatives of the Commission.

(c) Such joint committee shall consider and make recommendations to the Governor as to which officers and employees of the Public Service should be transferred to the service of the Commission.

(d) In the case of any difference between the representatives of the Public Service Board and the representatives of the Commission such difference shall be determined as the chairman of the joint committee shall direct.

(4) Upon and after a date to be notified by the Governor by proclamation published in the Gazette such officers and employees of the Public Service as are engaged in or in connection with the exercise and discharge of the powers and functions of the Electricity Authority of New South Wales and as the Governor, upon the recommendation of the committee constituted under the provisions of paragraph (b) of subsection three of this section, may direct, shall become and be servants of the Commission.

**Servants  
of County  
Council.**

**60.** (1) This section shall apply to and in respect of every person referred to in subsection one of section fifty-nine of this Act, who becomes a servant of the Commission, and shall so apply to him on and after the date upon which he becomes such servant.

(2) The servant shall be paid salary or wages at a rate not less than the rate which is payable to him immediately before the commencement of this Act, subject to any adjustment necessary to give effect to any fluctuation in the needs basic wage as defined in the

**Industrial**

Industrial Arbitration Act, 1940, as amended by subsequent Acts, until such salary or wages is or are varied or altered by the Commission. No. 22, 1950.

(3) The servant shall have and enjoy the same rights and privileges, if any, with regard to annual, sick, deferred and extended leave, as if he had continued to be a servant of the County Council. And for the purposes of this subsection, service with the Commission shall be deemed to be service with the County Council.

(4) Where the servant is, immediately before he becomes a servant of the Commission, a permanent servant to whom the provisions of the Local Government and Other Authorities (Superannuation) Act, 1927-1948, apply, those provisions shall continue to apply to him, and for the purposes of such application any reference in that Act to a council shall be construed as including a reference to the Commission.

(5) Where the servant is one to whom the provisions of subsection four of this section do not apply, he shall be entitled to retain the rights and privileges, if any, in relation to payments on retirement or death to which he would have been entitled if he had continued to be a servant of the County Council. And for the purposes of this subsection, service with the Commission shall be deemed to be service with the County Council.

(6) The servant shall not be entitled to claim benefits under this Act as well as under any other Act, ordinance, regulation or resolution in respect of the same period of service.

(7) Where any condition of employment of the servant is, immediately before he becomes a servant of the Commission, regulated by an award or industrial agreement, such condition shall continue to be so regulated until an award regulating such condition and binding the Commission is made by a competent tribunal or such condition is regulated by an industrial agreement to which the Commission is a party.

**61.** (1) Where within a period of twelve months after the appointed day referred to in Division 2 of Part IV of this Act, the County Council proposes, in consequence  
of

No. 22, 1950. of a change in duties or diminution of the responsibility of office of any of its servants, to reduce the salary or wages payable to such servant to a rate less than the rate received by the servant immediately before the commencement of this Act, the County Council shall immediately inform the Commission and the Committee constituted under the provisions of subsection one of section fifty-nine of its proposal and forward to each such body particulars of the name, position, qualifications and the existing and proposed rates of salary relating to any such servant.

(2) (a) The Committee constituted under the provisions of subsection one of section fifty-nine of this Act shall, where particulars relating to any servant of the County Council are referred to it pursuant to subsection one of this section determine whether the change of duties or diminution of the responsibility of office of the servant does in fact arise as a direct consequence of the operation of this Act.

(b) Where the Committee finds that the change of duties or the diminution of the responsibility of office of such servant does in fact arise as a direct consequence of the operation of this Act, the Commission may within one month after the date of the determination by the said Committee elect to employ such servant, and in such case the provisions of section sixty of this Act shall mutatis mutandis apply to and in respect of such servant. If the Commission does not exercise that election within the period specified the servant shall be entitled to remain in the service of the County Council, and to receive salary or wages at a rate not less than the rate which was payable to him immediately before the commencement of this Act, and the said Committee shall determine how the expense in paying such salary or wages to the servant shall be met.

The Committee may attach any condition or qualification it deems appropriate to any determination made by it under this paragraph.

(c) The Regulations may make provision for the carrying out or giving effect to any determination made



made by such Committee under the provisions of No. 22, 1950.  
paragraph (b) of this subsection.

**62.** (1) This section shall apply to and in respect of every person referred to in subsection two of section fifty-nine of this Act who becomes a servant of the Commission and shall so apply to him on and after the date upon which he becomes such servant.

Officers of  
Commis-  
sioner for  
Railways.

(2) The servant shall be paid salary or wages at a rate not less than the rate which is payable to him immediately before the commencement of this Act, subject to any adjustment necessary to give effect to any fluctuation in the needs basic wage as defined in the Industrial Arbitration Act, 1940, as amended by subsequent Acts until such salary or wages is or are varied or altered by the Commission.

(3) (a) The servant shall have and enjoy the same rights and privileges, if any, with regard to annual, sick, deferred and extended leave, as if he had continued to be an officer in the service of the Commissioner for Railways. And for the purposes of this subsection service with the Commission shall be deemed to be service with the Commissioner for Railways.

(b) The servant shall have and enjoy the same rights and privileges, if any, with regard to annual or privilege rail passes and travel concessions, as if he had continued to be an officer in the service of the Commissioner for Railways.

Any rights conferred upon the servant by this paragraph shall be subject to conditions imposed by any by-law issued by the Commissioner for Railways in respect of the issue of free passes on the railways, and subject thereto shall continue in force, whilst the servant remains in the service of the Commission, or until an award binding the Commission is made by a competent tribunal or an industrial agreement is made to which the Commission is a party containing provision for alternative recompense to the servant in substitution for the rights conferred by this paragraph.

The Commissioner for Railways and the Commissioner for Road Transport and Tramways are hereby authorised

to

No. 22, 1950. to issue any such pass or extend any such concession to the servant and to charge the cost thereof to the Commission.

(4) (a) Where the servant is, immediately before he becomes a servant of the Commission, a contributor to the Government Railways Superannuation Account established under Part IX of the Government Railways Act, 1912, as amended by subsequent Acts, he shall continue to contribute to that Account and shall be paid from such Account any pension, gratuity, allowance or other benefit which he would have received from that Account had he continued in the service of the Commissioner for Railways. And for the purposes of this subsection service with the Commission shall be deemed to be service with the Commissioner for Railways.

(b) Any pension, gratuity, allowance or other benefit payable to any such contributor or other person in respect of such a contributor's service, shall become due and payable in the same manner as though the contributor had continued in the service of the Commissioner for Railways.

(c) The Commission shall cause proper deductions to be made from the salary of any such contributor as aforesaid and pay all such amounts to the credit of the Government Railways Superannuation Account.

(d) The Commission shall contribute its due proportion of any amount necessary to supplement the revenue of the Government Railways Superannuation Account to enable the claims thereon to be met in any year; such amount, if not agreed upon by the Commission and the Commissioner for Railways, shall be determined by the Governor.

(5) The servant shall not be entitled to claim benefits under this Act as well as under any other Act in respect of the same period of service.

(6) Where any condition of employment of the servant is, immediately before he becomes a servant of the Commission, regulated by an award or industrial agreement,

agreement, such condition shall continue to be so regulated until an award regulating such condition and binding the Commission is made by a competent tribunal, or such condition is regulated by an industrial agreement to which the Commission is a party. No. 22, 1950.

**63.** (1) This section shall apply to and in respect of every person referred to in subsection three or subsection four of section fifty-nine of this Act, who becomes a servant of the Commission, and shall so apply to him on and after the date upon which he becomes such servant. Officers and employees of the Public Service.

(2) The servant shall be paid salary or wages at a rate not less than the rate which is payable to him immediately before the commencement of this Act, subject to any adjustment necessary to give effect to any fluctuation in the needs basic wage as defined in the Industrial Arbitration Act, 1940, as amended by subsequent Acts, until such salary or wages is or are varied or altered by the Commission.

(3) The servant shall retain any rights which, on the date upon which he becomes such servant, have accrued or are accruing to him as an officer or employee of the Public Service or as an employee within the meaning of the Superannuation Act, 1916, or any amendment thereof, and shall continue to contribute to any fund or account and shall be entitled to receive any deferred or extended leave and any payment, pension or gratuity as if he had continued to be an officer or employee of the Public Service or an employee within the meaning of the Superannuation Act, 1916, as amended by subsequent Acts, as the case may be. And for the purposes of this subsection his service with the Commission shall be deemed to be service for the purposes of the said Acts, and of the Public Service Act, 1902, as amended by subsequent Acts.

(4) The servant shall not be entitled to claim benefits under this Act as well as under any other Act in respect of the same period of service.

(5) Where any condition of employment of the servant is, immediately before he becomes a servant of the

**No. 22, 1950.** the Commission, regulated by an award or industrial agreement, or agreement made under or in pursuance of the Public Service Act, 1902, as amended by subsequent Acts, such condition shall continue to be so regulated until an award regulating such condition and binding the Commission is made by a competent tribunal, or such condition is regulated by an industrial agreement to which the Commission is a party.

DIVISION 2.—*Appointment of servants.*

**Servants.** **64.** (1) The Commission shall appoint and employ such servants as may be necessary for carrying out the provisions of this Act.

(2) Subject to the provisions of this Act, every servant of the Commission shall continue in the service of the Commission at the will of the Commission only.

(3) All servants of the Commission shall be subject to the sole control and governance of the Commission which may fix wages and conditions of employment where such wages and conditions are not fixed in accordance with the provisions of any other Act.

**Regulations re servants.** **65.** The regulations may make provision—

- (a) for and in relation to the control and governance of servants by the Commission; and
- (b) for and in relation to any other matter or thing necessary or convenient to ensure the maintenance of discipline and efficiency in the service of the Commission.

**Servants guilty of misconduct. cf. Act No. 30, 1912, sec. 82.** **66.** (1) Where a servant of the Commission is guilty of misconduct or of contravening any regulation or by-law made under this Act, or any rule or direction of the Commission, the servant may in accordance with the regulations—

- (a) be dismissed or suspended;
- (b) be fined a sum not exceeding five pounds;
- (c) be reduced in rank, position, or grade and pay;

but every such servant so dealt with shall be notified in writing of the nature of the misconduct charged or of the breach of regulation, by-law, rule or direction alleged to have been committed, and, if he is qualified to appeal to the Appeal Board established under

Division

Division 3 of this Part, may appeal thereto in the manner hereinafter provided. No. 22, 1950

(2) The Appeal Board constituted under the provisions of Division 3 of this Part may investigate and deal with any charge brought against any servant for misconduct or for the contravention of any regulation, by-law, rule or direction and may suspend such officer; or, if he has already been suspended, may further suspend him for a period not exceeding six months, without salary or wages, or may inflict a fine to be deducted from his pay, or may dismiss him.

**67.** (1) Before adopting any recommendation made by the head of a branch of the service of the Commission which affects the right of promotion of any servant of the Commission who has been in the service of the Commission for a period of not less than one year and whose salary does not exceed one thousand pounds per annum, the Commission shall give full consideration to any objection made by such servant against the adoption of the recommendation. Right to promotion.

An objection under this section shall be in writing, shall be in or to the effect of the form prescribed by the regulations, shall be accompanied by a full statement of the facts on which the objection is based and shall be lodged with the Commission within one month after the date upon which the recommendation to which objection is taken was made to the Commission.

The regulations may prescribe all matters necessary or convenient to be prescribed for giving effect to this section.

(2) For the purpose of investigating and ascertaining the facts relevant to any objection lodged under this section, the Commission may delegate any of its powers or functions to any one commissioner, or to two or more commissioners, but the decision on the objection shall be made by the Commission and such decision shall be final.

(3) Service with the County Council, or the Commissioner for Railways, or in the Public Service, of any person referred to in section fifty-nine of this Act who

No. 22, 1950. who becomes a servant of the Commission pursuant to that section, shall, for the purposes of this section and of section sixty-eight of this Act be deemed to be service with the Commission.

DIVISION 3.—*Appeals.*

Qualifica-  
tion for  
appeal.

**68.** A servant of the Commission shall not be entitled to appeal to the Appeal Board under this Part of this Act, unless—

- (a) he has been in the service of the Commission for a period of not less than one year, and
- (b) his salary does not exceed one thousand pounds per annum.

Appeal  
Board.  
cf. Act No.  
18, 1930,  
s. 114.

**69.** (1) Every appeal referred to in section sixty-six of this Act which may be made by a servant under this Part shall be referred to an Appeal Board (in this Act referred to as the "Appeal Board") which shall consist of—

- (a) a person possessing the qualifications of a stipendiary magistrate, who shall be appointed by the Governor and who shall be chairman of the Appeal Board;
- (b) a person nominated by the Commission in the manner prescribed by the regulations;
- (c) a person nominated in the manner prescribed by the regulations by an industrial union of employees of which the appellant is or is eligible to be a member.

(2) The Appeal Board shall hear and determine the appeal.

(3) The secretary of the Appeal Board shall convene the Appeal Board.

(4) All the powers of the Appeal Board may be exercised by a majority of the members thereof.

(5) Every notice of appeal shall be in writing. Such notice of appeal shall be lodged with the secretary of the Appeal Board within seven days after the date on which the appellant receives notice of the decision which is appealed against and shall be heard by the Appeal Board within thirty days from the date on which the notice of appeal was received by the said secretary.

The

The Appeal Board may decline to hear or to entertain any matter of appeal which in their opinion is based on trivial or frivolous grounds. No. 22, 1950.

(6) The chairman of the Appeal Board shall require every person to give his evidence on oath or declaration and may on behalf of the Appeal Board issue any summons requiring the attendance of witnesses; and if any person so summoned does not attend, or refuses to take an oath, or make a declaration, or refuses to give evidence, he shall be liable to a penalty of fifty pounds.

(7) The said secretary shall give to the appellant seven clear days notice of the date when the appeal will be heard.

(8) (a) In any proceedings before the Appeal Board the Commission and the appellant or the person charged may respectively be represented by its or his agent duly appointed in writing in that behalf.

(b) No party shall in any proceedings before the Appeal Board be represented by counsel or solicitor except by leave of the Appeal Board and with the consent of all parties.

(9) The Appeal Board shall investigate every appeal and shall record its findings thereon.

The Appeal Board may confirm, reverse or modify any decision appealed against, or make any such order thereon as it thinks fit.

(10) The Appeal Board's findings shall be final and shall be transmitted to the Commission which shall give effect thereto.

(11) The expenses of the Appeal Board shall be paid by the Commission.

**70.** Where under any law or any award or industrial agreement (whether enacted or made before or after the commencement of this Act) a servant of the Commission has a right of appeal to any tribunal or authority (including the employer or other the person in whose service he is employed) against any decision or determination in respect of which he has a right of appeal under this

Election as to appeal tribunal.

**Electricity Commission Act.**

**No. 22, 1950.** Part of this Act, he may exercise either the first mentioned right of appeal or the right of appeal conferred by this Part of this Act.

Where the servant lodges an appeal under such law, award, or industrial agreement no appeal shall lie under this Part of this Act, and where the servant lodges an appeal under this Part of this Act no appeal shall lie under such law, award or industrial agreement.

**Secretary and staff.**

**71.** (1) The Commission shall make available for the functions of the Appeal Board, a secretary and any necessary staff.

(2) The secretary shall keep a record of all proceedings and decisions of the Appeal Board.

**Deputy chairman of Appeal Board.**  
cf. Act No. 18, 1930, sec. 115.

**72.** In case of and during the absence, from whatever cause, of the chairman of the Appeal Board, the Governor may appoint a deputy chairman, who shall have similar qualifications to those of the chairman and who during the absence of the chairman shall have the powers of the chairman.

**DIVISION 4.—Superannuation.**

**Superannuation scheme.**

**73.** (1) The Commission may, under and in accordance with the regulations, establish a superannuation scheme with the object of providing allowances, pensions, gratuities or annuities, for the benefit of servants of the Commission, or in the case of the death of any servant for the benefit of such person or persons as the regulations may prescribe.

(2) The Commission may contribute to any such superannuation scheme in such amounts or at such rates as the regulations may prescribe, and may, if authorised by the regulations so to do, deduct from the salary or wages of any of its servants the sum, or a specified portion thereof, payable by the servant by way of contribution to the scheme.

(3) Nothing in this section shall affect any of the provisions of the Local Government and Other Authorities (Superannuation) Act, 1927-1948, or of the Superannuation Act, 1916, as amended by subsequent Acts.

**PART**



## PART VII.

No. 22, 1950.

## EMERGENCY PROVISIONS.

74. (1) Whenever it appears to the Governor that from any cause the available supply of electricity is or is likely to become less than is sufficient for the reasonable requirements of the community, the Governor may from time to time exercise all or any of the powers conferred on him by or under this section and do and perform all such acts, matters and things as are necessary or expedient for carrying into effect the purposes of this section.

Emergency powers to control supply and use of electricity. cf. Act No. 42, 1935, sec. 81.

(2) The Governor may from time to time by proclamation published in the Gazette declare that on and after the date of the publication of the proclamation or a later date specified therein the provisions of this section shall have effect.

Proclamation declaring when section to have effect.

(3) So long as any such proclamation remains unrevoked the Governor may make regulations authorising—

Regulations.

- (a) the Commission, where the circumstances referred to in subsection one of this section occur in any area or areas in which the Commission supplies electricity to any person, or
- (b) any person specified in the regulations, where such circumstances occur in an area or areas in which the Commission does not supply electricity,

to exercise and discharge such powers and duties as appear necessary or expedient to carry into effect the purposes of this section or any regulations made under this section and in particular but without limiting the generality of the foregoing provisions of this subsection authorising the Commission, or such specified person—

- (i) to control, direct, restrict and prohibit the sale, supply, use or consumption of electricity, whether generally or for any purpose or purposes specified in the regulations;
- (ii) to direct the owner (not being an electricity supply authority) of any generating plant to supply

**Electricity Commission Act.****No. 22, 1950.**

supply electricity to any specified electricity supply authority, to direct any specified electricity supply authority to accept such electricity so supplied and to specify the terms and conditions on which such electricity shall be supplied and accepted;

Orders.  
cf. Act  
No. 44, 1946,  
sec. 11 (3).

- (iii) to make such orders, take such measures, give such directions and do such things as are in the opinion of the Commission or the person specified in the regulations as aforesaid necessary or expedient to carry into effect the purposes of this section and any regulations made under this section.

(4) Any such regulations and any order or direction made or given under the authority of the regulations—

- (a) may be made or given so as to apply to or have operation throughout the whole or any specified part of the State, or throughout the whole or part of an area as defined by this Act;
- (b) may be made or given so as to operate for any period or periods or for any time or times or for any occasion or occasions specified therein;
- (c) may be of general operation or of specially limited operation according to any specified times, places, circumstances, conditions or restrictions.

(5) Any such order or direction—

- (a) shall if published in the Gazette be deemed to have been sufficiently served upon or brought to the notice of all persons concerned or affected thereby;
- (b) may be made or given so as to apply to any particular person and may be served upon that person by delivery of a copy thereof to him by hand, or by sending the copy to him by registered post, or in the case of a direction may be given orally or by telegram.

(6)

(6) The provisions of section ninety of this Act shall apply to and in respect of regulations made under this section. No. 22, 1950.

(7) (a) Any person guilty of an offence against any such regulation or who refuses or fails to comply with an order made or direction given pursuant to such a regulation by the Commission or the person so specified as aforesaid shall be guilty of an offence against this Act and shall be liable to a penalty of not more than five hundred pounds and in addition to a penalty not exceeding fifty pounds for each day during which the offence continues. Penalty for breach of regulation, order, etc. cf. Act No. 44, 1946, sec. 60.

(b) Where a person has been convicted of any offence against such regulations or for failure to comply with an order or direction pursuant to such regulations, the Commission or the person specified in the regulations may (either wholly or in part) discontinue any supply of electricity to the offender during such period as the Commission or the person so specified may think fit.

(8) Every regulation made under this section shall (unless it sooner expires or is revoked) continue in operation until the proclamation under the authority of which it was made is revoked but the expiration or revocation of any such regulation shall not affect any penalty forfeiture or punishment incurred in respect of any offence committed against such regulation or against an order or direction issued pursuant thereto or affect any investigation legal proceeding or remedy in respect of any such penalty forfeiture or punishment and any such investigation, legal proceeding or remedy may be instituted continued or enforced and any such penalty forfeiture or punishment may be imposed as if such regulation had not expired or had not been revoked. Continuance of operation of regulations.

(9) Every proclamation under this section— Proclamations.  
 (a) may be amended, varied or revoked by a later proclamation; and  
 (b) shall be judicially noticed.

(10) This section shall have effect notwithstanding anything whether expressed or implied in any other section. Effect of section.  
 section

**308 Electricity Commission Act.**

**No. 22, 1950.** section of this Act or in any other Act or in any judgment or order or in any contract or agreement, whether oral or written, or in any deed, document, security or writing whatsoever.

**Power to be in aid of other powers.** (11) All powers given by or under this section or any proclamation or regulation thereunder shall be in aid of and not in derogation from any other powers exercisable apart from this section.

**Exemption from liability of Crown.** (12) No action claim or demand whatsoever shall lie or be made or allowed by or in favour of any person whomsoever against His Majesty or any responsible Minister of the Crown or the Commission or any commissioner or any officer or person acting in the execution of this section or any proclamation or regulation or order or direction thereunder for or in respect of any damage, loss or injury sustained or alleged to be sustained by reason of the passing of this section or of its operation or of anything done or purporting to be done under this section or any proclamation or regulation or order or direction thereunder.

**Crown bound.** (13) This Part of this Act shall bind the Crown.

**Amendment of Act No. 42, 1935, s. 81.** **75.** The Gas and Electricity Act, 1935-1949, is amended by omitting from section eighty-one the words "or electricity" wherever occurring.

---

**PART VIII.**

**MISCELLANEOUS AND GENERAL.**

**DIVISION 1.—*Ancillary provisions relating to supply of electricity.***

**Stealing electricity.** cf. Act 60 Vic. No. 23, sec. 30. **76.** Any person who maliciously or fraudulently abstracts, causes to be wasted or diverted, consumes, or uses any electricity provided in pursuance of this Act shall be guilty of simple larceny and punishable accordingly.

**Penalty for removing electric line, etc.** cf. Act No. 41, 1919, sec. 512c. **77.** Any person who wilfully and unlawfully removes destroys or damages any electric line, or any pillar, post, lamp, meter, fittings, insulator, apparatus or works connected with or relating to the supply of electricity by  
the

the Commission or who wilfully and unlawfully extinguishes any of the public lamps or lights maintained by the Commission shall be guilty of an offence, and shall on summary conviction be liable to a penalty not exceeding fifty pounds or to imprisonment for a term not exceeding twelve months, and shall (without prejudice to any other right or remedy for the protection of the Commission or the punishment of the offender) for each such offence forfeit and pay to the Commission, a sum not exceeding twenty-five pounds and the Commission may in addition thereto recover the amount of any damage sustained.

No. 22, 1950.

**78.** Any person who carelessly or accidentally breaks, throws down, or damages any electric line, or any pillar, post, lamp, meter, fittings, insulator, apparatus or works belonging to the Commission shall forfeit and pay such sum of money to the Commission for the damage done not exceeding one hundred pounds as a stipendiary magistrate or two justices in petty sessions shall think reasonable:

Penalty for breaking electric line, etc.  
cf. Act No. 41, 1919, sec. 512D.

Provided that this section shall not affect any other remedy the Commission might otherwise have.

**79.** (1) Any person who wilfully or fraudulently or by culpable negligence, suffers to be injured, any electric line, or any pillar, post, lamp, meter, fittings, insulator, apparatus or works belonging to the Commission or alters the index of any meter, or prevents any meter from duly registering the quantity of electricity supplied, or fraudulently abstracts, causes to be wasted or diverted, consumes or uses electricity supplied by the Commission, shall be guilty of an offence and shall on summary conviction be liable to a penalty not exceeding fifty pounds or to imprisonment for a term not exceeding twelve months, and shall (without prejudice to any other right or remedy for the protection of the Commission or the punishment of the offender) for every offence forfeit and pay to the Commission a sum not exceeding twenty-five pounds, and the Commission may in addition thereto recover the amount of any damage sustained.

Penalty for tampering with meter.  
*Ibid.* sec. 512E.

(2)

No. 22, 1950.

(2) The existence of artificial means for causing such alteration or prevention, or for abstracting, wasting, diverting, consuming or using electricity supplied by the Commission when the meter is under the custody or control of the consumer shall be prima facie evidence that such alteration, prevention, abstraction, waste, diversion, consumption or use, as the case may be, has been fraudulently, knowingly and wilfully caused by the consumer.

Discontinu-  
ance of  
supply for  
offence, etc.  
cf. Act  
No. 41, 1919,  
sec. 512F.

**80.** (1) Where a person has committed an offence against section seventy-nine of this Act the Commission may until the matter complained of has been remedied, but no longer, discontinue the supply of electricity.

(2) If a person neglects to pay any sum due by him to the Commission for electricity supplied or services rendered by it the Commission may, after giving reasonable notice of its intention so to do, discontinue his supply of electricity, until such sum, together with any expenses incurred by the Commission in discontinuing such supply, are fully paid, but no longer.

Persons  
damaging  
works.  
cf. Act  
No. 17, 1929,  
sec. 5;  
Act No. 3,  
1942, sec. 8.

**81.** Any person who unlawfully cuts or otherwise severs any wire or cable, damages any insulator or so interferes with any part of the works of the Commission, as to break the electric circuit, or cause short circuit, leakage or loss of electricity or interruption to the supply or who so interferes with any part of such works as to cause a condition which is or is likely to be a danger to life health or property shall be liable—

- (a) upon summary conviction to a penalty not exceeding fifty pounds or to imprisonment for a term not exceeding six months or to both such penalty and imprisonment;
- (b) on conviction on indictment to a penalty not exceeding one hundred pounds or to imprisonment for a period not exceeding five years or to both such penalty and imprisonment.

**82.**

**82.** (1) All works and every part thereof vested in or held by the Commission subject to the provisions of this Act shall, notwithstanding that they have been constructed in any road or place, remain the property of the Commission.

No. 22, 1950.  
Proprietary rights in regard to works and materials.

(2) Where any electric lines, poles, meters, fittings, apparatus, buildings or any part of the works whatsoever belonging to the Commission are placed in or upon any place or building for the purpose of supplying electricity in pursuance of this Act the same shall not, save in a proceeding at the suit of the Commission, be taken in execution under the process of any court.

**83.** The Commission shall not be liable in damages to any person by reason of any partial or total failure of the supply of electricity from any cause whatsoever and may at any time temporarily discontinue the supply of electricity whenever in its opinion such action is desirable for the purpose of ensuring the efficient operation of any works under the control of the Commission.

No compensation in respect of failure of supply.  
cf. Act No. 36, 1941, sec. 10;  
Act No. 3, 1942, sec. 10.

**84.** Subject to the provisions of this Act the Commission may open and break up the soil and pavement of any road, and open and break up any sewers drains or tunnels within or under such roads, and may construct subways and drains, and may lay down and place under or over any road any electric lines; and from time to time repair, alter or remove the same; and for the purposes aforesaid may remove and use all earth and materials in and under such roads, and may in any such roads erect any posts, pillars, standards, lamps and do all other acts which it may from time to time deem necessary for supplying electricity; and may lay any electric line, branch, or other apparatus from any main or branch electric line, into through or against any place or building for the purpose of lighting the same; and provide and set up any works in its opinion necessary for securing thereto a complete supply of electricity, and for measuring and ascertaining the extent of such supply:

Power to break up streets and to open drains.  
cf. Act 60 Vic. No. 23, sec. 14.

Provided that nothing herein shall authorise or empower the Commission to construct or place any works into

No. 22, 1950. into, through, against or in any place, building or land not dedicated to public use without the consent of the owners and occupiers thereof, except that the Commission may at any time make entry and construct and place any new works instead of such works as shall have been lawfully constructed or placed and may repair or alter any works so constructed or placed.

Power to  
alter  
position of  
pipes, wires,  
etc.  
cf. Act  
60  
Vic. No. 23,  
sec. 15.

**85.** Subject to the provisions of this Act—

- (a) The Commission may alter the position of any pipes, wires, sewers, drains or tunnels being made under any road or place which may interfere with the exercise of its powers under this Act on previously making or securing such compensation to the owners of such pipes, wires, sewers, drains or tunnels and on complying with such conditions as to the mode of making such alterations, as may before the commencement of such alterations be agreed upon between the Commission and such owners or in the case of difference as may be determined by arbitration.
- (b) Any person or Public Authority lawfully competent to do so, may in like manner alter the position of any works of the Commission being under or over any such road or place as aforesaid which may interfere with the lawful exercise of any powers vested in such person or authority in relation to such road or place, subject to the like provisions, conditions and restrictions as are in paragraph (a) of this section contained.

Streets  
to be  
reinstated.  
cf. Act  
60 Vic. No.  
23, sec. 16.

**86.** When the Commission opens or breaks up the roadway or pavement of any road or any sewer, drain or tunnel it shall with all possible speed complete the work for which the same shall have been opened or broken up, and fill in the ground and reinstate and make good the roadway or pavement or the sewer, drain or tunnel so opened or broken up, and carry away the rubbish occasioned



occasioned thereby and shall at all times whilst any such roadway or pavement shall be so opened or broken up cause the same to be fenced and guarded, and shall at night time cause a light sufficient for the warning of passengers to be set up and maintained against or near such roadway or pavement where the same shall be open or broken up. No. 22, 1950

DIVISION 2.—*Regulations and By-laws.*

**87.** The Governor may make regulations not inconsistent with this Act, prescribing all matters which are by this Act required or permitted to be prescribed by regulations and in particular in relation to the following matters:— Regulations.

- (a) any of the powers conferred on or duties imposed on the Governor or the Minister;
- (b) the governance of the servants of the Commission, the regulation of their conditions of employment, and for their guidance in the execution of their duties;
- (c) prescribing all matters relating to any superannuation scheme for servants of the Commission;
- (d) the carrying out of the functions of the Appeal Board.

**88.** The Commission may with the approval of the Governor make by-laws not inconsistent with this Act or the regulations prescribing all matters which by this Act are required or permitted to be prescribed by by-laws, or which are necessary or convenient to be so prescribed, and in particular in relation to the following matters:— By-laws.

- (a) the protection of the property of the Commission from trespass or damage;
- (b) the prevention of obstruction to any person acting under the authority of the Commission;
- (c)

**Electricity Commission Act.**

No. 22, 1950.

- (c) the carrying into effect of the several provisions, intentions and objects of the Act.

Penalties for  
breach of  
regulations,  
etc.

**89.** A regulation or by-law may—

- (a) impose a penalty for breach thereof and also distinct penalties in case of successive breaches thereof but no such penalty shall exceed fifty pounds;
- (b) impose also a daily penalty for any continuing breach thereof not exceeding five pounds per day;
- (c) fix a minimum as well as a maximum penalty.

Publication,  
etc., of  
regulations  
and by-laws.

**90.** (1) Regulations and by-laws shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date to be specified therein; and
- (c) be laid before both Houses of Parliament within fourteen days after publication if Parliament is in session and if not, then within fourteen sitting days after the commencement of the next session.

(2) If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulation or by-law has been laid before such House disallowing the regulation or by-law or part thereof, such regulation, by-law or part shall thereupon cease to have effect.

DIVISION 3.—*Miscellaneous.*

Judicial  
notice of  
seal of the  
Commission.

cf. Act No.  
13, 1946,  
sec. 29.

**91.** All courts and persons having by law or consent of parties authority to hear receive and examine evidence—

- (a) shall take judicial notice of the seal of the Commission affixed to any documents; and
- (b) shall until the contrary be proved presume that such seal was properly affixed thereto.

**92.**

**92.** Any notice summons writ or other proceeding required to be served on the Commission may be served by being left at the office of the Commission, or, in the case of a notice, by post.

No. 22, 1950.  
Service of  
notice of  
proceedings  
on the  
Commission.  
cf. Act No.  
13, 1946,  
sec. 30.

**93.** Every summons, process, demand, order, notice statement, direction or document requiring authentication by the Commission may be sufficiently authenticated without the seal of the Commission if signed by the Chairman of the Commission.

Documents.  
How authen-  
ticated.  
cf. *Ibid.*  
sec. 31.

**94.** (1) Every person guilty of an offence against this Act shall for every such offence be liable to the penalty expressly provided therefor and if no penalty is provided to a penalty not exceeding fifty pounds and to a further daily penalty not exceeding five pounds.

Penalties.

(2) A body corporate shall be liable for any offence against this Act as if it were a private person and shall be subject to the same penalties as if it were a private person, and if any chairman, member of the governing body, director, manager, secretary or officer of such body corporate knowingly authorises or permits the commission of any offence he shall also be liable therefor.

Liability  
of body  
corporate.  
cf. Act No.  
42, 1935,  
sec. 81 (6).

**95.** (1) Any penalty imposed by this Act or the regulations or by-laws may be recovered in a summary manner before a stipendiary magistrate or any two justices in petty sessions.

Recovery of  
penalty.  
cf. Act No.  
13, 1946,  
sec. 33.

(2) Where the penalty is a daily penalty it may be recovered either under a separate information or complaint for each day or under an information or complaint for the sum of the daily penalties.

**96.** (1) Any charge fee or money due to the Commission under the provisions of this Act or any by-law may be recovered as a debt in a court of competent jurisdiction.

Recovery  
of charges,  
etc.  
cf. Act  
No. 20, 1938,  
sec. 128.

(2)

**Electricity Commission Act.****No. 22, 1950.**

(2) Proceedings for the recovery of any charge fee or money so due to the Commission shall be deemed to be for the recovery of a debt or liquidated demand within the meaning of—

- (a) Section twenty-four of the Common Law Procedure Act, 1899;
- (b) Section sixty-four of the District Courts Act, 1912-1949;
- (c) Section twenty-five of the Small Debts Recovery Act, 1912-1933.

**Proof of certain matters required.**

**cf. Act No. 13, 1946, sec. 34.**

**97.** In any legal proceedings by or against the Commission no proof shall be required (until evidence is given to the contrary) of—

- (a) the constitution of the Commission;
- (b) any resolution of the Commission;
- (c) the appointment of any commissioner or any servant of the Commission;
- (d) the presence of a quorum at any meeting at which any determination is made or any act is done by the Commission.

**Disputes between Commission and public authority or council.**

**cf. Act No. 20, 1938 sec. 140.**

**98.** (1) When any dispute arises between the Commission and another Public Authority or a council and subject to any provision of this Act not providing another course of action, either party may refer the dispute to the Minister for settlement by the Governor.

(2) The Minister may appoint any person a commissioner to hold an inquiry and to report to him as to any matter arising in or relating to the dispute.

(3) The provisions of the Royal Commissions Act, 1923-1934 (other than Division 2 of Part II of that Act), and the provisions of section one hundred and fifty-two of the Justices Act, 1902, shall mutatis mutandis apply to any commissioner appointed under this section.

(4) The Governor may make such order in the public interest and in the circumstances of the case as may seem just and equitable. Any such order shall be final and conclusive and shall be given effect to by the Commission and by the Public Authority or the Council as the case may be.

**99.**

**99.** (1) The Commission may from time to time by resolution delegate such of the authorities powers duties or functions of the Commission (other than the power of delegation) as may be prescribed by the regulations and as are specified in the resolution:—

- (a) to any commissioner;
- (b) to any servant of the Commission;
- (c) to any officer servant or employee of whose services the Commission makes use pursuant to this or any other Act.

(2) Any such delegation may be made either generally or for any particular case or class of cases.

(3) Any person when acting within the scope of any such delegation to him shall be deemed to be the Commission.

(4) Any instrument necessary to be executed and any notice order summons or other like document requiring authentication for the purpose of the exercise or discharge of any power authority duty or function delegated to any person under this section shall be sufficiently executed or authenticated as the case may be if signed by such person in such a way as to show that he does so under and in pursuance of the delegation.

(5) The Commission may by resolution revoke such delegation.

**100.** (1) A writ or other process in respect of any damage or injury to person or property shall not be sued out or served upon the Commission or any commissioner, or any servant of the Commission or any person acting in his aid for anything done or intended to be done or omitted to be done under this Act, until the expiration of one month after notice in writing has been served on the Commission or commissioner, servant or person, as provided in this section.

Notice of  
action.  
cf. Act No.  
41, 1919,  
s. 580.

(2) The notice shall state—

- (a) the cause of action;
- (b) the time and place at which the damage or injury was sustained; and

(c)

No. 22, 1950.

(c) the name and place of abode or business of the intended plaintiff and of his attorney, if any, in the case.

Representative of the Commission to be permitted to inspect property injured.

(3) In the case of damage to property, any person who produces on demand his authority from the Commission shall be permitted to inspect the property damaged, and all facilities and information necessary to ascertain fully the value of the property damaged, the nature and extent of the damage, and the amount of money, if any, expended in repairing the same shall be given to him.

(4) At the trial of any such action the plaintiff shall not be permitted to go into evidence of any cause of action that is not stated in the notice, and unless the notice has been served the plaintiff shall not be entitled to maintain the action:

Provided that at any stage of the proceedings the court or any judge of the court in which the action is pending may, if the court or judge deems it to be just or reasonable in the circumstances so to do—

- (a) amend any defect in the notice on such terms and conditions, if any, as the court or judge may fix;
- (b) direct that any non-compliance or insufficient compliance with this section shall not be a bar to the maintenance of the action.

(5) Every such action shall be commenced within the period of twelve months next after the occurring of the cause of action. Such period is in this subsection referred to as the "prescribed period":

Provided that where an application is made to a judge of the Supreme Court in accordance with rules of court for an extension of the prescribed period the judge may, if he is satisfied that sufficient cause has been shown, or that having regard to all the circumstances of the case, it would be reasonable so to do, make an order for extension of the prescribed period for such further period and subject to such terms and conditions, if any, as may be set out in the order.

Such

Such application for extension may be made either No. 22, 1950. within the prescribed period or at any time within twelve months thereafter.

Any person who is dissatisfied with the decision of the judge on any such application may appeal to the Supreme Court and that court may on the appeal make any order which ought to have been made in the first instance.

Every such appeal shall be made in accordance with rules of court.

(6) The Commission, or any commissioner, servant or person to whom any such notice of action is given as aforesaid, may tender amends to the plaintiff, his attorney or agent at any time within one month after service of notice of action, and in case the same is not accepted may plead the tender in bar.

(7) The defendant in every such action may plead the general issue and at the trial thereof give this Act and the special matter in evidence.

