

STATE ELECTRICITY COMMISSION.

9° and 10° GEO. VI., No. LX.

No. 60 of 1945.

AN ACT to constitute and regulate and confer powers and impose obligations upon a State Electricity Commission to undertake on behalf of His Majesty the establishment, maintenance and management and acquisition of Works for the manufacture, generation, transmission, distribution, supply and sale of electricity and other heating, lighting and motive power throughout or in any portions of the State; to take the place of the Commissioner of Railways in relation to the possession, control and management of the electric works already established under the Government Electric Works Act, 1914; to repeal certain Acts; to provide for the transfer of certain assets, liabilities and obligations from the said Commissioner to the said Commission; and for other purposes consequent thereon or incidental thereto.

[Assented to 14th February, 1946.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title and commencement.
Vic. 1928,
No. 3776, s. 1.

1. (1) This Act may be cited as the *State Electricity Commission Act, 1945*.

(2) This Act shall come into operation on a date to be fixed by Proclamation.

2. This Act is divided into parts as follows:—

Act divided into parts.

PART I., ss. 3 to 7—PRELIMINARY.

PART II., ss. 8 to 15—STATE ELECTRICITY COMMISSION OF WESTERN AUSTRALIA.

PART III., ss. 16 to 22—ADMINISTRATION.

PART IV., ss. 23 to 25—TRANSFER OF ASSETS, LIABILITIES AND OBLIGATIONS.

PART V., ss. 26 to 43—POWERS, FUNCTIONS AND DUTIES OF COMMISSION.

PART VI., ss. 44 to 58—FINANCE AND ACCOUNTS.

PART VII., ss. 59 to 73—MISCELLANEOUS.

FIRST SCHEDULE—ACTS TO WHICH THIS ACT SHALL BE SUBJECT.

SECOND SCHEDULE—ACTS REPEALED BY THIS ACT.

PART I.—PRELIMINARY.

3. This Act shall be read and construed so as not to exceed the legislative power of the Parliament of the State to the intent that where any enactment thereof would but for this section have been construed as being in excess of that power, it shall nevertheless be a valid enactment to the extent to which it is not in excess of that power.

Construction.

4. This Act shall be read in conjunction with the Acts mentioned in the First Schedule to this Act and shall be construed and have effect as being subject to the said Acts and so not in any manner to prejudice or interfere with the operation of any of the said Acts.

This Act to be read in conjunction with and subject to certain other Acts. First Schedule.

5. The Acts mentioned in the Second Schedule to this Act are hereby repealed to the extent stated in such Schedule.

Acts repealed. Second Schedule.

6. This Act shall not affect or interfere with the operation of any other Act whereby powers or rights with respect to the manufacture or generation and the distribution and supply of electricity or gas are conferred upon any person, whether corporate or unincorporate,

Saving provisions.

or to the exercise and enjoyment of such powers or rights by such person or his assignees or successors under such other Act; and, subject to section four of this Act, no such other Act aforesaid shall affect or interfere with the operation of this Act or the purchase or acquisition under the provisions of this Act of the undertaking of any person established and being carried on by such person under the authority of such other Act aforesaid.

Interpreta-
tion.
Vic. 1928, No.
3776, s. 3.

7. In this Act, unless the context otherwise requires—

“Chairman” means chairman of the Commission.

“Commission” means The State Electricity Commission of Western Australia established by this Act.

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

“Concessionaire” means any person to whom a concession has been granted by a local authority under the provisions of the Electricity Act, 1937, and includes any other person who is a concessionaire within the meaning of that Act.

“Consumer” means any person to whom electricity or any other lighting, heating or motive power is supplied.

“Department” includes the Department of Public Works, the Treasury Department, the Government Railways Department, the Forests Department, the Department of Industrial Development, the Main Roads Department, the Department of Lands and Surveys, and any other Government Department which the Governor may by order in council declare to be a department for the purposes of this Act.

“Distribution Works” means any works including lines, poles, switches, and transformers and all other apparatus for the purpose of distributing power to consumers either direct from any generating station or from any transmission works.

- “Electric Works” includes any works for the generation, transmission and distribution of electricity or for any of such purposes, and any work or thing pertaining thereto.
- “Electric Fitting” means any apparatus which uses or consumes electricity or is used as a means of connection therefor.
- “Generating Station” means any machinery, plant or appliance utilised for the purpose of generating power, including the site on which the same is situated, and all buildings and appurtenances belonging thereto.
- “Land” includes land and any easement, right or privilege in or over or affecting any land.
- “Linking up scheme” means a scheme whereby power is supplied in bulk by a supply authority to one or more supply authorities for distribution to consumers or for the interchange of power between supply authorities.
- “Local authority” means the council of a municipality or the board of a road district.
- “Metropolitan Area” means the metropolitan area as constituted under and for the purposes of the Metropolitan Water Supply, Sewerage and Drainage Act, 1909-1941.
- “Minister” means the Minister appointed and holding the portfolio of Minister for Electricity, and includes any other Minister of the Crown temporarily acting in the place of such Minister.
- “Power” includes electricity, gas, water and any other material substance or element used for lighting, heating or motive purposes.
- “Public authority” means any authority controlling any service such as roads, bridges, water supply, sewerage or drainage and any service or utility for the benefit of the public.
- “Repealed Acts” means the Acts repealed by this Act and specified in the Second Schedule to this Act.
- “Secretary” means the Secretary to the Commission.

“Service Apparatus” means all apparatus (including lines, poles, leads, switches, fuses and meters) for the purpose of conveying electricity or other power from any distribution works to the position of the main switch on the premises to which the electricity or other power is supplied.

“Street” includes any square, court, alley, highway, lane, thoroughfare or public place or passage.

“Supply Authority” includes any local authority, concessionaire or other person which or who supplies power under the authority of the Electricity Act, 1937, or of any other Act.

“Transmission Works” means any main line and all poles, switches, transformers and apparatus pertaining thereto for the purpose of conveying power from a generating station to any distribution works.

“Undertaking” means—

(a) with respect to the Commission—an undertaking approved by the Governor for the erection, construction and provision of distribution works, electric works, generating stations, linking-up schemes, service apparatus, transmission works and of all other works, appliances and conveniences for the generation of electricity or other power (whether by the use of coal, water power or otherwise) and for the reception, storage, distribution, transmission, use, supply and sale of such electricity or other power, and includes all buildings, works, mines, open-cuts, quarries, water, land, machinery, plant, towers, lines, poles, cables and appliances used for or in connection with the undertaking. The term includes the undertaking of a supply authority when the same is purchased or acquired by the Commission under the provisions of this Act;

(b) with respect to any supply authority—

(i) all distribution works, electric works, generating stations, linking-up schemes, service apparatus, transmission works, and

all other works, appliances and conveniences established, maintained and used for the generation of electricity or other power and for the reception, storage, distribution, transmission, use and supply of such electricity or other power; and

(ii) all buildings, works, mines, open-cuts, quarries, water, land, machinery, plant, towers, lines, poles, cables and appliances used for or in connection with the works mentioned in subparagraph (i) of this paragraph; and

(iii) all concessions held by the supply authority under the Electricity Act, 1937, and all rights held by the supply authority under any other Act with respect to the generation, distribution and supply of power;

(iv) patents held by the supply authority for the purposes of or in connection with its business; and

(v) all beneficial contracts held by the supply authority in relation to the generation and supply or sale by the supply authority of electricity or other power.

PART II.—STATE ELECTRICITY COMMISSION OF WESTERN AUSTRALIA.

8. (1) For the purpose of carrying this Act into effect there shall be a commission constituted as hereinafter provided which shall be called the State Electricity Commission of Western Australia.

Establishment of Commission. Vic. 1928, No. 3776, s. 4.

(2) The Commission shall consist of seven Commissioners (including the chairman) all of whom shall be appointed by the Governor.

(3) Of the said seven Commissioners—

(a) two shall be persons nominated by the Minister as representatives of the consumers, one for the metropolitan area, and one for the remaining part of the State:

(b) one shall be a person who is an employee of the Commission nominated by the Minister

as the representative of the employees of the Commission;

- (c) one shall be the Under Treasurer of the State ex officio or his deputy; and
- (d) three shall be persons who are corporate members either of the Institution of Electrical Engineers, London, or of the Institution of Engineers, Australia.

(4) The Governor shall appoint one of the Commissioners to be the chairman.

(5) Whenever any vacancy occurs in the office of chairman or of commissioner, the Governor shall appoint some other person to fill the vacancy.

Provided that when the vacancy occurs in the office of a commissioner who represents the consumers or the employees (as the case may be) the person to fill such vacancy shall be appointed on the nomination of the Minister:

Commission to be a body corporate. *Ibid.*, s. 4 (4).

9. The Commission shall be a body corporate by the name of "The State Electricity Commission of Western Australia" with perpetual succession and a common seal; and shall by that name be capable in law of suing and being sued, and, subject to and for the purposes of this Act, of purchasing, taking, holding, selling, leasing, taking on lease, exchanging or disposing of real and personal property and of doing or suffering all such other acts and things as bodies corporate may by law do and suffer.

Tenure of office. *Ibid.*, s. 5.

10. (1) Subject to this Act every commissioner shall hold office during good behaviour for the term for which he is appointed.

(2) No person shall be appointed a commissioner for a term exceeding five years.

(3) Any commissioner may from time to time be re-appointed for any further term not exceeding seven years.

(4) Unless the Governor otherwise directs no person shall be eligible for appointment as, or continue to be a commissioner after he reaches the age of sixty-five years.

(5) A commissioner shall not in respect of his office as such be subject to the provisions of the Public Service Act, 1904-1935.

11. (1) The Governor may at any time accept the resignation of any commissioner and may remove any commissioner from his office if he is absent from the State without the consent of the Minister for a period of six consecutive months.

Resignation
or removal
for absence.
Ibid., s. 6.

12. The Governor may dismiss any commissioner from his office at any time on grounds of misbehaviour or incompetence or, if in the opinion of the Governor, any such commissioner for any reason becomes incapable of carrying out the duties of his office.

Removal for
misbehaviour,
etc.

13. No person being an undischarged or uncertificated bankrupt or insolvent shall be capable of being appointed a commissioner; and any commissioner who becomes bankrupt or insolvent or applies to take the benefit of any Act for the relief of bankrupt or insolvent debtors or who by any deed or other writing compounds with his creditors or makes an assignment of his salary for their benefit shall be deemed to have vacated his office as a commissioner.

Persons insol-
vent not to be
or continue
to be Com-
missioners.
Ibid., s. 7.

14. (1) The chairman—

- (a) may by writing under his hand delivered to the Minister resign his office as chairman;
- (b) subject to this Act shall unless removed be entitled to hold the office of chairman for the term for which he was appointed as such, and shall be eligible for re-appointment as chairman;
- (c) shall be paid a salary at such rate per annum as the Governor shall determine prior to his appointment or re-appointment; and
- (d) unless the Governor otherwise approves, shall, during his continuance in office as chairman, devote his whole time to the service of the Commission and shall not engage in any employment other than in connection with the duties of his office.

Chairman.
Ibid., s. 8 (1).

(2) Every commissioner (other than the chairman) shall be paid remuneration at such rate per annum as the Governor shall determine prior to his appointment or re-appointment.

Remuneration
to Commis-
sioners.
Ibid., s. 8 (2).

Incapacity on
ground of
interest.
Ibid, s. 9.

15. No person holding any office or place of profit under or in the gift of the Commission or concerned or participating in any manner whether directly or indirectly in any contract with the Commission or in any work to be done under the authority of the Commission or in the profit of such contract or work shall be capable of being or continuing a commissioner. Provided that no person shall be disqualified from being or continuing to be a commissioner by reason only of—

- (a) receiving or being entitled to receive any salary or remuneration pursuant to this Act as chairman or as a commissioner of the Commission or as an officer or servant of the Commission or of any government department or of any local authority; or
- (b) being a shareholder or member of any incorporated company consisting of more than twenty persons which has entered or enters into any contract with or which has done or does any work under the authority of the Commission; or
- (c) being supplied with and paying for electricity, coal, pulverised coal, briquettes or other by-products of the works and undertakings of the Commission in the same manner as any member of the public not being a member of the Commission.

PART III.—ADMINISTRATION.

Subject to
Minister, Act
to be admin-
istered by the
Commission.
Vic. 1928, No.
3776, s. 10.

16. Subject to the Minister, this Act shall be administered by the Commission.

Expenses of
administra-
tion to be paid
out of funds
of the
Commission.

17. Save as in this Act otherwise provided, the expenses of the administration of this Act shall be paid out of the funds of the Commission.

Proceedings
of Commis-
sion.

18. (1) The Commission shall hold its meetings at such place on such days and at such intervals as the Commission shall from time to time determine.

(2) Any four commissioners shall form a quorum, and shall have and may exercise and perform the powers, authorities and duties which by this or any Act or means whatsoever are vested in or imposed upon the Commission.

Quorum
Vic. 1928, No.
3776.
Third
Schedule.

(3) (a) At any meeting of the Commission the chairman if present shall preside.

Persons who
shall preside
at meetings.

(b) If the chairman be not present at a meeting of the Commission, and there is present a person whom the Governor has appointed as the deputy of or to act in the place of the chairman, such person shall preside at such meeting.

(c) Subject to paragraph (d) of this subsection if the chairman be not present at a meeting of the Commission, and the Governor has not appointed a person as the deputy of or to act in the place of the chairman, the commissioners present at the meeting shall elect one of their number to be the chairman of such meeting.

(d) The Commission may at any meeting at which every commissioner is present, elect any one of their number (other than the chairman) to be vice chairman. The person so elected shall hold the said office during the pleasure of the Commission, and shall, when present, preside at all meetings from which the chairman is absent and at which no person appointed by the Governor as the deputy of or to act in the place of the chairman is present.

(4) (a) All questions before the Commission at any meeting thereof upon which the commissioners present are not unanimous shall be decided by the majority of the votes of those present at the meeting, and in such case the decision of the majority shall be the decision of the Commission.

Voting at
meetings.

The Commissioner who presides at any meeting shall have a deliberative vote only.

(b) In the event of an equal division of votes on any question aforesaid, the question shall be deemed to have been decided in the negative.

(5) The Commission shall cause to be kept minutes of all its proceedings in such manner and form as the Minister may direct or approve; and, if so required by

Minutes.

the Minister, shall forthwith after each meeting of the Commission submit to the Minister a copy of the minutes of the business transacted at such meeting.

Matters not invalidated by reason of vacancy in Commission. *Ibid*, Third Schedule.

19. No proceeding or act of the Commission shall (if there is a quorum) be invalidated or illegal in consequence only of there being any vacancy in the number of commissioners at the time of such proceeding or act.

Minister to have reports, etc., and assistance of officers and employees under the Commission. *Ibid*, Third Schedule.

20. (1) The Commission shall furnish the Minister with—

- (a) all such reports, documents, papers, and information as are required by Parliament pursuant to any Act or pursuant to any order or resolution of either House of Parliament; and
- (b) full information on all business of the Commission to enable answers to be made to all questions asked in Parliament concerning the Commission or to enable the Minister to furnish any returns required by Parliament or which he himself requires.

(2) For the proper conduct of his public business the Minister shall be at all times entitled to see all documents, papers and minutes which he requires either for Parliament or for himself, and to be supplied with copies thereof, and also to avail himself of the services and assistance of any officer or employee.

The Commission may make certain rules. *Ibid*, Third Schedule.

21. The Commission may make rules—

- (a) subject to this Act, for or with respect to the regulation of its own procedure; and
- (b) subject to any relevant award or industrial agreement, for or with respect to the powers and duties, and the control, supervision and guidance and the regulation and discipline of its officers and employees;
- (c) subject to this Act and the Acts mentioned in the First Schedule to this Act, for or with respect to any other matters necessary for or incidental to the proper administration of this Act by the Commission.

Contracts. *Ibid*, Third Schedule.

22. In relation to contracts to which the Commission is a party, the following provisions shall apply, that is to say—

- (a) Every contract made by the Commission may, if the Commission so thinks fit, specify the person to whose satisfaction the same is to be completed and the mode of determining any dispute which arises concerning or in consequence of such contract. Mode of determining disputes, etc.
- (b) The powers granted to the Commission under this or any other Act to make contracts may be exercised as follows:— Form of contracts.
- (i) Any contract which if made between private persons would be by law required to be in writing under seal may be made on behalf of the Commission in writing under the common seal of the Commission, and may in the same manner be varied or discharged;
- (ii) any contract which if made between private persons would be by law required to be in writing signed by the parties to be charged therewith may be made on behalf of the Commission in writing signed by any person acting under its authority express or implied and may in the same manner be varied or discharged;
- (iii) any contract which if made between private persons would by law be valid although made by parol only and not reduced into writing may be made by parol on behalf of the Commission by any person acting under its authority express or implied and may in the same manner be varied or discharged.
- (c) All contracts so made and duly executed by the parties thereto respectively shall be effectual in law and binding on the Commission and all other parties thereto, their successors, heirs, executors or administrators (as the case may be). In the case of default in the execution of any such contract either by the Commission or by any other party thereto, such actions or suits or other proceedings may be instituted either by or against the Commission in its corporate name or by or against the other parties making the default, and such damages and costs recovered as might be instituted and recovered had the like contract been made between private persons. Effect of contracts.

Sanction of Governor for certain contracts.

(d) No contract made by the Commission the consideration of which exceeds five thousand pounds or the performance of which may extend over a period exceeding three years shall have any force or effect unless sanctioned by the Governor.

Power to compound for breach of contract.

(e) The Commission may compound and agree with any person or firm who has entered into any contract with it or against whom any action or suit is brought for any penalty contained in any such contract or in any bond or other security for the performance thereof or for or on account of any breach or non-performance of any such contract bond or security for such sum of money or other recompense as the Commission thinks proper.

PART IV.—TRANSFER OF ASSETS, OBLIGATIONS AND LIABILITIES.

Certain powers, obligations and rights transferred to the Commission.

23. (1) By force of this Act there shall be transferred to and vested in and imposed upon the Commission—

(a) All the powers and obligations vested in or imposed on or purporting to be vested in or imposed upon the Government of the State, or upon any Minister of the Crown as representing the said Government or upon the Commissioner of Railways by any of the Acts mentioned in the First Schedule to this Act or by any other Act relating to the production and distribution of power, or by any agreement authorised or ratified or approved by, or made under any of the provisions of any of the said Acts or any other Act aforesaid; and

(b) all the powers and obligations vested in or imposed on or purporting to be vested in or imposed upon the Commissioner of Railways under any agreements taken over or made by him pursuant to any of the repealed Acts, and still subsisting at the commencement of this Act.

(2) Where in any Act or agreement referred to in paragraph (a) of subsection (1) of this section, or in any proclamation, order in council, regulation, by-law or other instrument issued, promulgated, made or executed pursuant to the provisions of any such Act or agreement reference is made to the Government of the State or to any Minister of the Crown or to the Commissioner of Railways with respect to the conferring of powers or the imposition of obligations thereto or thereon, such reference shall, unless the context otherwise requires, be deemed and taken to mean the Commission and shall be construed and have effect accordingly.

(3) Where in any agreement referred to in paragraph (b) of subsection (1) of this section reference is made to the Government of the State or to any Minister of the Crown or to the Commissioner of Railways with respect to the exercise of any power or the performance of any obligation, such reference shall, unless the context otherwise requires, be deemed and taken to mean the Commission, and shall be construed and have effect accordingly.

24. The Commission shall take over and assume the liability for all obligations of the Government of the State or of the Commissioner of Railways (which by virtue of section twenty-three of this Act are transferred to the Commission) as existing at the time of the commencement of this Act whether such obligations are actual or contingent.

Commission to take over and assume certain liabilities.

25. (1) By force of this Act there shall be transferred to and vested in the Commission—

Certain assets transferred to Commission.

(a) all contractual rights and benefits with respect to the production and distribution of power acquired or held by or on behalf of the Government of the State, or by the Commissioner of Railways on behalf of His Majesty under any agreements or contracts authorised or ratified or approved by or made under any of the provisions of any of the Acts specified in the First Schedule to this Act or made or entered into by the Commissioner of Railways under any of the repealed Acts and subsisting at the time of the commencement of this Act; and

- (b) all lands, buildings, electric works, undertakings, plant, machinery, appliances, chattels, effects and things whatsoever established, acquired, held or otherwise in the possession or under the control, management or disposition of the Commissioner of Railways under the authority or provisions of any of the repealed Acts and existing at the time of the commencement of this Act; and
- (c) all debts owing to and all choses in action belonging to the Commissioner of Railways in relation to the business carried on by him as a supplier of electricity under the provisions of any of the repealed Acts or under the provisions of any agreement or contracts made or entered into by the Commissioner of Railways under the authority of any of the repealed Acts.

(2) The Commission shall and may exercise and enforce on behalf of the Government or of the Commissioner of Railways, as the case may be, all the rights and benefits which by virtue of subsection (1) of this section are transferred to and vested in the Commission as fully and effectually as the said Government or the said Commissioner of Railways, but for the said transfer, might or could do.

(3) All such assurances as may be necessary shall be executed for the purpose of effectually transferring, conveying or assuring to and vesting in the Commission all the assets which by force of this Act are transferred to and vested in the Commission.

PART V.—POWERS AND FUNCTIONS OF COMMISSION.

26. Subject to this Act, the Commission shall administer the following Acts:—

- (a) The Electric Light and Power Agreement Act, 1913.
- (b) The Electric Light and Power Agreement Act Amendment Act, 1923.

- (c) The Electric Light and Power Agreement Act Amendment Act, 1928; and
- (d) The Electricity Act, 1937—

and any references to the "Minister," the "Government" the "Commissioner of Railways," or the "Electricity Advisory Committee" in any of the said Acts shall, unless the contrary intention appears, be read as if there were substituted therefor a reference to the Commission.

27. Subject to this Act the powers and duties of the Commission shall include the following:—

General powers and duties of the Commission. *Ibid*, s. 13.

- (a) To inquire into and report to the Minister as soon as practicable, and from time to time as to—

- (i) the steps which in its opinion should be taken to secure the ultimate co-ordination of all State or other electrical and other power undertakings in the State, and to secure the adoption of such standards of plant and equipment and of system frequency and pressure for the generation, transmission, distribution and supply of electricity and other power as will admit of the efficient inter-connection of such undertakings and interchange of electricity or other power throughout the same and generally the safe, economical, and effective supply of electricity and other power throughout the State, and to secure the amalgamation or concentration of such undertakings;

- (ii) the prospects of establishing in the State new industries requiring large quantities of cheap electrical or other power energy; and

- (iii) any matters referred to the Commission by the Minister for report.

- (b) To encourage and promote the use of electricity and other power, and especially the use of electricity or other power for industrial, manufacturing, and rural purposes.

- (c) To carry out investigations, surveys, explorations and borings to ascertain the existence, nature and extent of coal or mineral oil deposits or of water power suitable for use in connection with the generation or production of electricity or other power, and to ascertain suitable sites for generating stations and other works.
- (d) To carry out investigations as to the safest, most economical and effective means for promoting, establishing, extending and improving works for the generation, transmission, distribution, supply and use of electricity or other power throughout the State, and particularly for industrial, manufacturing and rural purposes, and making cheap electricity or other power available to consumers in the country districts of the State.
- (e) To make recommendations for regulations to be made under this Act by the Governor.
- (f) To recommend to the Minister such amendments of existing laws, and such proposals for future laws as it thinks desirable for carrying into effect any of the objects or purposes of or referred to in this Act.

Power to Commission to carry on business hitherto carried on by Commissioner of Railways.

28. (1) Subject to section four of this Act, the Commission may in accordance with the provisions of this Act and on behalf of His Majesty carry on, maintain and continue the Electric Works and the generation, transmission, distribution and supply therefrom of electricity hitherto established and carried on by the Commissioner of Railways under the repealed Acts.

Powers of Commission as to undertakings.

29. (1) Subject to this Act, and to the Acts specified in the First Schedule to this Act, the Commission may on behalf of His Majesty—

- (a) construct, maintain and work any electrical or other undertaking as defined in this Act;
- (b) supply electricity or other power to any Commonwealth or State Government department and to any public body or institution;
- (c) supply electricity or other power in bulk to any supply authority or to any statutory corporation;

- (d) supply electricity or other power to any person or body of persons corporate or unincorporate outside any area of the State, in which immediately prior to the commencement of this Act the Commissioner of Railways was supplying or was at liberty to supply electricity to consumers under the provisions of the repealed Acts or under any of the Acts specified in the First Schedule to this Act;
 - (e) in connection with any such undertaking, carry on any business usually associated with such an undertaking.
 - (f) open, establish, supervise, operate and maintain workings for the production of coal or mineral oil, briquetting works, and by-product recovery works.
- (2) The Commission may—
- (a) Purchase electricity or other power in order to supply or sell the same for any purpose for which it is authorised to supply or sell electricity or other power;
 - (b) supply, sell and dispose of electricity, coal, pulverised coal, oil, briquettes or any by-products of its works and undertakings;
 - (c) sell, dispose of and trade in all classes and types of equipment, gear, fittings and machinery associated with the electrical or any other power industry;
 - (d) acquire such rights in or licenses for the use of any patented or protected processes, inventions, machinery, apparatus, methods, materials or things as it thinks fit; and
 - (e) do all such acts, matters and things as the Commission may deem necessary, desirable or expedient for the proper conduct and development of any business which it may carry on under the provisions of this or any other Act.

30. Subject to this Act, the Commission may—

- (a) purchase as a going concern and carry on the undertaking of any supply authority;

Power to
Commission
to purchase
private under-
takings, coal
mines, etc.

- (b) take on lease and carry on the undertaking of any supply authority;
- (c) purchase or take on lease or sublease any coal mine, coal mining lease, or land bearing coal or shale or mineral oil deposits within the State with a view to working the same and producing coal or mineral oil therefrom.

Power for compulsory acquisition of land.

31. (1) Subject to this Act, wherever any land is required for the purposes of this Act such land may be entered upon, surveyed and taken under the powers contained in and in accordance with the procedure prescribed by the Public Works Act, 1902-1933.

(2) Where any land taken in pursuance of the power conferred by subsection (1) of this section contains any mines of coal or other minerals and the Commission requires such mines of coal or other minerals, and so notifies the Governor in writing, the taking of the land shall include also the taking of the mines of coal or other minerals contained in the land so taken, and in any such case the provisions of section fifteen of the Public Works Act, 1902-1933, shall not apply in relation to the taking of the said land.

(3) If upon the taking of land in pursuance of the power conferred by subsection (1) of this section the Commission fails to serve an offer on a claimant against the Commission for compensation under the Public Works Act, 1902-1933, within the time limited for that purpose by that Act, then the Minister may at any time thereafter serve an offer on behalf of the Commission, and such offer shall be deemed to be an offer duly made by the Commission for the purposes of the said Act.

Power for compulsory acquisition of undertaking of supply authority.

32. (1) Subject to this Act, wherever in the opinion of the Commission it is desirable that the Commission shall take over and carry on on behalf of His Majesty the undertaking of any supply authority as a going concern, the Governor, on the recommendation of the Commission, may acquire compulsorily as a going concern the complete undertaking of the supply authority, and vest the same in the Commission for the purposes of this Act.

(2) Any compulsory acquisition under the power conferred by subsection (1) of this section shall be effected under the powers contained in and in accordance with the procedure prescribed by the Public Works Act, 1902-1933, and for the purposes of this section the complete undertaking of a supply authority shall be deemed to be a "public work" within the meaning of that Act.

33. Subject to the approval of the Minister, the Commission may—

Power to
Commission
to sell or
lease land.

- (a) sell any land or chattels acquired by or vested in it for the purposes of this Act, and no longer required for such purposes; and
- (b) demise, lease or otherwise deal with any land or chattels acquired by or vested in it for the purposes of this Act, which is not or are not immediately required for such purposes.

34. (1) Subject to this Act, and in particular to subsection (2) of this section, the Commission shall have and may exercise the control of and use for the purposes of this Act the waters contained in all rivers, streams, water courses, lagoons, lakes, swamps and marshes to which Part III of the Rights in Water and Irrigation Act, 1914-1941, applies, and may erect, construct, build and maintain in such rivers, streams, water courses, lagoons, lakes, swamps and marshes such dams, storages, sluiceways and other works and make such diversions of the said waters as the Commission may consider necessary for the effectual control and use of the waters contained therein by the Commission.

Commission
to have cer-
tain rights
to water.

(2) The rights and powers of the Commission under subsection (1) of this section shall be exercised by the Commission in such manner and to such extent as will cause the least interference with the powers, authorities and functions of irrigation boards, and with the rights, benefits and privileges of other persons under the provisions of the Rights in Water and Irrigation Act, 1914-1941, or with the powers, authorities and functions of the Minister for Water Supply, Sewerage and Drainage with respect to works vested in such Minister, or with the powers, authorities and functions of water boards and with the rights, benefits and privileges of other persons under the provisions of the Water Boards Act, 1904-1941.

Commission may make use of officers and servants employed in Government Departments.

35. The Commission may, with the approval of the Minister concerned and upon such terms and conditions as may be mutually arranged with such Minister, make use either full time or part time of the services of any officer or servant employed in the Public Service of the State or otherwise in the service of the Crown in this State for the purposes of this Act.

Commission may appoint and employ, etc., officers and employes.

36. (1) The Commission may appoint and employ such officers and other servants as it may from time to time consider are necessary to it for the purposes of this Act, and, subject to the right of appeal hereinafter provided for, may suspend dismiss fine or reduce to a lower class or grade any officer or other servant so appointed or employed.

Right of appeal.

(2) (a) Any person, who, being permanently appointed or employed by the Commission is—

(i) fined; or

(ii) reduced to a lower class or grade; or

(iii) dismissed by the Commission—

may in the prescribed manner appeal to an Appeal Board constituted as hereinafter provided.

(b) For the purposes of this subsection a person shall not be deemed to be “permanently appointed or employed” unless he has been continuously appointed or employed for one year.

Constitution of Appeal Board.

(3) (a) An Appeal Board shall consist of the following persons that is to say—

(i) a stipendiary magistrate appointed by the Governor and to be the Chairman of the Board, or a person appointed in like manner to act as his deputy;

(ii) one person to be appointed from time to time by the Commission, or a person appointed in like manner to act as his deputy; and

(iii) one person, his deputy, and his substitute to be elected from time to time in the prescribed

manner from among their number by the salaried staff of the Commission; and

- (iv) one person, his deputy, and his substitute to be elected from time to time in the prescribed manner from among their number by the wages employees of the Commission.

Provided that only the person elected by the employees upon that branch of the staff in which the appellant is employed his deputy or his substitute shall act on the Board as the elective member on the hearing of the appeal.

(b) Immediately upon the election of an elective member of the Appeal Board, the Commission shall take the necessary action in regard to such elective member's employment as will ensure his attendance at each sitting of the Board.

Commission to arrange for attendance of elective members at sittings of Appeal Board.

(c) The first election of the elective members of the Board shall be taken as soon as reasonably may be after the commencement of this Act. Thereafter ordinary elections of elective members shall be held at intervals of three years.

(d) The Chairman, and the member appointed by the Commission shall hold office during the pleasure of the Governor and of the Commission respectively. The elective members of the Board shall hold office for three years from the date of the election respectively.

Tenure of office.

(e) If any elective member of the Appeal Board—

Vacancy.

(i) dies; or

(ii) by notice in writing addressed to the Chairman of the Appeal Board resigns his office; or

(iii) ceases to be an employee of the Commission

his seat shall become vacant, and a successor shall be elected who shall hold office for the residue of the period during which his predecessor would have held the same if he had remained a member of the Appeal Board.

Provided that in any case where the seat of an elective member becomes vacant within three months of the ordinary election the member elected to fill the vacancy shall continue in office until the end of the next succeeding term of three years.

Ballot at
Elections of
elective
members.

(f) (i) The ballot of elective members shall be taken on the preferential system and in the manner prescribed by regulations.

(ii) If any question or dispute arises as to the regularity or validity of any ballot or the voting thereat such question or dispute shall be determined by the Minister in such manner as he thinks fit, and his decision shall be final.

(g) Notice of every appointment or election of a member of the Appeal Board shall be published in the *Government Gazette*.

Notice of
appeal.

(4) (a) Notice of every appeal to the Appeal Board shall be lodged with the Commission within fourteen days after the date of the decision of the Commission appealed against, and the appeal shall be heard within thirty days from the date of notice being so lodged.

(b) If the hearing of the appeal is not commenced within such thirty days, the punishment appealed against shall be revoked, and the appellant shall be reimbursed any loss of salary or expenses incurred.

Provided that if the hearing of the appeal is commenced within such thirty days the Appeal Board may allow any adjournment thereafter.

Quorum.

(5) The decision of any two members of the Appeal Board shall be the decision of the Board.

Procedure on
appeals.

(6) With respect to the procedure on appeals under this section the following provisions shall apply:—

(a) The Board may admit evidence taken at any inquiry held by the Commission at which the appellant was present and had an opportunity of hearing the evidence and of giving evidence.

(b) Evidence of witnesses resident more than twenty miles from the place of the sitting of the Board may be taken by affidavit or otherwise as prescribed.

(c) Any member of the Board may administer an oath to any witness, and the appellant shall be entitled to have the witnesses examined on oath.

(d) No solicitor, counsel, or agent, other than an employee of the Commission or the secretary of the industrial union to which the appellant belongs shall appear or be heard on any appeal, but the appellant shall appear in person or by another employee of the Commission or by the secretary of the union aforesaid, and the Commission by some employee thereof authorised by the Commission in that behalf.

(e) The Board may, subject to the regulations, regulate its own procedure and issue summonses for the attendance of witnesses.

(7) (a) Any person who does not appear before the Board pursuant to a summons issued and served upon him under this section after payment or tender to him of reasonable travelling expenses according to the prescribed scale, and does not assign some reasonable excuse for not so appearing, or who appears and refuses to be sworn or examined, or to produce for the inspection of the Board any document which by such summons he is required to produce shall be guilty of an offence.

Attendance
of witnesses.

Penalty—Ten pounds.

(b) In addition to travelling expenses a person attending as a witness shall be entitled to recover from the person at whose instance or by whom he was summoned or requested to attend an amount to be fixed by the Board according to the prescribed scale of allowances to witnesses attending before the Board.

(8) (a) The Appeal Board may confirm, modify, or reverse any decision of the Commission appealed against, or make such other order thereon as it thinks fit, and the decision of the Board shall be final.

Powers of
Appeal Board.

(b) The Appeal Board may fix the costs of any appeal and direct by whom and in what proportions they shall be payable, and in every case costs shall be awarded against an appellant whose appeal it considers is frivolous.

(c) All costs awarded against the appellant shall be recoverable as a debt due to the Crown.

(d) All costs awarded to an appellant shall be payable by the Commission.

Incidental
powers.

37. For the purposes of this Act and of exercising and discharging the powers, rights and obligations conferred or imposed or made exercisable by this Act the Commission may in relation to any of its undertakings by its servants and agents—

- (a) enter upon any land, street, or place and survey and take levels thereof and dig, fell, remove and carry away from the land any earth, stone, gravel, sand or other soil or timber or trees required to be used in constructing or maintaining any part of any such undertaking;
- (b) set up or lay down and maintain any necessary electric or other power line or any electric or other power works upon, over, under or through any land, or any shore of the sea, street, stream or water, and at any time alter or remove any such line or works, and break, excavate and remove any soil to the extent and depth required for placing, altering or removing any such line or works.

Provided that every electric line or other power line crossing above the surface of any street, or of any water commonly used for navigation, shall be at least twenty feet from the surface and that the free use of any land, shore, street, or water shall not be obstructed more than is necessary for the purposes of this Act;

- (c) cause any electric line or other power line or lamp to be supported by affixing or annexing the same to or against any part of a house, building or other structure.

Provided that—

- (i) any line, if aerial, and any lamp shall be at least eighteen feet from the

surface of the earth on which the house, building or other structure is situate; and

- (ii) if the owner of the house, building or other structure shall rebuild or alter the same, the electric line or other power line or the lamp shall be removed, and, if so required affixed to the new structure at the cost of the Commission;
- (d) cut down or lop such trees, bushes and branches as in the opinion of the Commission obstruct any electric line or other power line;
- (e) for any of the aforesaid purposes break up any street and open and alter the position of any pipe, sewer, drain or tunnel within or under any street and alter the position of any wires (not being wires belonging to the Postmaster General or the Commonwealth) over or under any street;
- (f) erect in or on any land or street, pillars, poles, standards, lamps and other things necessary for the purpose of supplying or conveying electricity or other power;
- (g) enter into such contracts as are necessary or incidental to the execution and discharge of its powers, authorities and duties under this or any other Act;
- (h) subject to the approval of the Minister, contract with any other body corporate or public body or person for or with respect to the doing and the control and management by either or both of the contracting parties of any matter or thing which such contracting parties are or either of them is by law empowered to do, control and manage, and to carry out every such contract according to the tenor thereof; and
- (i) do all such acts and things as it shall reasonably consider necessary for the purposes of this Act.

38. (1) Before the Commissioner proceeds to break up any street or to open or alter the position of any sewer, drain or tunnel or of any wires, it shall give to the person

Notice before
breaking up
of streets in
certain cases.

or the local or other authority under whose control or management the same may be, notice in writing of its intention so to do not less than three clear days before beginning the work, except in cases of emergency arising from defects in any lines or works in which cases the notice shall be given as soon as practicable.

Provided that when the interference with the street, sewer, drain, tunnel or wires is required for the purpose of connecting any branch electric or other power line to a main which has been previously laid or provided, one clear day's notice shall be sufficient.

(2) Before the Commission proceeds to exercise any of the other powers conferred by paragraphs (a) to (f) of section thirty-seven of this Act a like notice shall be given by the Commission to the local authority or the owner or occupier of the land or premises in respect of which such power is to be exercised.

Provided that when any owner of any unoccupied land or premises is not within the State, then any notice under this subsection shall be deemed to have been well and sufficiently given to him if it has been affixed or displayed on or over a conspicuous part of such land or premises and left so affixed or displayed for at least three days.

(3) If an agreement is not arrived at between the Commission and the local authority concerned upon any of the following matters:—

- (a) The placing of electric or other power lines over, under or through any land; or
- (b) the route to be traversed by any electric or other power line through or across any thoroughfare or other public place; or
- (c) the plans of buildings to be constructed within the district of such local authority—

any such matter in difference shall be referred by the Commission to the Minister as sole arbitrator, and the decision of the Minister shall be binding on the parties and final.

Streets, etc.,
broken up to
be reinstated.

39. (1) When the Commission has broken up any street or opened or altered the position of any sewer, drain, tunnel or wires for the purpose of executing any work it shall with all practicable speed, complete such

work and fill in the ground and reinstate or make good the street, sewer, drain, tunnel or wires so broken up, opened or altered in position, and carry away any earth, rubbish or obstruction arising from its operations; and until such operations are completed and the foregoing provisions are complied with the Commission shall take reasonable precautions for the prevention of accidents by causing every opening, heap of earth or rubbish or other obstruction to be fenced and guarded and to be well and sufficiently lighted at night time.

(2) The Commission shall indemnify and keep indemnified each and every local authority of and from all actions, claims, proceedings, loss, damage, costs and expenses for which any such local authority may be liable or responsible or be proceeded against by reason of any acts done or omitted to be done by the Commission or its servants or persons on its behalf under this Act or in connection with any of the matters in this Act referred to.

40. Except where otherwise expressly provided by this Act, any undertaking or works authorised by or under this Act to be undertaken or carried on by the Commission shall be deemed to be public works within the meaning of the Public Works Act, 1902-1933, and the Commission shall be deemed to be a Minister of the Crown authorised to undertake, construct and provide a public work within the meaning of that Act, and such Act shall, subject to this Act, apply to and in respect of it accordingly; and for the purposes of this Act the Commission may exercise any such powers as are by the aforesaid Act vested in the Minister for Works for the construction and maintenance of public works.

Application
of Public
Works Act,
1902-1933.

41. (1) In the exercise of the powers conferred by this Act, the Commission shall do as little damage as possible, and shall make adequate compensation to all local authorities and persons interested for any damages sustained by them by reason of the exercise of such powers.

Commission
to make good
all damage
done.

(2) All compensation and damages payable by the Commission in accordance with subsection (1) of this section shall be recoverable by action in any court of competent jurisdiction.

Provided that compensation payable by the Commission in respect of any land, undertaking, or other property compulsorily acquired by the Commission in pursuance of the powers in that behalf conferred by this Act shall be assessed, determined and recovered as provided in the Public Works Act, 1902-1933, and not otherwise.

Commission not bound to supply electricity or other power except in so far as it is bound by this Act or by contract so to do.

42. Except in so far as it is by or under this Act or by any contract or agreement (whether made under the authority of or brought within the provisions of this Act) expressly charged with the duty of supplying electricity or other power to any person or to any local authority or other body or authority, it shall not be incumbent on the Commission to supply any person or local authority or other body or authority with electricity or power.

Power to Commission to make by-laws.

43. (1) Subject to the provisions of this Act and of the Acts specified in the First Schedule to this Act the Commission may with the approval of the Governor make by-laws for the more effectual exercise of its powers and discharge of its obligations and duties under this Act, and in particular may by such by-laws provide for all or any of the following matters and purposes, that is to say:—

- (a) The construction, due management, maintenance, repair, use and protection of the undertakings and other property of the Commission;
- (b) preventing and remedying the waste, misuse or undue consumption of electricity or other power generated or produced by the Commission;
- (c) prescribing scales of charges for electricity or other power supplied by the Commission, and the minimum quantity to be charged for, and the rent for the use of meters, fittings and other apparatus;
- (d) providing for the recovery by action or summary proceedings of any such charges;
- (e) making any such charges a charge on any land or premises in respect of which they have been incurred and for the registration and enforcement of any such charge;

- (f) prohibiting any alteration of or interference with any meter, fittings or other apparatus without the consent of the Commission and prohibiting the sale, without the consent of the Commission, by any person or authority of any electricity or other power supplied by the Commission;
- (g) enabling the Commission to repair meters, fittings or other apparatus used in connection with the supply of electricity or other power by the Commission to any person or authority, and enabling the Commission to recover the costs of such repairs from any person or authority by or to whom the same are respectively owned or let;
- (h) the inspection of all meters, fittings and apparatus;
- (i) prohibiting the performance of work in connection with electric lines or other power lines or other works or any meter, fittings or apparatus used for the supply of electricity or other power under this Act, except by persons employed or holding licenses granted by the Commission, and providing for the issue of such licenses, and fixing the conditions thereof and the fees to be paid therefor;
- (j) imposing a penalty not exceeding twenty pounds for the breach of any by-law.

(2) By-laws made by the Commission under this section shall be subject to the regulations made by the Governor under this Act; and where any such by-law is in any respect inconsistent with or repugnant to any such regulation, the regulation shall prevail, and the by-law shall be read and be construed and have effect accordingly, or shall be null and void as the case may require.

PART VI.—FINANCE AND ACCOUNTS.

44. (1) The funds necessary for the effectual exercise by the Commission of the powers conferred by this Act shall be—

- (a) such moneys as are from time to time appropriated by Parliament for that purpose;

Funds.
Ibid., ss. 33
and 36.

- (b) the income derived by the Commission from the business carried on by it under the authority of this Act; and
- (c) such moneys as the Commission may borrow under and subject to the provisions of this Act.

(2) All such moneys shall be placed to the credit of an account at the Treasury to be called "The Electricity Commission General Fund Account" and shall be applied to the purposes of this Act—

Provided that—

- (i) the Commission shall cause separate records or entries to be kept in its books of account in which shall be shown such amounts of the moneys placed to the credit of the said account from time to time as are capital moneys and such amounts of such moneys as are revenue or profit or income moneys; and
 - (ii) moneys received by the Commission either by appropriation by Parliament or by advances by the Treasurer when such moneys are drawn from the Consolidated Revenue Fund shall, for the purposes of this section be deemed in the hands of the Commission to be revenue or profit or income moneys.
- (3) The said account shall be operated upon in such manner as may be prescribed.
- (4) The moneys from time to time in the said account shall be chargeable with—

- (a) all capital expenditure incurred in connection with the acquisition by purchase or compulsory taking of land or land and buildings, or the undertakings of supply authorities, or other property, or in connection with the establishment and maintenance of any works or undertakings vested in or to be carried on by the Commission under this Act;
- (b) the fees or remuneration and allowances payable to members of the Commission;
- (c) the salaries and wages of officers and servants employed in or in connection with the business carried on by the Commission; and
- (d) all other expenditure lawfully incurred by the Commission in the exercise of its powers or

the discharge of its duties or obligations under this Act.

Provided that—

(i) the capital expenditure mentioned in paragraph (a) of this subsection shall in the first instance be charged against and be paid out of those moneys in the said account which are recorded or entered in the books of account as capital moneys; and

(ii) the expenditures mentioned in paragraphs (b), (c) and (d) of this section, together with interest and sinking fund contributions payable by the Commission under this Act, amounts determined as depreciation in plant and the cost of maintenance of plant shall in the first instance be charged against and be paid out of those moneys in the said account which are recorded or entered in the books of account as revenue or profit or income moneys.

45. (1) The Commission may, with the approval of the Governor borrow from the Treasurer, and in such case the Treasurer shall make advances to the Commission out of moneys appropriated by Parliament to such purpose to enable the Commission to defray expenditure incurred by it under this Act at any time when the moneys in the Electricity Commission General Fund Account aforesaid are not sufficient to meet such expenditure in full.

Borrowing
power.

(2) The Commission shall pay to the Treasurer in respect of moneys borrowed as aforesaid interest at such rate and at such times as shall be determined by the Governor.

(3) The moneys borrowed and the interest payable in respect thereof shall be a charge upon the moneys in the said account from time to time, and upon any works, undertakings and other assets vested in the Commission.

46. (1) There shall be entered and debited in the said Electricity Commission General Fund Account in each year such amounts as shall be fixed by the Treasurer as the interest and sinking fund contributions payable

Contribution
of interest
and sinking
fund.

for the year in respect of such portion of the General Loan Fund as shall have been applied to the exercise by the Commission of any of the powers conferred upon it or the discharge of the duties imposed upon it by this Act.

(2) Such contributions shall be paid to the Treasurer.

(3) The accrued interest in the sinking fund contributions as certified by the Under Treasurer shall be incorporated in the accounts of the Commission in relation to the exercise by it of the powers conferred upon it by this Act.

Interest on capital expenditure from revenue.

47. (1) (a) Interest on the daily balance of money provided out of the Consolidated Revenue Fund for the purposes of this Act shall be charged in the books of account of the Commission in relation to the exercise of its powers and the discharge of its duties under this Act. The amount of such interest shall be paid to the credit of the Consolidated Revenue Fund half yearly or at such other times as the Treasurer shall direct.

(b) When assessing the amount of such daily balance in respect of which the interest shall be charged and be payable under this section there shall be taken into account in addition to any other credits the amount of any cash profit which has been paid to the credit of the Consolidated Revenue Fund as provided for in section forty-nine of this Act.

(2) The rate of interest shall be from time to time fixed by the Treasurer.

Charges for use of property and service.

48. (1) There shall be entered and debited in the Electricity Commission General Fund Account aforesaid such sum as in the opinion of the Treasurer represents the value of the use by the Commission under this Act of Government buildings or other property or of part services of any Government officers not wholly employed by the Commission under this Act or of services rendered by any Government department.

(2) Any amount debited under this section shall be treated as revenue payable into the Consolidated Revenue Fund and shall be paid accordingly as and when directed by the Treasurer.

Provided that where a departmental vote has already been debited in the current financial year, then the

amount shall be credited to such vote or treated as a rebate of the departmental expenditure where the annual estimates of such department provide for a rebate of expenditure.

49. All moneys standing to the credit of the Electricity Commission General Fund Account aforesaid may, until required by the Commission in connection with the exercise of its powers or the discharge of its duties under this Act be temporarily invested as the Treasurer may direct in any securities wherein moneys in the Public Account may lawfully be invested and all interest derived from such investment shall be paid to the credit of the said account.

Temporary investment of moneys.

50. Any profit from the business carried on by the Commission under this Act at the end of any financial year which is available in cash after making full allowance for interest and sinking fund contributions, and depreciation, obsolescence and maintenance of plant, and which, in the opinion of the Commission, is not required by the Commission for its purposes under this Act shall, subject to the approval of the Governor be paid to the credit of the Consolidated Revenue Fund.

Application of profit.

51. (1) The Commission shall, in respect of the electric works transferred to it from the Commissioner of Railways pursuant to Part IV of this Act and of its undertakings provide and keep books and enter therein true and regular accounts—

Accounts.
Ibid, s. 34.

- (a) of all moneys received and paid and of all moneys owing to and by the Commission, and of the several purposes for which such moneys are received and paid and owing; and
- (b) of all the assets and liabilities, profits and losses.

52. The Commission shall determine the amount of the depreciation and obsolescence of the assets in relation to the exercise by the Commission of its powers and the discharge of its duties under this Act; and such amount shall apply for the purposes of section fifty of this Act unless in the opinion of the Auditor General such amount should be increased in which case the amount determined by the Auditor General shall apply.

Depreciation.

Reserve accounts.
Ibid, s. 38.

53. The Commission may in respect of its works and undertakings establish in its books such reserve accounts for renewals or depreciation as it thinks fit, and may in every year credit to each such reserve account such sums as it thinks fit.

Annual Estimates.
Ibid, s. 35.

54. Annual estimates of the revenue and expenditure of the Commission in connection with the exercise by it of its powers and the discharge of its duties under this Act shall be prepared under such heads and in such manner as the Treasurer shall direct, and shall be submitted to Parliament.

Books may be inspected.

55. The books of account to be kept by the Commission shall be open to the inspection of the Auditor General and any person authorised by him to inspect the same, and copies or extracts may be taken therefrom.

Accounts to be balanced.

56. The accounts of the Commission in relation to the business carried on by it under this Act shall be balanced every year on the thirtieth day of June.

Accounts to be audited.
Ibid, ss. 32 and 34.

57. (1) The Commission shall in every year cause a full and true balance sheet of its assets and liabilities together with a profit and loss account, and such other statements as may be necessary to be compiled from the books of account, and to be submitted to the Auditor General for audit.

(2) Such balance sheet and statements shall be so prepared as to show fully and faithfully the financial position of each undertaking, and the financial results of the Commission's operations for the year.

(3) The Auditor General shall certify that he has found the accounts in order or otherwise as the case may be, and whether in his opinion the accounts are properly drawn up so as to present a true and correct view of the transactions for the period under review as shown by the books, and all items of receipts and payments and all known liabilities and assets have been brought into account and the value of all assets fairly stated.

(4) The Auditor General shall in respect of such accounts have all the powers conferred on him by the Audit Act, 1904, but subject to such powers the provisions of the Audit Act, 1904, shall not apply to the business carried on by the Commission under this Act.

(5) The Auditor General shall arrange for a periodical or continuous audit of the accounts of the Commission in relation to the business carried on by it under this Act.

58. The Commission shall prepare an annual report of its proceedings and operations during the preceding year which report together with copies of the balance sheet and statements of account then last prepared and audited and the Auditor General's report thereon shall be laid by the Minister before both Houses of Parliament as soon as practicable in each year.

Annual Report.
Ibid., s. 35.

PART VII.—MISCELLANEOUS.

59. (1) Save as otherwise expressly provided, nothing in this Act shall affect any rights, powers, authorities or duties of any Government department other than the Commission.

Saving as to Government Departments. Commission to confer and co-operate with other departments.
Vic. 1938, No. 3776, s. 49.

(2) Where the exercise of any rights, powers or authorities or the discharge of any duties by the Commission may affect the exercise of any rights, powers or authorities or the discharge of any duties by any other Government department the Commission shall so far as practicable confer and co-operate with such department.

(3) Any question, difference or dispute arising or about to arise between the Commission and any other Government department with respect to the exercise of any rights, powers or authorities or the discharge of any duties by either or both of them may be finally and conclusively determined by the Governor.

60. No matter or thing done by any commissioner or by any officer or other person appointed or employed by the Commission if done bona fide in the exercise of his powers or in the performance of his duties under this or any other Act shall subject such commissioner, officer or other person to any personal liability in respect thereof.

Protection of Commissioners, officers, etc.
Ibid., Third Schedule, para. 8.

61. (1) No action shall be maintainable against the Commission for any cause unless the action is commenced within twelve months after its cause shall have arisen.

Actions against Commission.

(2) No such action shall be commenced until one month after a notice in writing is given to the Commission stating the cause of action and the name and address of the party about to sue.

Plaintiff in action for personal injuries to submit to medical examination.

62. No action shall lie or be brought or continued against the Commission in respect of any injury to the person, unless the person injured submits himself to examination by a medical practitioner or medical practitioners appointed by the Commission at all reasonable times as the Commission may require.

Judicial notice of common seal.
Vic. 1928, No. 3776, Third Schedule, para. 1.

63. All courts, judges, and persons acting judicially shall take judicial notice of the common seal of the Commission affixed to any deed and shall presume that such seal was properly affixed thereto.

Service of notices and legal proceedings.
Ibid, Third Schedule, para. 2.

64. (1) Any notice, summons, writ or other proceeding required to be served upon the Commission may be served by being given personally to the chairman or the secretary.

(2) Save as otherwise expressly provided any notice or demand required by or under this Act to be given or served on the owner or occupier of any land or other premises may (in addition to or instead of any other mode of service) be served by post by prepaid letter addressed to the owner or occupier, and in proving the service it shall be sufficient to prove that the notice or demand was properly addressed to the owner or occupier and was put into the post.

Documents how authenticated.
Ibid, Third Schedule, para. 3.

65. Every notice, order, summons or other document requiring authentication by the Commission may be sufficiently authenticated without the seal of the Commission if signed by the secretary.

Power to direct prosecutions.
Ibid, Third Schedule, para. 4.

66. The Commission may order either generally or in any particular case that proceedings be taken for the recovery of any penalties incurred under or for the punishment of any persons offending against this Act or under or against any by-law or regulation.

Power of officer to represent Commission.
Ibid, Third Schedule, para. 5.

67. In all proceedings before justices or in any Court of petty sessions any officer of the Commission appointed by the chairman in writing under his hand for that purpose may represent the Commission in all respects as though such officer was the party concerned.

Proof of certain matters not required.
Ibid, Third Schedule, para. 6.

68. (1) In any prosecution or legal proceeding under the provisions of this Act or the by-laws or regulations instituted by or under the direction of the Commission

no proof shall be required (until evidence is given to the contrary) of—

- (a) the constitution of the Commission;
 - (b) any order of the Commission to prosecute;
 - (c) the particular or general appointment of the secretary or any other officer of the Commission to take proceedings against any person;
 - (d) the powers of the said secretary or other officer to prosecute;
 - (e) the appointment of the chairman or of any commissioner or of the secretary or other officer of the Commission; or
 - (f) the presence of a quorum at any meeting at which any order is made or any act is done by the commission.
- (2) The production of—
- (a) a copy of the *Government Gazette* containing any rule, by-law, regulation, order or notice purporting to have been made or given under any of the provisions of this Act; or
 - (b) a copy purporting to be a true copy of any such rule, by-law, regulation, order or notice certified as such under the hand of the secretary of the Commission shall be evidence until the contrary is proved of the due making, existence, confirmation, approval and giving of such rule, by-law, regulation, order or notice and of all preliminary steps necessary to give full force and effect to the same.

69. All documents whatever purporting to be issued or written by or under the direction of the Commission and purporting to be signed by the secretary shall be received as evidence in all courts and before all persons acting judicially within the State and shall without proof be deemed to have been issued or written by or under the direction of the Commission until the contrary is shown.

Evidence of documents issued by the Commission.
Ibid, Third Schedule, para. 7.

70. The Commission for the purpose of conducting any investigation or inquiry authorised to be made by or under this Act shall have all the powers conferred upon a Royal Commission by the Royal Commissioner's Powers Act, 1902, and any reference to the chairman in that Act shall be deemed to be a reference to the chairman of the Commission under this Act.

Powers of Commission in conducting investigations, etc.
Ibid, Third Schedule, para. 9.

Offences and
penalties.
Ibid., Third
Schedule.

71. (1) Every person who—

- (a) wilfully obstructs any person acting under the authority of the Commission in the lawful exercise of its powers in setting out or forming, laying down, altering, repairing, improving or renewing any works or undertaking; or
- (b) without the authority of the Commission or the proper officer thereof—

- (i) pulls up or removes any poles or stakes driven into the ground for the purpose of setting out such works or undertakings; or

- (ii) defaces or destroys any marks made for the same purpose; or

- (iii) extinguishes any light provided or takes down, alters or interferes with any bars, chains, fences or hoardings erected or placed for the protection of any such works or undertakings or for guarding against accidents—

shall (without affecting any liability, civil or criminal, to which he is otherwise subject) be guilty of an offence.

Penalty—Fifty pounds.

(2) Every person who—

- (a) without authority or without having given to the Commission the notice (if any) required by or under this Act of his intention so to do opens any ground so as to uncover or expose any works or fittings of or under the control and management of the Commission; or

- (b) wilfully or negligently breaks or injures or opens any works or fittings as aforesaid—

shall (without affecting any liability, civil or criminal, to which he is otherwise subject) be guilty of an offence.

Penalty—Fifty pounds.

(3) Every person who unlawfully and maliciously destroys or damages or attempts to destroy or damage any work, undertaking or property of or under the control and management of the Commission shall be guilty of a misdemeanour and be liable at the discretion of the Court before which he is convicted to be imprisoned for a term of not more than ten years.

(4) Prosecutions for offences under subsections (1) and (2) of this section, and for breaches of by-laws and regulations made under the authority of this Act may be instituted and dealt with summarily before justices sitting in petty sessions.

72. No rate, tax, or assessment shall be made, charged or levied on any works or undertakings or on any land acquired by and vested in the Commission for any of the purposes of this Act.

Exemption from rates and taxes.

73. (1) The Governor may make any regulations not inconsistent with the provisions of this Act which may be necessary or convenient for carrying this Act into operation, or for facilitating the operation of the Act and of the Commission thereunder.

Regulations.

(2) Such regulations may prescribe a penalty not exceeding fifty pounds for the breach or omission of any duty imposed by such regulations.

FIRST SCHEDULE.

Section 4.

Acts to which this Act shall be subject.

Title of Act.	Number.
Fremantle Municipal Tramways and Electric Lighting Act, 1903-1937	Private Act of 1903, reprinted in Volume 2 of the Reprinted Acts of the Parliament of Western Australia.
Fremantle Municipal Tramways and Electric Lighting Act Amendment Act, 1943	No. 26 of 1943.
Perth Municipal Gas and Electric Lighting Act, 1911	No. 2 of 1911.
Perth Municipal Gas and Electric Lighting Act Amendment Act, 1914	No. 20 of 1914.
Perth Municipal Gas and Electric Lighting Act Amendment Act, 1915	No. 54 of 1914.
Electric Light and Power Agreement Act, 1913	No. 34 of 1913.
Electric Light and Power Agreement Act Amendment Act, 1923	No. 25 of 1923.
Electric Light and Power Agreement Act Amendment Act, 1928	No. 3 of 1928.
City of Perth Endowment Lands Act, 1920	No. 31 of 1920.

SECOND SCHEDULE.

Section 5.

Acts repealed by this Act.

Title of Act.	Number.	Extent of repeal.
Government Electric Works Act, 1914	No. 29 of 1915.	The whole.
Government Electric Works Act Amendment Act, 1915	No. 42 of 1915.	The whole.
South-West Electric Power Act, 1926	No. 62 of 1926.	The whole.