

**ELECTRICITY COMMISSION (AMENDMENT) ACT, 1982,
No. 63**

New South Wales



ANNO TRICESIMO PRIMO

ELIZABETHÆ II REGINÆ

Act No. 63, 1982.

An Act to amend the Electricity Commission Act, 1950, with respect to the membership and procedure of The Electricity Commission of New South Wales, and for other purposes. [Assented to, 18th May, 1982.]

See also Statutory and Other Offices Remuneration (Electricity Commission) Amendment Act, 1982.

Electricity Commission (Amendment).

BE it enacted by the Queen'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:—

Short title.

1. This Act may be cited as the "Electricity Commission (Amendment) Act, 1982".

Commencement.

2. (1) Except as provided in subsections (2) and (3), this Act shall commence on the date of assent to this Act.

(2) Section 5 (1) and Schedules 1 and 2 shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

(3) Section 5 (2) and Schedule 3 shall commence on 1st July, 1982.

Principal Act.

3. The Electricity Commission Act, 1950, is referred to in this Act as the Principal Act.

Schedules.

4. This Act contains the following Schedules:—

SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE MEMBERSHIP AND PROCEDURE OF THE COMMISSION.

SCHEDULE 2.—MINOR AND CONSEQUENTIAL AMENDMENTS TO THE PRINCIPAL ACT.

SCHEDULE 3.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO ACCOUNTS, AUDIT AND ANNUAL REPORTS.

Electricity Commission (Amendment).

SCHEDULE 4.—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

Amendment of Act No. 22, 1950.

5. (1) The Principal Act is amended in the manner set forth in Schedules 1 and 2.

(2) The Principal Act is further amended in the manner set forth in Schedule 3.

Savings, transitional and other provisions.

6. Schedule 4 has effect.

Report and recommendations.

7. Within 6 months after the day appointed and notified under section 2 (2), The Electricity Commission of New South Wales shall —

- (a) forward to the Minister a report relating to the financial management, industrial relations and operating activities of the Commission and such other matters as it determines or the Minister directs should be dealt with in the report; and
 - (b) in the report make such recommendations with respect to any organisational, administrative or other changes as are, in its judgment, necessary or desirable, in the public interest, for the improvement of any of the matters mentioned in paragraph (a).
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Electricity Commission (Amendment).

SCHEDULE 1.

(Sec. 5 (1).)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE MEMBERSHIP
AND PROCEDURE OF THE COMMISSION.

(1) Sections 5A, 5B—

After section 5, insert:—

**Provisions relating to the membership and procedure of the
Commission.**

5A. (1) The Commission shall consist of not less than 5 and not more than 7 commissioners who shall be appointed by the Governor.

(2) In the event of the office of any commissioner becoming vacant, a person shall, subject to Schedule 6, be appointed to fill the vacancy.

(3) Schedule 6 has effect with respect to the commissioners.

(4) Schedule 7 has effect with respect to the procedure of the Commission.

Delegation.

5B. (1) The Commission may, by instrument in writing, delegate to—

- (a) the General Manager;
- (b) a committee comprised of commissioners, including the General Manager or a commissioner nominated by the General Manager;
- (c) an employee of the Commission;
- (d) a person for the time being holding or acting in a specified position in the staff establishment of the Commission; or
- (e) any person of whose services the Commission makes use pursuant to this or any other Act,

Electricity Commission (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE MEMBERSHIP
AND PROCEDURE OF THE COMMISSION—*continued.*

the exercise of such of the functions of the Commission as are specified in the instrument.

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

(3) Without limiting the operation of subsection (2), a function the exercise of which has been delegated under this section to the General Manager may, while the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the delegation by—

- (a) an employee of the Commission;
- (b) a person for the time being holding or acting in a specified position in the staff establishment of the Commission; or
- (c) any person of whose services the Commission makes use pursuant to this or any other Act,

as authorised by instrument in writing by the General Manager in that behalf either generally or in a particular case or class of cases.

(4) A delegation or authorisation under this section may be made subject to such conditions or limitations as to the exercise of any function the subject thereof, or as to time or circumstances, as may be specified in the instrument of delegation or authorisation.

(5) Notwithstanding any delegation under this section, the Commission may continue to exercise any function delegated.

(6) Any act or thing done or suffered by a delegate acting in the exercise of a delegation under this section, or by a person duly authorised in that behalf by the General Manager under this section, has the same force and effect as it would have if it had been done or suffered by the Commission and shall be deemed to have been done or suffered by the Commission.

Electricity Commission (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE MEMBERSHIP
AND PROCEDURE OF THE COMMISSION—*continued.*

(7) The Commission may, by instrument in writing, revoke wholly or in part any delegation under this section, and the General Manager may, by instrument in writing, revoke wholly or in part any authorisation under this section.

(8) An instrument purporting to have been signed by a person in his capacity as a delegate of the Commission, or as a person authorised under this section, shall in all courts and before all persons acting judicially be received in evidence as if it were an instrument duly executed by the Commission and shall, until the contrary is proved, be deemed to be an instrument signed by a delegate of the Commission or by a person duly authorised under this section, as the case may be.

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

(10) In subsections (8) and (9), a reference to a delegate includes a reference to the chairman of a committee to which the exercise of a function has been delegated under subsection (1).

(2) Sections 6A, 6B—

After section 6, insert:—

Functions of General Manager.

6A. The General Manager—

- (a) is responsible, as the chief executive officer of the Commission, for the management of the affairs of the Commission subject to and in accordance with any directions given to him by the Commission; and

Electricity Commission (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE MEMBERSHIP
AND PROCEDURE OF THE COMMISSION—*continued.*

- (b) shall have and may exercise such other functions as are conferred or imposed on him by or under this or any other Act.

Disclosure of interest by commissioners.

6B. (1) If a commissioner has a pecuniary interest, direct or indirect, in a contract or proposed contract with the Commission or in any other matter in which the Commission is concerned and is present at a meeting of the Commission at which the contract, proposed contract or other matter is the subject of consideration, he shall, at the meeting, as soon as practicable after the commencement thereof, disclose his interest and shall not take part in the consideration or discussion of or vote on any question with respect to the contract, proposed contract or other matter, but—

- (a) he shall, if present, be counted for the purpose of constituting a quorum; and
- (b) no proceedings of the Commission shall be invalidated by reason of his voting or purporting to vote or otherwise participating or purporting to participate therein, but his vote shall not be counted.

(2) For the purposes of this section, a person shall be treated as having an indirect interest in a contract, proposed contract or other matter if—

- (a) he or any nominee of his is a member of a company or other body with which the contract is made or is proposed to be made or which has a direct or indirect pecuniary interest in the other matter; or
- (b) he is a partner, or is in the employment, of a person with whom the contract is made or is proposed to be made or who has a direct or indirect pecuniary interest in the other matter.

Electricity Commission (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE MEMBERSHIP
AND PROCEDURE OF THE COMMISSION—*continued.*

(3) Notwithstanding subsection (2)—

- (a) that subsection does not apply to membership of or employment under any council or statutory body within the meaning of the Local Government Act, 1919;
- (b) a member of a company or other body shall not, by reason only of his membership, be treated as being so interested if he has no beneficial interest in any shares of that company or other body; and
- (c) a member of a company having not less than 25 members shall not be treated as having an interest in any contract or proposed contract with the Commission or in any other matter in which the Commission is concerned by reason only that the contract or proposed contract is with or the other matter concerns the company.

(4) In the case of a man and his wife who are living together, the interest of one spouse shall, if known to the other, be deemed, for the purposes of this section, to be also an interest of the other spouse.

(5) A general notice in writing by a commissioner to an employee of the Commission nominated by the Commission to the effect that he or his spouse is a member or is in the employment of a specified company or other body, or that he or his spouse is a partner or in the employment of a specified person shall, unless and until the notice is withdrawn, be deemed to be a sufficient disclosure of his interest in any contract, proposed contract or other matter relating to that company or other body or to that person which may be the subject of consideration after the date of the notice.

(6) The employee referred to in subsection (5) shall record in a book to be kept for the purpose particulars of any disclosure made under subsection (1) and of any notice given under subsection

Electricity Commission (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE MEMBERSHIP
AND PROCEDURE OF THE COMMISSION—*continued.*

(5) and the book shall be open at all reasonable hours to the inspection of any person on payment of such fee as may be determined by the Commission from time to time.

(7) Subject to subsection (8), a commissioner contravenes this subsection if he fails to comply with the provisions of subsection (1), unless he proves that he did not know that a contract, proposed contract or other matter in which he had a pecuniary interest was the subject of consideration at the meeting.

Penalty: \$400.

(8) The Minister may, subject to such conditions as he thinks fit to impose, remove any disability imposed by subsection (1) in any case in which the number of commissioners referred to in subsection (1) so disabled at any one time would be so great a proportion of the whole of the commissioners as to impede the transaction of business, or in any other case in which it appears to the Minister that it is in the public interest that the disability should be removed.

(9) The Commission may, by resolution, provide for the exclusion of any commissioner from a meeting of the Commission while any proposal, in respect of any contract, proposed contract or other matter in which that commissioner has an interest as referred to in this section, is under consideration.

(10) In this section, "shares" includes stock.

Electricity Commission (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE MEMBERSHIP
AND PROCEDURE OF THE COMMISSION—*continued.*

(3) Schedules 6, 7—

After Schedule 5, insert:—

SCHEDULE 6.

(Sec. 5A (3).)

PROVISIONS RELATING TO THE MEMBERSHIP OF THE COMMISSION.

Interpretation: Sch. 6.

1. In this Schedule, “part-time commissioner” means a commissioner referred to in clause 2 (1) (b) or (c).

Commissioners.

2. (1) Of the commissioners—

- (a) 1 shall, in and by the instrument by which he is appointed, be appointed as General Manager of the Commission;
- (b) not less than 3 and not more than 5 shall be persons nominated for appointment as commissioners by the Minister and shall, in and by the instruments by which they are appointed, be appointed as part-time commissioners; and
- (c) 1 shall be a person elected in the manner prescribed by regulations made under clause 3 and shall, in and by the instrument by which he is appointed, be appointed as a part-time commissioner.

(2) A person of or above the age of 65 years is not eligible to be appointed as General Manager or a part-time commissioner referred to in subclause (1) (c).

(3) A person of or above the age of 70 years is not eligible to be appointed as a part-time commissioner referred to in subclause (1) (b).

(4) Nothing in this Act requires a vacancy in the office of a part-time commissioner referred to in subclause (1) (b) to be filled if there are at least 3 other such part-time commissioners.

Electricity Commission (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE MEMBERSHIP
AND PROCEDURE OF THE COMMISSION—*continued.***Elected commissioner.**

3. (1) In this clause, "elected commissioner" means the commissioner referred to in clause 2 (1) (c).

(2) Regulations may be made for or with respect to the election of a person to hold office as elected commissioner.

(3) The Electoral Commissioner for New South Wales, or a person employed in the office of the Electoral Commissioner and nominated by him, shall be the returning officer for an election, and shall have and may exercise the functions conferred or imposed on the returning officer by the regulations made under this clause in relation to the election.

(4) Employees of the Commission are entitled to vote at an election in accordance with the regulations made under this clause.

(5) A person's nomination as a candidate for election as elected commissioner is invalid if—

- (a) the nomination is not made by at least 2 persons who are employees of the Commission;
- (b) at the date of his nomination he is not an employee of the Commission;
- (c) he is not, at the time of his nomination, a member of an industrial union registered as such under the Industrial Arbitration Act, 1940, or an association of employees registered as an organization under the Conciliation and Arbitration Act 1904 of the Parliament of the Commonwealth, being such an industrial union or association that is prescribed by the regulations for the purposes of this paragraph as being an industrial union or association representing employees of the Commission; or
- (d) the instrument of nomination is not accompanied by a statutory declaration to the effect that he is, at the time of his nomination, such a member,

and the returning officer is entitled to rely on the information contained in the statutory declaration.

(6) A person may be, at the same time, both the elected commissioner and an employee of the Commission.

Electricity Commission (Amendment).

SCHEDULE 1—*continued.***AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE MEMBERSHIP AND PROCEDURE OF THE COMMISSION—*continued.***

(7) Nothing in any law, rule, direction or other requirement that—

(a) is applicable to the elected commissioner in his capacity as an employee of the Commission; and

(b) would not be so applicable if he were not such an employee,

operates so as to prevent or restrict the exercise by him of any of his functions as elected commissioner.

(8) If no person is nominated at an election, or if for any other reason an election fails, the Governor may appoint a person eligible for election and nominated by the Minister to be a part-time commissioner, and the person so nominated shall, on being appointed, be deemed to be a person elected in the manner prescribed by the regulations made under this clause.

(9) If a vacancy occurs in the office of elected commissioner otherwise than by reason of the expiration of the term of office of an elected commissioner—

(a) the Governor may appoint a person eligible for election and nominated by the Minister to hold, subject to this Schedule, the office of elected commissioner for a term commencing on the date of his appointment or a later date specified in the instrument of his appointment and ending on the commencement of the term of office of the next elected commissioner; and

(b) any person so nominated shall, on being so appointed, be deemed to be a person elected in the manner prescribed by the regulations made under this clause.

Chairman of the Commission.

4. Of the part-time commissioners referred to in clause 2 (1) (b), one shall, in and by the instrument by which he is appointed, or by another instrument executed by the Governor, be appointed as Chairman of the Commission.

Acting commissioners.

5. (1) The Governor may, from time to time, appoint a person to act in the office of a commissioner, other than the office of Chairman, during the illness or absence of the commissioner.

Electricity Commission (Amendment).

 SCHEDULE 1—*continued.*

 AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE MEMBERSHIP
 AND PROCEDURE OF THE COMMISSION—*continued.*

(2) The Governor may, from time to time, appoint a part-time commissioner referred to in clause 2 (1) (b) to act in the office of Chairman during the illness or absence of the Chairman, and may in any such case appoint a person to act in the office of that commissioner while that commissioner acts in the office of Chairman.

(3) The Governor may, for any cause which appears to him sufficient, remove any person from any office to which he was appointed under subclause (1) or (2).

(4) Any commissioner or person while acting in the office of Chairman, or of any other commissioner, shall have all the functions of the person in whose office he acts, and shall receive such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of him.

(5) Without limiting the generality of subclause (4), any commissioner or person while acting in the office of General Manager shall have all the functions of the General Manager.

(6) For the purposes of this clause, a vacancy in the office of—

- (a) General Manager;
- (b) a part-time commissioner referred to in clause 2 (1) (b), other than the Chairman; or
- (c) the Chairman,

shall be deemed to be an absence from office of the General Manager, part-time commissioner or Chairman, as the case may be.

Terms of office.

6. (1) The term of office of a commissioner shall be, and, unless he vacates his office during his term, a commissioner shall hold office for—

- (a) where he is General Manager—such period not exceeding 7 years; or
- (b) except as provided in subclause (2), where he is a part-time commissioner—such period not exceeding 5 years,

as may be specified in the instrument appointing him.

Electricity Commission (Amendment).

SCHEDULE 1—*continued.*

**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE MEMBERSHIP
AND PROCEDURE OF THE COMMISSION—*continued.***

(2) Subject to clause 3 (9), the term of office of the commissioner elected in the manner prescribed by regulations made under clause 3 (2) shall be, and, unless he vacates his office during his term, he shall hold office for, the period of 3 years commencing on the day specified in the instrument appointing him as the day upon which his term of office shall commence.

Commissioners may be re-appointed.

7. Upon the expiration of the term of office of a commissioner he shall, if otherwise qualified, be eligible for re-appointment from time to time.

General Manager.

8. (1) The General Manager shall devote the whole of his time to the duties of his office, except as permitted by clause 10 (1) (c) or except with the consent of the Minister (which consent the Minister is hereby authorised to give).

(2) The General Manager is entitled to be paid—

- (a) remuneration in accordance with the Statutory and Other Offices Remuneration Act, 1975; and
- (b) such travelling and subsistence allowances as the Minister may from time to time determine in respect of him.

Part-time commissioners.

9. A part-time commissioner is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of him.

Vacation of office.

10. (1) A commissioner shall be deemed to have vacated his office if—

- (a) he dies;

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SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE MEMBERSHIP
AND PROCEDURE OF THE COMMISSION—*continued.*

- (b) being a part-time commissioner, he absents himself from 4 consecutive meetings of the Commission of which reasonable notice has been given to him personally or in the ordinary course of post, except on leave granted by the Minister (which leave the Minister is hereby authorised to grant) or unless, before the expiration of 4 weeks after the last of those meetings, he is excused by the Minister for his absence from those meetings;
- (c) being General Manager, he absents himself from duty for 14 days (whether or not wholly or partly consecutive) in any period of 12 months, 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) he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;
- (e) he becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;
- (f) he is convicted in New South Wales of a felony or of a misdemeanour which is punishable by imprisonment for 12 months or upwards, or 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;
- (g) he resigns his office by writing under his hand addressed to the Governor;
- (h) being—
 - (i) General Manager or the part-time commissioner referred to in clause 2 (1) (c), he attains the age of 65 years; or
 - (ii) a part-time commissioner referred to in clause 2 (1) (b), he attains the age of 70 years;
- (i) he is retired or removed from office by the Governor under subclause (2) or (3);
- (j) being General Manager, he engages during his term of office in any paid employment outside the duties of his office, except with the consent of the Minister (which consent the Minister is hereby authorised to give); or

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SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE MEMBERSHIP
AND PROCEDURE OF THE COMMISSION—*continued.*

(k) being the part-time commissioner referred to in clause 2 (1) (c), he ceases to hold any of the qualifications that would be required by clause 3 (5) (b) or (c) for his nomination.

(2) The General Manager may be retired from office by the Governor after he attains the age of 60 years and before he attains the age of 65 years and, if he is so retired, he is entitled to such compensation (if any) as the Statutory and Other Offices Remuneration Tribunal determines.

(3) Where the Governor is satisfied that a commissioner is incapable or incompetent or has misconducted himself, the Governor may remove the commissioner from his office.

Effect of certain other Acts.

11. (1) The provisions of the Public Service Act, 1979, shall not apply to or in respect of the appointment of a commissioner and a commissioner is not, as a commissioner, subject to that Act during his term of office as a commissioner.

(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 part-time commissioner or from accepting and retaining any remuneration payable to him under clause 9 as a part-time commissioner.

(3) The office of a part-time commissioner shall for the purposes of any Act be deemed not to be an office or place of profit under the Crown.

Preservation of rights of General Manager previously public servant, etc.

12. (1) In this clause—

“statutory body” means any body declared under clause 14 to be a statutory body for the purposes of this Schedule;

“superannuation scheme” means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under any Act.

Electricity Commission (Amendment).

 SCHEDULE 1—*continued.*

 AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE MEMBERSHIP
 AND PROCEDURE OF THE COMMISSION—*continued.*

(2) Subject to subclause (3) and to the terms of his appointment, where the General Manager was, immediately before his appointment as General Manager—

- (a) an employee of the Commission;
- (b) an officer of the Public Service;
- (c) an officer of a Teaching Service;
- (d) a contributor to a superannuation scheme;
- (e) an officer employed by a statutory body; or
- (f) a person in respect of whom provision was made by any Act that he retain any rights accrued or accruing to him as an officer or employee,

he—

- (g) shall retain any rights accrued or accruing to him as such an employee, officer, contributor or person;
- (h) may continue to contribute to any superannuation scheme to which he was a contributor immediately before his appointment as General Manager; and
- (i) 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 employee, officer, contributor or person during his service as General Manager and—

- (j) his service as General Manager shall be deemed to be service as an officer or employee for the purpose of any law under which those rights accrued or were accruing, under which he continues to contribute or by which that entitlement is conferred; and
- (k) he shall be deemed to be an officer or employee, and the Commission shall be deemed to be his employer, for the purpose of the superannuation scheme to which he is entitled to contribute under this clause.

(3) If the General Manager would, but for this subclause, be entitled under subclause (2) to contribute to a superannuation scheme or to receive any payment, pension or gratuity under the scheme, he shall not be so entitled upon his becoming (whether upon his appointment as General Manager or at any later time while he holds office as General Manager) a contributor to any

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SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE MEMBERSHIP
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other superannuation scheme, and the provisions of subclause (2) (k) cease to apply to or in respect of him and the Commission in any case where he becomes a contributor to such another superannuation scheme.

(4) Subclause (3) does not prevent the payment to the General Manager upon his ceasing to be a contributor to a superannuation scheme of such amount as would have been payable to him if he had ceased, by reason of his resignation, to be an officer or employee for the purposes of the scheme.

(5) The General Manager shall not, in respect of the same period of service, be entitled to claim a benefit under this Act and another Act.

General Manager entitled to re-appointment to former employment in certain cases.

13. (1) In this clause—

“retiring age” means—

- (a) in relation to a person who was, immediately before his appointment as General Manager, an employee of the Commission, an officer of the Public Service or an officer of a Teaching Service—the age of 60 years; and
- (b) in relation to a person who was, immediately before his appointment as General Manager, an officer or employee of a statutory body—the age at which officers or employees (being officers or employees of the class to which the person belonged immediately before his appointment as General Manager), as the case may be, of the statutory body are entitled to retire;

“statutory body” means any body declared under clause 14 to be a statutory body for the purposes of this Schedule.

(2) A person who ceases to be General Manager, otherwise than pursuant to clause 10 (1) (paragraph (g) excepted), shall, if he has not attained the retiring age, be entitled to be appointed, where, immediately before his appointment as General Manager, he was—

- (a) an employee of the Commission—to some position in the service of the Commission;
- (b) an officer of the Public Service—to some position in the Public Service;

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SCHEDULE 1—*continued.*

**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE MEMBERSHIP
AND PROCEDURE OF THE COMMISSION—*continued.***

- (c) an officer of a Teaching Service—to some position in the Teaching Service; or
- (d) an officer or employee of a statutory body—to some position in the service of the statutory body,

not lower in classification and salary than that which he held immediately before his appointment as General Manager.

(3) Where subclause (2) does not apply to a person who—

- (a) was, immediately before his appointment to a full-time office constituted by an Act, an officer or employee referred to in subclause (2) (a), (b), (c) or (d); and

(b) is after that appointment appointed as General Manager,

he shall have such rights (if any) to appointment as such an officer or employee, in the event of his ceasing to be General Manager, as are specified in the instrument of his appointment as General Manager or as are agreed upon by him and by or on behalf of the Government.

Declaration of statutory bodies.

14. The Governor may, by proclamation published in the Gazette, declare any body constituted by or under any Act to be a statutory body for the purposes of this Schedule.

SCHEDULE 7.

(Sec. 5A (4).)

PROVISIONS RELATING TO THE PROCEDURE OF THE COMMISSION.
General procedure.

1. The procedure for the calling of meetings of the Commission and for the conduct of business at those meetings shall, subject to this Schedule, be as determined by the Commission.

Electricity Commission (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE MEMBERSHIP
AND PROCEDURE OF THE COMMISSION—*continued.*

Quorum.

2. Three commissioners (or 4 if there are more than 5 commissioners for the time being), of whom at least one shall be the General Manager, 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 all the functions of the Commission.

Presiding commissioner.

3. (1) The Chairman or, in the absence of the Chairman, another part-time commissioner referred to in clause 2 (1) (b) of Schedule 6 elected as chairman for the meeting by the commissioners present shall preside at a meeting of the Commission.

(2) The person acting as chairman at any meeting of the Commission shall, in the event of an equality of votes, have in addition to a deliberative vote a second or casting vote.

Voting.

4. A decision supported by a majority of the votes cast at a meeting of the Commission at which a quorum is present shall be the decision of the Commission.

Minutes.

5. (1) The Commission shall cause a minute book to be kept in which shall be recorded full and accurate minutes of the proceedings of each meeting of the Commission.

(2) Minutes recorded under subclause (1) in respect of a meeting shall, when duly read and confirmed at the next meeting of the Commission, be signed by the Chairman or the commissioner acting as chairman at that next meeting.

Electricity Commission (Amendment).

SCHEDULE 2.

(Sec. 5 (1).)

MINOR AND CONSEQUENTIAL AMENDMENTS TO THE PRINCIPAL ACT.

(1) (a) Section 2—

From the matter relating to Part VI—

(i) Omit “SERVANTS”, insert instead “EMPLOYEES”.

(ii) Omit “*servants*”, insert instead “*employees*”.

(b) Section 2—

Omit “SCHEDULES.”, insert instead:—

SCHEDULES 1–5.

SCHEDULE 6.—PROVISIONS RELATING TO THE MEMBERSHIP OF THE COMMISSION.

SCHEDULE 7.—PROVISIONS RELATING TO THE PROCEDURE OF THE COMMISSION.

(2) (a) Section 3, definition of “General Manager”—

After the definition of “Electricity supply authority”, insert:—

“General Manager” means the General Manager of the Commission.

(b) Section 3 (2)–(4)—

At the end of section 3, insert:—

(2) In Part II and Schedules 6 and 7, a reference to—

(a) a function includes a reference to a power, authority and duty; and

(b) the exercise of a function includes, where that function is a duty, a reference to the performance of that duty.

Electricity Commission (Amendment).

SCHEDULE 2—*continued.*MINOR AND CONSEQUENTIAL AMENDMENTS TO THE
PRINCIPAL ACT—*continued.*

(3) In a Schedule to this Act, a reference to a subclause is, unless a contrary intention appears, a reference to a subclause of the clause in which the reference occurs.

(4) In this or any other Act or in any statutory instrument or in any other document, whether of the same or a different kind, a reference to a servant of the Commission shall, on and after the day appointed and notified under section 2 (2) of the Electricity Commission (Amendment) Act, 1982, be read and construed as a reference to an employee of the Commission.

(3) (a) Section 5 (1) (b)–(i)—

Omit the paragraphs.

(b) Section 5 (2)–(10)—

Omit the subsections.

(4) (a) Section 6 (3)—

Omit “The”, insert instead “Except as provided by the by-laws, the”.

(b) Section 6 (3)—

After “commissioners”, insert “or in such other manner as may be prescribed by the by-laws”.

(c) Section 6 (4), (5)—

Omit the subsections.

(d) Section 6 (6)—

After “commissioner”, insert “or there was any defect in the appointment, or any disqualification, of a commissioner”.

Electricity Commission (Amendment).

SCHEDULE 2—*continued.*MINOR AND CONSEQUENTIAL AMENDMENTS TO THE
PRINCIPAL ACT—*continued.*

- (e) Section 6 (7) (b)—
Omit the paragraph.
- (5) Sections 11 (3), 36 (1) (b)—
Omit “Chairman of the Commission” wherever occurring, insert
instead “General Manager”.
- (6) Part VI, heading—
Omit “SERVANTS”, insert instead “EMPLOYEES”.
- (7) Part VI, Division 2, heading—
Omit “*servants*”, insert instead “*employees*”.
- (8) (a) Section 64—
Omit “servants” wherever occurring, insert instead “employees”.
- (b) Section 64 (2)—
Omit “servant”, insert instead “employee”.
- (9) Section 65 (a)—
Omit “servants”, insert instead “employees”.
- (10) (a) Section 66 (1)—
Omit “a servant”, insert instead “an employee”.
- (b) Section 66 (1)—
Omit “servant” where secondly and thirdly occurring, insert
instead “employee”.

Electricity Commission (Amendment).

SCHEDULE 2—*continued.*

MINOR AND CONSEQUENTIAL AMENDMENTS TO THE
PRINCIPAL ACT—*continued.*

- (11) (a) Section 73—
Omit “servants” wherever occurring, insert instead “employees”.
- (b) Section 73—
Omit “servant” wherever occurring, insert instead “employee”.
- (12) (a) Section 73A—
Omit “a servant” wherever occurring, insert instead “an employee”.
- (b) Section 73A—
Omit “such servant” wherever occurring, insert instead “the employee”.
- (13) Section 87—
Omit “servants” wherever occurring, insert instead “employees”.
- (14) Section 88 (b1)—
After section 88 (b), insert:—
(b1) the custody and use of the common seal of the Commission;
- (15) Section 90 (2)—
At the end of section 90, insert:—
(2) A provision of a regulation or by-law may—
(a) apply generally or be limited in its application by reference to specified exceptions or factors;

Electricity Commission (Amendment).

SCHEDULE 2—*continued.*MINOR AND CONSEQUENTIAL AMENDMENTS TO THE
PRINCIPAL ACT—*continued.*

- (b) apply differently according to different factors of a specified kind; or
 - (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,
- or may do any combination of those things.
- (16) Section 93—
Omit “Chairman of the Commission”, insert instead “General Manager”.
- (17) Section 97 (c)—
Omit “servant”, insert instead “employee”.
- (18) Section 99—
Omit the section.

SCHEDULE 3.

(Sec. 5 (2).)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO ACCOUNTS,
AUDIT AND ANNUAL REPORTS.

- (1) Section 2—
From the matter relating to Division 3 of Part V, omit “*and audit*”, insert instead “, *audit and annual reports*”.

Electricity Commission (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO ACCOUNTS,
AUDIT AND ANNUAL REPORTS—*continued.*

(2) Part V, Division 3—

Omit the Division, insert instead:—

DIVISION 3.—*Accounts, audit and annual reports.*

Accounts.

53. (1) The Commission shall cause to be kept proper accounts and records in relation to all of its operations.

(2) The Commission shall, as soon as practicable, but within 6 months, after the end of each financial year of the Commission, prepare and submit to the Minister for presentation to Parliament a statement of accounts, together with the Auditor-General's certificate given under this section in relation to the statement.

(3) The statement of accounts shall—

- (a) be in a form approved by the Auditor-General;
- (b) include such information as is requested by him; and
- (c) exhibit a true and fair view of the financial position and transactions of the Commission.

(4) The Commission shall, as soon as practicable, but within 4 months, after the end of the financial year to which a statement of accounts relates, transmit the statement to the Auditor-General for verification and certification.

(5) The Auditor-General's certificate shall state that he has audited the accounts of the Commission relating to the relevant financial year, and shall indicate whether the statement of accounts complies with subsection (3), and shall set forth any qualifications subject to which the certificate is given.

Electricity Commission (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO ACCOUNTS,
AUDIT AND ANNUAL REPORTS—*continued.*

(6) Nothing in this section prevents the alteration of the statement of accounts, with the approval of the Auditor-General, after its receipt by him and before its submission to the Minister.

(7) The Minister shall lay the statement of accounts, or cause it to be laid, together with the Auditor-General's certificate, before both Houses of Parliament as soon as practicable after the receipt by him of the statement.

(8) The financial year of the Commission shall be the year commencing on 1st July.

Audit.

54. (1) The accounts and records of financial transactions of the Commission, and the records relating to assets of or in the custody of the Commission, shall be inspected and audited by the Auditor-General.

(2) For the purposes of any such inspection and audit, the Auditor-General or a person authorised by him is entitled at all reasonable times to full and free access to the accounts, records, documents and papers of the Commission and may make copies thereof or take extracts therefrom.

(3) The Auditor-General or a person authorised by him may require a person, being a person engaged in the administration of this Act, to furnish him with such information in the possession of the person or to which the person has access as the Auditor-General or authorised person considers necessary for the purposes of the functions of the Auditor-General under this Act, and the person shall comply with the requirement.

Penalty: \$200.

Electricity Commission (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO ACCOUNTS,
AUDIT AND ANNUAL REPORTS—*continued.*

(4) The Auditor-General may dispense with all or any part of the detailed inspection and audit of any accounts or records referred to in subsection (1).

(5) The Auditor-General shall report to the Commission and the Minister on the result of any such inspection and audit, and as to such irregularities or other matters as in his judgment call for special notice or as are prescribed by the regulations.

(6) Towards defraying the costs and expenses of any such inspection and audit, the Commission shall pay to the Consolidated Revenue Fund such amounts, at such times, as the Treasurer decides.

Annual report.

55. (1) The Commission shall, as soon as practicable after 30th June, but not later than 31st December, in each year, prepare and forward to the Minister a report of its work and activities for the year ended on 30th June in that year.

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

SCHEDULE 4.

(Sec. 6.)

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

Interpretation: Sch. 4.

1. (1) In this Schedule—

“appointed day” means the day appointed and notified under section 2 (2);

Electricity Commission (Amendment).

SCHEDULE 4—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

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

(2) In this Schedule, a reference to a subclause is, unless a contrary intention appears, a reference to a subclause of the clause in which the reference occurs.

Commissioners holding office immediately before appointed day.

2. (1) A person who, immediately before the appointed day, held office as a member of the Commission—

- (a) shall cease to hold office as such on the appointed day; and
- (b) is eligible, if otherwise qualified, to be appointed as a member of the Commission.

(2) A member of the Commission who ceases to hold office as such by reason of the operation of subclause (1) is not entitled to be paid any remuneration or compensation by reason of his ceasing to hold that office, but nothing in this subclause prevents the payment to that person of such compensation (if any) as the Minister determines out of the funds of the Commission.

(3) A person who, immediately before the appointed day, held office as Chairman or Vice-Chairman of the Commission and who ceases to hold that office pursuant to subclause (1) is, if—

- (a) he is not appointed as General Manager of the Commission with effect on the appointed day;
- (b) he was, immediately before his appointment as Chairman or Vice-Chairman, an employee of the Commission or an officer of the Public Service; and
- (c) he has not attained the age of 60 years,

entitled to be appointed to some position in the service of the Commission or in the Public Service, as the case may be, not lower in classification and salary than the one which he held as such an employee or officer.

(4) Where subclause (3) does not apply to a person who was, immediately before his appointment as Chairman or Vice-Chairman of the Commission before the appointed day, the holder of a full-time office as a member of a body constituted by an Act, he is, if—

- (a) he is not appointed as General Manager of the Commission with effect on the appointed day; and
- (b) he has not attained the age of 60 years,

Electricity Commission (Amendment).

SCHEDULE 4—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

entitled to be appointed to some position in the service of the Government at a salary not lower than that which maintains the relationship existing, immediately before his appointment as Chairman or Vice-Chairman, between the rate of salary payable to him and the rates of other relevant salaries.

Appointments, etc., before appointed day.

3. For the purpose only of enabling the membership of the Commission to be established in accordance with the Principal Act, as amended by this Act, on or after (but not before) the appointed day, appointments may be made under the Principal Act, as so amended, and any other act, matter or thing may be done, before that day as if the whole of this Act commenced on the date of assent to this Act, but so that no appointment as commissioner of the Commission pursuant to this clause takes effect before the appointed day.

Continuity of the body corporate not affected.

4. Nothing in this Act affects the continuity of the body corporate constituted by the Principal Act, and, without affecting the operation of clause 2, any agreement, arrangement, undertaking, obligation or instrument continues in full force as if this Act had not been enacted.

Membership of the Commission pending election.

5. Notwithstanding the provisions of the Principal Act, as amended by this Act, the membership of the Commission shall be deemed to be as fully and properly established during the period commencing on the appointed day and ending on the appointment of the commissioner referred to in clause 2 (1) (c) of Schedule 6 to that Act, as so amended, as it would have been if there were no provision in that Act, as so amended, for the appointment of such a commissioner, and the Commission shall have and may exercise and perform its powers, authorities, duties and functions during that period as if there were no such provision therein.

First meeting of Commission after the appointed day.

6. The Minister shall call the first meeting of the Commission to be held on or after the appointed day in such manner as he thinks fit.

Electricity Commission (Amendment).

SCHEDULE 4—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.***Delegations.**

7. (1) Any delegation in force under section 99 of the Principal Act immediately before the appointed day shall be deemed to be a delegation under section 5B of the Principal Act, as amended by this Act, and shall continue in force until revoked under the last-mentioned section.

(2) Any delegation referred to in subclause (1) made to the Chairman of the Commission shall be deemed to be a delegation to the General Manager of the Commission, and references therein to the Chairman shall accordingly be read and construed as references to the General Manager.

Employees, etc., of the Commission.

8. (1) Any servants of the Commission who held office in the service of the Commission immediately before the appointed day shall be deemed to be employees of the Commission.

(2) Any person who becomes an employee of the Commission under subclause (1)—

- (a) shall retain all rights and privileges which immediately before the appointed day were accruing or had accrued to him in his capacity as servant of the Commission as if those rights and privileges had been conferred on him in his capacity as an employee of the Commission;
- (b) shall be paid remuneration, until it is subsequently varied by or in accordance with law, at a rate not lower than that at which he was paid, and be subject to the same conditions of employment as those to which he was subject, immediately before the appointed day; and
- (c) is not, in respect of the same period of service, entitled to claim a benefit under the Principal Act and under this Act.

Accounts, audit and annual reports.

9. (1) Sections 53, 54, 55 and 56 of the Principal Act apply to and in respect of the year ending on 30th June, 1982, as if Schedule 3 had not been enacted.

(2) Sections 53, 54 and 55 of the Principal Act, as amended by this Act, apply to and in respect of the year commencing on 1st July, 1982, and subsequent years.

Electricity Commission (Amendment).

SCHEDULE 4—*continued.*

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

Regulations.

10. (1) The Governor may make regulations containing provisions of a savings or transitional nature consequent on the enactment of this Act.

(2) A provision made under subclause (1) may take effect as from the appointed day or a later day.

(3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication therein; or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication therein.

(4) A provision made under subclause (1) shall, if the regulations under this clause so provide, have effect notwithstanding any other clause of this Schedule (clauses 2 and 8 excepted).
