

**STATE POLLUTION CONTROL COMMISSION
ACT.**

New South Wales



ANNO UNDEVICESIMO

ELIZABETHÆ II REGINÆ

Act No. 95, 1970.

An Act to provide for the constitution of a corporation to be called the "State Pollution Control Commission"; to confer and impose on the corporation responsibilities, powers, authorities, duties and functions of a supervisory, advisory and co-ordinating character for the prevention, control, abatement and mitigation of pollution, the control and regulation of the disposal of waste and the protection of the environment from defacement, defilement or deterioration; and for purposes connected therewith. [Assented to, 9th December, 1970.]

BE

State Pollution Control Commission.

BE it enacted by the Queen's Most Excellent Majesty, by No. 95, 1970 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.**

1. (1) This Act may be cited as the "State Pollution Control Commission Act, 1970". Short title and commencement.

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

2. This Act is divided as follows :— Division of Act.

PART I.—PRELIMINARY—ss. 1–5.

PART II.—CONSTITUTION OF THE STATE POLLUTION CONTROL COMMISSION—ss. 6–10.

PART III.—RESPONSIBILITIES, POWERS, AUTHORITIES, DUTIES AND FUNCTIONS OF THE STATE POLLUTION CONTROL COMMISSION—ss. 11–17.

PART IV.—ADVISORY COMMITTEES—ss. 18–22.

PART V.—GENERAL—ss. 23–32.

3. This Act binds the Crown. Act binds Crown.

4. (1) Where the provisions, express or implied, of this Act are inconsistent with any of the provisions of any other Act or any regulation, ordinance or by-law made under any other Act (other than the Prevention of Oil Pollution of Navigable Waters Act, 1960), the provisions of this Act shall prevail. This Act paramount.

(2)

State Pollution Control Commission.

No. 95, 1970 (2) Where the provisions of any regulation made under this Act are inconsistent with any of the provisions of any regulation, ordinance or by-law made under any other Act (other than a regulation made under the Prevention of Oil Pollution of Navigable Waters Act, 1960), the provisions of the regulation made under this Act shall prevail.

(3) Except as expressly provided by this Act, nothing in this Act takes away or affects the responsibilities, powers, authorities, duties and functions of any person or body conferred or imposed by or under any other Act or any regulation, ordinance or by-law made under any other Act.

**Interpre-
tation.**

5. In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

“Chairman” means the Chairman of the Commission;

“Commission” means the State Pollution Control Commission constituted by Part II of this Act;

“Director” means the person appointed as the Director of the Commission;

“public authority” means a public authority constituted by or under any Act other than this Act and includes a Government Department and an officer or employee of a Government Department or of a statutory body representing the Crown on whom any powers, authorities, duties or functions are conferred or imposed by or under any Act other than this Act;

“Technical Advisory Committee” means the Technical Advisory Committee constituted by Part IV of this Act;

“waste” has the meaning ascribed thereto in the Waste Disposal Act, 1970.

PART

PART II.

No. 95, 1970

CONSTITUTION OF THE STATE POLLUTION CONTROL
COMMISSION.

6. (1) There is hereby constituted a corporation under Constitution of the Commission. the corporate name of the "State Pollution Control Commission" which—

- (a) shall have the responsibilities and may exercise and perform the powers, authorities, duties and functions conferred or imposed upon it by or under this or any other Act;
- (b) shall, for the purposes of any Act, be deemed to be a statutory body representing the Crown; and
- (c) shall, in the exercise and performance of its responsibilities, powers, authorities, duties and functions (except when it makes a recommendation or report to the Minister) be subject to the control and direction of the Minister.

(2) The Commission shall consist of—

- (a) nine members (in this Part referred to as "appointed members") appointed by the Governor, of whom—
 - (i) one, being a person nominated by the Minister, shall, in and by the instrument of his appointment or by a subsequent instrument executed by the Governor, be appointed as the Chairman of the Commission;
 - (ii) one, being a person nominated by the Minister, shall, in and by the instrument of his appointment or by a subsequent instrument executed by the Governor, be appointed as the Director of the Commission;

(iii)

*State Pollution Control Commission.***No. 95, 1970**

- (iii) one shall be a person nominated by the Minister and selected by him from a panel submitted by the Local Government Association of New South Wales within such period as may, from time to time, be fixed by the Minister and notified by him to that association;
- (iv) one shall be a person nominated by the Minister and selected by him from a panel submitted by the Shires Association of New South Wales within such period as may, from time to time, be fixed by the Minister and notified by him to that association; and
- (v) five shall be nominated by the Minister to represent primary industry, secondary industry, commerce, conservation and recreational activities, as the Minister considers appropriate; and

(b) three other members, of whom—

- (i) one shall be the person for the time being holding the office of Under Secretary of the Department of Local Government;
- (ii) one shall be the person for the time being holding the office of Under Secretary of the Department of Public Health; and
- (iii) one shall be the person for the time being holding the office of President of The Metropolitan Water Sewerage and Drainage Board.

(3) If within the period referred to in subparagraph (iii) or (iv) of paragraph (a) of subsection two of this section the Local Government Association of New South Wales or the Shires Association of New South Wales does not submit to the Minister a panel of names for the purpose

of

State Pollution Control Commission.

of that subparagraph, the Governor may appoint a person, No. 95, 1970 nominated by the Minister, to be a member of the Commission instead of the member required to be appointed from the panel to be submitted by that Association.

(4) An appointed member shall, subject to this Act, hold office as such a member for such term not exceeding five years as may be specified in the instrument of his appointment and shall, if otherwise qualified, be eligible for re-appointment from time to time.

(5) Any such re-appointment shall be for such term not exceeding five years as may be specified in the instrument of re-appointment.

(6) A member of the Commission holding office under subparagraph (i), (ii) or (iii) of paragraph (b) of subsection two of this section may nominate in writing a person as his deputy to attend any meeting of the Authority that that member is unable for any reason to attend and the person so nominated—

- (a) shall have and may exercise and perform the powers, authorities, duties or functions of the member of whom he is a deputy; and
- (b) if he is not otherwise a member of the Commission, shall be deemed to be such a member.

(7) On the occurrence of a vacancy in the office of an appointed member otherwise than by the expiration of the term for which he was appointed, the Governor may appoint a person to fill the vacant office so that the Commission is constituted as provided by subsection two of this section.

- (8) A person who is of or above the age—
- (a) of sixty-five years shall not be appointed as the Director; or
 - (b) of seventy years shall not be appointed as an appointed member.

(9)

No. 95, 1970

(9) The Director—

- (a) shall be the chief executive and administrative officer of the Commission, shall devote the whole of his time to the duties of his office, and shall have and may exercise and perform the powers, authorities, duties and functions conferred or imposed upon him by this Act and such of the powers, authorities, duties and functions of the Commission as are delegated to him by the Commission; and
- (b) shall be the Deputy Chairman of the Commission and shall, during the absence or illness of the Chairman, act in the place of the Chairman with, in addition to the powers, authorities, duties and functions conferred or imposed on him as Director, the powers, authorities, duties and functions conferred or imposed on the Chairman.

(10) No person shall be concerned to inquire whether any occasion has arisen requiring or authorising the Director to act in the place of the Chairman, and all acts and things done or omitted by the Director while so acting shall be as valid and effectual and shall have the same consequences as if they had been done or omitted by the Chairman.

(11) The Minister may, on such terms and conditions (including terms and conditions as to payment of salary or remuneration, and allowances) as he may determine, appoint any person to act as Acting Director of the Commission during the absence or illness of the Director, and the person so appointed, while he holds office as Acting Director of the Commission—

- (a) shall have and may exercise and perform the powers, authorities, duties and functions of the Director and Deputy Chairman of the Commission; and
- (b) if he is not otherwise a member of the Commission, shall be deemed to be such a member.

(12)

State Pollution Control Commission.

(12) No person shall be concerned to inquire whether any occasion has arisen requiring or authorising the Acting Director of the Commission to act in the place of the Director, and all acts and things done or omitted by the Acting Director of the Commission while so acting shall be as valid and effectual and shall have the same consequences as if they had been done or omitted by the Director. **No. 95, 1970**

(13) Each appointed member, other than the Director, shall receive such remuneration and allowances, and the Director shall receive such annual salary and allowances, as the Governor may from time to time determine in respect of that member or the Director.

(14) Where by or under any other 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, that provision shall not operate to disqualify him from holding that office and also the office of a member of the Commission, other than the office of the Director, or from accepting and retaining any remuneration or allowances payable to him under this section.

(15) The office of a member of the Commission, other than the Director, shall not for the purposes of any Act be deemed to be an office or place of profit under the Crown.

(16) The provisions of the Public Service Act, 1902, shall not apply to or in respect of the appointment by the Governor of any appointed member and any such member or the Acting Director shall not, in his capacity as such a member or as the Acting Director, be subject to the provisions of that Act during his term of office as a member or while he acts as the Acting Director, as the case may be.

7. (1) An appointed member shall be deemed to have vacated his office— **Casual vacancies.**

(a) if he dies;

(b)

State Pollution Control Commission.

No. 95, 1970

-
- (b) if, being the Director, he engages during his term of office in any paid employment outside the duties of his office ;
- (c) if, being the Director, 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 his absence is occasioned by illness or other unavoidable cause ;
- (d) if, being a member other than the Director, he is absent from four consecutive ordinary meetings of the Commission of which reasonable notice has been given him either personally or in the ordinary course of post, unless on leave granted by the Commission or unless he is, before the expiration of four weeks after the last of those meetings, excused by the Commission for his absence from those meetings ;
- (e) if he becomes bankrupt, compounds with his creditors, or makes any assignment of his salary, remuneration, allowances or estate for their benefit ;
- (f) if he becomes a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958 ;
- (g) 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 so punishable ;
- (h) if he resigns his office by writing under his hand addressed to the Governor, and the Governor accepts the resignation ;

(i)

State Pollution Control Commission.

(i) if he is removed from office by the Governor; or No. 95, 1970

(j) where he is—

(i) the Director, on the day on which he attains the age of sixty-five years; or

(ii) an appointed member, other than the Director, on the day on which he attains the age of seventy years.

(2) The Governor may, for any cause which appears to him sufficient, remove any appointed member of the Commission from office.

8. (1) Where the Director was, immediately before his first appointment as Director, an officer of the Public Service, has continuously been the Director and ceases to be the Director, otherwise than pursuant to subsection one (paragraph (h) excepted) or two of section seven of this Act, he 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 that appointment.

(2) Any officer of the Public Service or any person who is an employee within the meaning of the Superannuation Act, 1916, or any permanent servant within the meaning of the Local Government (Superannuation) Act, 1927, who is appointed as the Director shall retain any rights which have accrued or are accruing to him as such an officer, employee or permanent servant 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 such an officer, employee or permanent servant during his service with the Commission, and for the purposes of this subsection his service as the Director shall be deemed to be service for the purpose of the Act under which he continues to contribute or by which that entitlement is conferred.

(3)

State Pollution Control Commission.

No. 95, 1970 (3) The Director shall not, in respect of the same period of service, be entitled to claim a benefit under this Act and another Act.

(4) Where the Director contributes to a fund or account as referred to in subsection two of this section, the Commission shall pay to the State Superannuation Board or the Local Government Superannuation Board, as the case may be, such amounts as would have been payable to that Board if the Director had remained an employee within the meaning of the Superannuation Act, 1916, or a permanent servant within the meaning of the Local Government (Superannuation) Act, 1927, and had continued to be employed by the employer by whom he was employed immediately before his appointment as the Director and as if he were receiving from that employer the same salary and allowances as is or are being paid to him under this Act.

Meetings of
the Com-
mission.

9. (1) The Commission shall hold meetings as convened by the Chairman on his own motion or on a requisition made by a majority of the members of the Commission or on the direction of the Minister, but a meeting of the Commission shall be held at least once in every two months.

(2) The procedure for the calling of meetings of the Commission and for the conduct of business at those meetings shall, subject to this Act and the regulations, be as determined by the Commission.

(3) The Chairman shall preside at all meetings of the Commission at which he is present and, if he is absent from any meeting, the Deputy Chairman shall preside at that meeting.

(4) Seven members of the Commission, including the Chairman or the Director, or both of them, shall form a quorum and any duly convened meeting of the Commission 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.

(5)

State Pollution Control Commission.

(5) In the event of an equality of votes at any meeting of the Commission, the person presiding at the meeting shall have, in addition to a deliberative vote, a second or casting vote. No. 95, 1970

(6) A decision of the majority of the members present at a meeting of the Commission at which a quorum is present shall be the decision of the Commission.

(7) The Commission shall cause full and accurate minutes to be kept of the proceedings at its meetings and shall submit to the Minister a copy of the minutes of each meeting within fourteen days after the day on which it was held.

(8) No matter or thing done, and no contract entered into, by the Commission, and no matter or thing done by any member of the Commission 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 such a member or a person so acting personally to any action, liability, claim or demand whatsoever.

(9) Nothing in subsection eight of this section shall exempt any member of the Commission 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 the member authorised or joined in authorising.

10. (1) Except as provided by subsection four of this section, such officers and employees as may be necessary for the purpose of carrying out the provisions of this Act shall be appointed by the Governor under and subject to the Public Service Act, 1902, but no such officer or employee shall be appointed without the concurrence of the Director. Officers
and
servants.

(2)

State Pollution Control Commission.

No. 95, 1970

(2) For the purposes of exercising and performing the powers, authorities, duties and functions conferred or imposed on the Commission by this or any other Act, the Commission may, with the approval of the Minister of the Department concerned and on such terms as may be arranged, make use of the services of any of the officers or employees of any Government Department.

(3) The Commission may for the like purposes with the approval of any other public authority and on such terms as may be arranged, make use of the services of any of the officers, servants or employees of that public authority.

(4) The Commission may appoint and employ, on such terms and conditions as it thinks fit and for any particular purpose specified in a resolution of the Commission, any person, body or organisation considered by the Commission to be capable of providing services, information or advice required by the Commission in exercising and performing the powers, authorities, duties and functions conferred or imposed upon it by this or any other Act.

PART III.
**RESPONSIBILITIES, POWERS, AUTHORITIES, DUTIES AND
FUNCTIONS OF THE STATE POLLUTION CONTROL
COMMISSION.**

11. The Commission is charged generally with the responsibilities of—

Responsi-
bilities of the
Commission.

- (a) ensuring that all practical measures are taken in accordance with this or any other Act to prevent, control, abate or mitigate the pollution of the environment, to control or regulate the disposal of waste and otherwise to protect the environment from defacement, defilement or deterioration;

(b)

State Pollution Control Commission.

-
- (b) co-ordinating the activities of all public authorities in respect of those measures; No. 95, 1970
 - (c) inquiring into and reporting to the Minister upon the efficacy of those measures, the adequacy and effectiveness of inspections made for the purpose of determining whether those measures are being complied with and the steps which might be taken to remedy any deficiencies in the making of those inspections; and
 - (d) providing, and encouraging the development of, specialist guidance and technical advisory services in relation to the prevention, control, abatement or mitigation of the pollution of the environment, to the control or regulation of the disposal of waste and to the protection of the environment from defacement, defilement or deterioration.

12. The Commission may—

- (a) formulate and promote plans for the prevention, control, abatement or mitigation of the pollution of the environment, for the control or regulation of the disposal of waste and for the protection of the environment from defacement, defilement or deterioration; Powers of
the Com-
mission.
- (b) carry out or commission, and co-ordinate surveys and investigations into the causes, nature and extent of the pollution of the environment;
- (c) carry out or commission and co-ordinate research into and compile and publish information on—
 - (i) methods of preventing, controlling, abating or mitigating the pollution of the environment;
 - (ii) the disposal of waste; and
 - (iii) the protection of the environment from defacement, defilement or deterioration; and

State Pollution Control Commission.

No. 95, 1970

- (d) consult and arrange with any public authority for the doing by that authority of anything within its powers which will contribute to the prevention, control, abatement or mitigation of the pollution of the environment, the disposal of waste or the protection of the environment from defacement, defilement or deterioration.

Further powers of Commission acting in conjunction with the Technical Advisory Committee.

13. (1) The Commission may, on the recommendation or with the concurrence of the Technical Advisory Committee, from time to time—

- (a) by order, direct any public authority to do anything within the powers of that authority which will, in the opinion of the Commission, contribute to the prevention, control, abatement or mitigation of the pollution of the environment, the disposal of waste or the protection of the environment from defacement, defilement or deterioration; or
- (b) by order, direct any public authority to cease doing anything which, in the opinion of the Commission, causes, contributes to, or tends to lead to, the pollution of the environment or the defacement, defilement or deterioration of the environment.

(2) Where a dispute arises between the Commission and a public authority with respect to any direction given by the Commission under subsection one of this section, the Commission or that public authority may refer the dispute to the Premier for settlement and the decision of the Premier on the dispute shall be final and shall be given effect to by the Commission and that authority.

(3) Where a public authority, being a council or a county council, within the meaning of the Local Government Act, 1919, is a party to a dispute referred to in subsection two of this section and fails to give effect to a decision of the Premier on the dispute within the period specified in that decision, the Commission may give effect to that decision, and

may

State Pollution Control Commission.

may carry out any work or give any directions as if it were that council or county council and for the purpose of carrying out that work or giving those directions the Commission shall be deemed to be that council or that county council. No. 95, 1970

(4) Any costs or expenses incurred by the Commission in giving effect to a decision, as referred to in subsection three of this section, shall be recoverable by the Commission, as a debt, against the council or county council concerned in any court of competent jurisdiction.

(5) Where under any other Act provision is made for the settlement of a dispute between a public authority constituted under that Act and any other public authority, that provision shall not apply to the settlement of a dispute referred to in subsection two of this section.

14. (1) Where regulations, ordinances or by-laws may be made under any Act with respect to any matter relating to the prevention, control, abatement or mitigation of pollution and the Commission is of the opinion that any such regulations, ordinances or by-laws have not been, but should be, made, or that any such regulations, ordinances or by-laws that have been made should be amended or should be repealed and substituted by other regulations, ordinances or by-laws, the Commission may so inform the Minister administering the Act under which the regulations, ordinances or by-laws may be made. Amendment,
etc., of
regulations,
etc., relat-
ing to
pollution
made under
other Acts.

(2) Where the Act under which any such regulations, ordinances or by-laws may be made requires that they be made on the recommendation or with the concurrence of any other person or body, any amendment, or repeal and substitution, of the regulations, ordinances or by-laws which the Commission has, in accordance with subsection one of this section, informed the Minister concerned should be made, or any amendment, or repeal and substitution, substantially to the like effect, may be made without the recommendation or concurrence of that other person or body.

15.

State Pollution Control Commission.

No. 95, 1970 **15.** As soon as is practicable after the commencement of this Act and from time to time thereafter as may be required by the Minister or as may seem to the Commission to be desirable, the Commission shall submit to the Minister a report on the legislative or other action which the Commission considers necessary and practicable for the purpose of carrying out its responsibilities referred to in paragraphs (a), (b) and (c) of section eleven, or implementing any plans referred to in paragraph (a) of section twelve, of this Act.

Commission
to report
on necessity
for further
legislation,
etc.

Delegation. **16.** (1) The Commission may by instrument in writing under seal delegate to the Director the exercise or performance of such of the powers (other than this power of delegation), authorities, duties or functions conferred or imposed on the Commission by or under this or any other Act as may be specified in the instrument of delegation.

(2) A power, authority, duty or function, the exercise or performance of which has been delegated under this section may, while the delegation remains unrevoked, be exercised or performed from time to time in accordance with the terms of the delegation by the Director.

(3) A delegation under this section may be made subject to such conditions or such limitations as to the exercise or performance of any of the powers, authorities, duties or functions delegated, or as to time or circumstance as may be specified in the instrument of delegation.

(4) Notwithstanding any delegation made under this section, the Commission may continue to exercise or perform all or any of the powers, authorities, duties or functions delegated.

(5) Any act or thing done or suffered by the Director while acting in the exercise of a delegation under this section shall have the same force and effect as if the act or thing done had been done or suffered by the Commission.

17.

State Pollution Control Commission.

17. (1) The Commission shall, as soon as practicable after the thirtieth day of June, but not later than the thirtieth day of September, in each year forward to the Minister a report of its work and activities for the year ended the thirtieth day of June then last past. No. 95, 1970
Annual report.

(2) The Minister shall lay that report, or cause it to be laid, before both Houses of Parliament as soon as practicable after the receipt by him of the report.

PART IV.

ADVISORY COMMITTEES.

18. (1) There is hereby constituted a committee, to be called the "Technical Advisory Committee" which shall consist of the Director, and sixteen other members (in this Part referred to as "appointed members") appointed by the Minister. Technical
Advisory
Committee.

(2) Of the appointed members—

- (a) one shall be an officer of the Department of Agriculture nominated by the Minister for Agriculture;
- (b) one shall be an officer of the Chief Secretary's Department experienced in fisheries nominated by the Chief Secretary;
- (c) one shall be an officer of the Department of Decentralisation and Development nominated by the Minister for Decentralisation and Development;
- (d) one shall be an officer of the Department of Motor Transport nominated by the Minister for Transport;
- (e) one shall be an officer of the Department of Public Health nominated by the Minister for Health;
- (f) one shall be an officer of the Department of Public Works nominated by the Minister for Public Works;

(g)

State Pollution Control Commission.

No. 95, 1970

- (g) one shall be an officer of the Department of Conservation or of The Water Conservation and Irrigation Commission or of the Forestry Commission of New South Wales or of the Soil Conservation Service, nominated by the Minister for Conservation;
- (h) one shall be an officer of the National Parks and Wildlife Service nominated by the Minister for Lands;
- (i) one shall be a representative of the Metropolitan Waste Disposal Authority constituted under the Waste Disposal Act, 1970, and shall be nominated by that Authority;
- (j) one shall be a representative of The Metropolitan Water Sewerage and Drainage Board nominated by that Board;
- (k) one shall be a representative of the Maritime Services Board nominated by that Board;
- (l) one shall be a representative of The State Planning Authority of New South Wales nominated by that Authority;
- (m) one shall be a person who is the holder of a certificate as a health inspector referred to in section 93A of the Local Government Act, 1919; and
- (n) three shall be persons having such professional or technical qualifications as the Minister may consider appropriate.

(3) An appointed member shall, subject to this Act, hold office as such a member for a period of three years from the date of his appointment and shall, if otherwise qualified, be eligible for re-appointment.

(4) On the occurrence of a vacancy in the office of an appointed member otherwise than by the expiration of the term for which he was appointed, the Minister may appoint a person to fill the vacant office so that the Technical

Advisory

State Pollution Control Commission.

Advisory Committee is constituted as provided by subsection No. 95, 1970 one of this section and the person so appointed shall hold office as a member of the Technical Advisory Committee for the balance of his predecessor's term of office.

(5) The Director shall be chairman of, and shall preside at all meetings of, the Technical Advisory Committee at which he is present.

(6) If the Director is absent from any meeting of the Technical Advisory Committee, the members present shall appoint one of their number to preside at that meeting.

(7) The Technical Advisory Committee shall, as requested by the Commission—

- (a) generally advise the Commission on matters relating to the Commission's responsibilities, powers, authorities, duties and functions under this or any other Act; and
- (b) conduct an inquiry into any matter referred to it by the Commission and report its findings to the Commission.

(8) The Technical Advisory Committee may establish sub-committees for the purpose of advising the Technical Advisory Committee upon such matters within the scope of its functions as may be referred to the sub-committees by the Technical Advisory Committee.

(9) A person may be appointed to a sub-committee of the Technical Advisory Committee whether or not he is a member of the Technical Advisory Committee.

(10) The Technical Advisory Committee may dissolve a sub-committee established by it or terminate the appointment of a member of such a sub-committee at any time and for any reason as it sees fit.

State Pollution Control Commission.

No. 95, 1970
Other committees.

19. (1) The Minister may, on the recommendation of the Commission, establish such other committees as may be considered by him appropriate to carry out such investigations and furnish such reports and recommendations as the Commission may require in connection with any matter or thing relating to the exercise or discharge by the Commission of its responsibilities, powers, authorities, duties and functions under this or any other Act.

(2) A committee established under subsection one of this section shall consist of a chairman, appointed as such by the Minister, and such other persons as the Minister thinks fit.

(3) A member or servant of the Commission or a member of the Technical Advisory Committee may be appointed to a committee established under subsection one of this section.

(4) The chairman of a committee established under subsection one of this section shall preside at all meetings of the committee at which he is present.

(5) If the chairman of such a committee is absent from any meeting of the committee, the members present shall appoint one of their number to preside at that meeting.

(6) A committee established under subsection one of this section may be dissolved by the Minister at any time.

Casual vacancies.

20. (1) An appointed member of the Technical Advisory Committee or a member of any committee established under subsection one of section nineteen of this Act shall be deemed to have vacated his office if he—

(a) dies;

(b) resigns his office by writing under his hand addressed to the Minister and his resignation is accepted by the Minister;

(c)

State Pollution Control Commission.

- (c) is, on the recommendation of the Commission, No. 95, 1970 removed from office by the Minister ;
- (d) is removed from his office as such a member under subsection two of this section ; or
- (e) being a member or servant of the Commission, ceases to hold office as such a member or ceases to be such a servant.

(2) The Minister may, on the recommendation of the Commission, remove from office for any cause which appears to him sufficient any appointed member of the Technical Advisory Committee or any member of any other committee established under this Part.

21. (1) Each appointed member of the Technical Advisory Committee and each member of any other committee established under this Part shall receive such remuneration and allowances as the Minister may from time to time determine in respect of that member.

Provisions applicable to members of the Technical Advisory Committee and certain other committees.

(2) Where by or under any other 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, that provision shall not operate to disqualify him from holding that office and also the office of a member of the Technical Advisory Committee or of any other committee established under this Part.

(3) The office of an appointed member of the Technical Advisory Committee or a member of any other committee established under this Part shall not, for the purposes of any Act, be deemed to be an office or place of profit under the Crown.

(4) The provisions of the Public Service Act, 1902, shall not apply to or in respect of the appointment of any appointed member of the Technical Advisory Committee or of any member of any other committee established under this Part, and any such member shall not, in his capacity as such a member, be subject to the provisions of that Act during his term of office.

22.

State Pollution Control Commission.

No. 95, 1970
 —
 Meetings of
 Technical
 Advisory
 Committee
 and of
 certain
 other
 committees.

22. (1) The procedure for the calling of meetings of the Technical Advisory Committee and of any other committee established under this Part, and for the conduct of business at such meetings shall, subject to any direction of the Commission, be as determined by the Technical Advisory Committee or other committee, as the case may be.

(2) The number of members who shall constitute a quorum at any meeting—

(a) of the Technical Advisory Committee, shall be nine ;
 or

(b) of any other committee established under this Part shall—

(i) where the committee consists of an even number of members, be one-half of that number ; and

(ii) where the committee consists of a number of members that is not an even number, be one-half of the even number next above that number.

PART V.

GENERAL.

Inquiries. **23.** (1) An inquiry into any matter relating to the prevention, control, abatement or mitigation of the pollution of the environment, the control or regulation of the disposal of waste or the protection of the environment from defacement, defilement or deterioration may be conducted by the Commission and, if required by the Minister, shall be conducted by the Commission, the Technical Advisory Committee or any other committee or any sub-committee established under Part IV of this Act, or any member of the Commission, the Technical Advisory Committee or any such committee or sub-committee.

(2)

State Pollution Control Commission.

(2) A body or person conducting any such inquiry No. 95, 1970 may, by notice in writing served on any person, require that person—

- (a) within such reasonable time as may be specified in the notice, to furnish to that body or person such information and to produce to that body or person such books, documents or other papers in his possession or under his control as may be required for the purpose of the inquiry and as may be specified in the notice, whether generally or otherwise; or
- (b) to attend at a time and place specified in the notice before that body or person and thereafter from time to time as required by that body or person and to give evidence concerning any matter the subject of the inquiry and to produce all such books, documents or papers in his possession or under his control as may be required for the purpose of the inquiry and as may be specified in the notice, whether generally or otherwise.

(3) A body or person conducting an inquiry under this section may, subject to section thirteen of the Oaths Act, 1900, require any such evidence to be given on oath, and either in writing or orally, and for that purpose—

- (a) where the inquiry is being conducted by a body, the person presiding at the inquiry; or
- (b) where the inquiry is being conducted by a person, that person,

may administer an oath.

(4) A person shall not neglect or refuse to comply with the requirements of a notice served on him under this section.

Penalty : One thousand dollars.

(5)

No. 95, 1970

(5) A person shall not—

- (a) furnish any information referred to in paragraph (a) of subsection two of this section required of him pursuant to a notice served on him under that subsection that is false or misleading in a material particular; or
- (b) give any evidence referred to in paragraph (b) of that subsection that is false or misleading in a material particular.

Penalty : One thousand dollars.

(6) It is a sufficient defence to a prosecution for an offence arising under subsection five of this section if the defendant proves that he believed the truth of the information or evidence given by him and that it was given in good faith.

(7) The regulations made under this Act may prescribe scales of expenses to be allowed to persons for attending or giving evidence under this section.

Power of
entry.

24. (1) For the purpose of enabling the Commission to exercise its responsibilities, powers, authorities, duties and functions under this or any other Act, any person authorised in writing by the Commission for the purpose may enter—

- (a) any premises used as a factory or any premises in which an industry or trade is being carried on, at any time during which any manufacturing, industrial or trade process is being carried on therein; and
- (b) any other premises, not being a dwelling-house, at any reasonable time,

and may therein make such examinations, tests, inspections or inquiries and take such samples and such photographs as he considers necessary in connection with the administration of this Act.

(2)

State Pollution Control Commission.

(2) A person shall not wilfully delay or obstruct a person authorised under subsection one of this section in the exercise of his powers under that subsection or, being the occupier of any premises, refuse to permit or to assist a person so authorised to exercise those powers. No. 95, 1970

Penalty : One thousand dollars.

(3) Every person authorised under subsection one of this section shall be provided by the Commission with a certificate of his authority, and on applying for admission to any premises which he is empowered by this section to enter shall, if requested to do so, produce the certificate to the occupier of the premises.

(4) In this section, "premises" includes place, shop, boat and any other vessel whatsoever.

25. (1) The Commission may by notice in writing require any person to furnish to it such information in connection with any matter relating to its responsibilities, powers, authorities, duties or functions as may be specified in the notice. Persons may be required to furnish information.

(2) A person shall not neglect or fail to comply with a requirement made under this section.

Penalty : One thousand dollars.

(3) Any information furnished pursuant to a requirement made under subsection one of this section shall not, if the person furnishing the information objected, at the time of furnishing it, to doing so on the ground that it might tend to incriminate him, be admissible in evidence in any prosecution against that person for any offence, not being the offence of neglecting or failing to comply with any requirement made under this section.

26.

State Pollution Control Commission.

No. 95, 1970
 Disclosure of information.

26. A person shall not disclose any information obtained by him in connection with the administration or execution of this Act, unless the disclosure is made—

- (a) with the consent of the person from whom the information was obtained, or where the information relates to a manufacturing, industrial or trade process carried on on any premises, with the consent of the occupier of those premises;
- (b) in connection with the administration or execution of this Act;
- (c) subject to section twenty-five of this Act, for the purpose of any legal proceedings arising out of this Act or of any report of any such proceedings; or
- (d) for the purpose of any inquiry conducted under this Act.

Penalty : One thousand dollars.

Proof of certain matters not required.

27. 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 or the Technical Advisory Committee;
- (b) any resolution of the Commission or the Technical Advisory Committee;
- (c) the appointment of any member or any officer of the Commission or the Technical Advisory Committee;
- (d) the presence of a quorum at any meeting at which any determination is made or any act is done by the Commission or the Technical Advisory Committee; or
- (e) the recommendation or concurrence of the Technical Advisory Committee for or in anything done by the Commission

State Pollution Control Commission.

28. 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 posting it addressed to the Commission at its office.

No. 95, 1970
Service of
notice of
proceedings
on the
Commission.

29. 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 Director.

Documents—
how authen-
ticated.

30. (1) A writ or other process in respect of any damage or injury to a person or to property shall not be sued out or served upon the Commission or any member of the Commission or any officer of the Commission or any person acting in its or 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, member, officer or person as provided in this section.

Notice of
action.

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

(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, and the amount of money, if any, expended in repairing the damage shall be given to him.

(4)

State Pollution Control Commission.

No. 95, 1970

(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, but 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; or
- (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 (in this section referred to as the “prescribed period”) of twelve months next after the occurring of the cause of action but 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.

(6) Any such application for extension may be made either within the prescribed period or at any time within twelve months thereafter.

(7) Any person who is dissatisfied with the decision of the judge on any such application may, in accordance with rules of court, appeal to the Court of Appeal and that court may on the appeal make any order which it considers ought to have been made in the first instance.

(8) The Commission or any member, officer or person to whom any such notice of action is given, may tender amends to the plaintiff, his attorney or agent at any time within one month after service of notice of action, and if the tender is not accepted may plead the tender in bar.

(9)

State Pollution Control Commission.

(9) The defendant in every such action may plead No. 95, 1970 the general issue and at the trial thereof give this Act and the special matter in evidence.

31. (1) Any penalty imposed by this Act may be recovered in a summary manner before a stipendiary magistrate or by two justices sitting in petty sessions. Proceedings for penalties.

(2) A prosecution for an offence against this Act, section twenty-six excepted, shall not be commenced without the written consent of the Commission.

32. The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter which by this Act is required or permitted to be prescribed or which is necessary or convenient to be prescribed for the carrying out of or giving effect to this Act. Regulations.

SUMMARY