

ELECTRICITY.

9° and 10° GEO. VI., No. XIX.

No. 19 of 1945.

AN ACT to consolidate and amend the law relating to the establishment and control of electricity generating stations and to the transmission, distribution and use of electricity; to repeal the Electricity Act, 1937; and for other relative purposes.

[Assented to 9th January, 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:—

1. This Act may be cited as the *Electricity Act, 1945*, and shall come into operation on a date to be fixed by Proclamation. Short title and commencement.

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

PART I.—Sections 3 to 6: PRELIMINARY.

PART II.—Sections 7 to 25: SUPPLY AUTHORITIES.

Division 1—Sections 7 to 17: *Establishment of generating stations, grant of concessions, etc.*

Division 2—Sections 18 to 24: *General Powers and obligations of Supply Authority.*

Division 3—Section 25: Specific obligations of Supply Authority.

PART III.—Sections 26 to 31: INSPECTION.

PART IV.—Sections 32 and 33: REGULATIONS AND BY-LAWS.

PART V.—Sections 34 to 54: MISCELLANEOUS.

PART I.—PRELIMINARY.

Act repealed.

3. (1) The Electricity Act, 1937 (No. 45 of 1937), is hereby repealed.

Saving provision.

(2) Nothing in this Act shall affect the operation of section sixteen of the Interpretation Act, 1918, in relation to any act, matter or thing done or arising under the provisions of the said Electricity Act, 1937, prior to the commencement of this Act.

This Act to be read in conjunction with and subject to State Electricity Commission Act, 1945.

4. This Act shall be read in conjunction with the State Electricity Commission Act, 1945, and shall be construed and have effect as being subject to that Act; and where any provision in this Act or any by-law or regulation made under this Act is inconsistent with or repugnant to any provision of the said State Electricity Commission Act, 1945, or to any by-law or regulation made under that Act, such last-mentioned provision, by-law or regulation shall prevail, and to the extent of such inconsistency or repugnancy the provision in this Act or the by-law or regulation made under this Act shall be void and of no effect.

Interpretation.

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

(1) “The principal Act” means the State Electricity Commission Act, 1945.

(2) Where any words, expressions or designations used in the principal Act are also used in this Act such words, expressions and designations when used in this Act shall have the same meanings as those given to them in and for the purposes of the principal Act.

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

Administra-
tion of this
Act.
No. 45 of
1937, s. 3.

PART II.—SUPPLY AUTHORITIES.

Division 1—Establishment of Generating Stations, grants of Concessions, etc.

7. (1) After the commencement of this Act no person shall—

No further
generating
stations to be
erected except
under this
Act.
No. 45 of
1937, s. 8.

- (a) construct or establish any generating station; or
- (b) instal any additional main generating unit; or
- (c) extend any transmission works—

without the consent in writing of the Commission and then only in accordance with any conditions or stipulations which the Commission may think fit to impose and shall specify in its consent.

Penalty—Five hundred pounds.

(2) Any person using any generating station or any transmission works which have been established or constructed in contravention of this section shall, in addition to the ordinary penalty provided for in subsection (1) of this section, be liable to a penalty not exceeding fifty pounds for each day or part of a day during which the same are so used.

(3) Nothing in this section shall be deemed to prevent any person from—

- (a) generating electricity solely for his own private use, and not for sale; or
- (b) selling electricity supplied to him by a supply authority to any premises owned by him if such electricity is sold only to his tenants occupying such premises and at prices not in excess of the prescribed charges.

8. (1) Any person, who desires to carry out any works in respect of which the consent in writing of the Commission is necessary under section seven of this Act, shall make application to the Commission for such consent and therewith shall furnish such preliminary plans, specifications, estimates and technical details of the proposed works as may be prescribed.

Persons to
furnish plans
of proposed
works.
No. 45 of
1937, s. 10.

(2) A local authority which desires such consent shall not incur expenditure in excess of the sum of fifty pounds in connection with the preparation and completion of such preliminary plans, specifications, estimates and technical details without the prior approval of the Commission.

(3) On receipt of such preliminary plans, specifications, estimates and technical details the Commission shall examine the same and thereafter may grant or refuse the consent applied for as it may think fit.

Local
authorities
empowered
to generate
electricity.
No. 45 of
1937, s. 6.

9. (1) Subject to the provisions of this Act and in particular to subsection (2) of this section a local authority may, with the consent of the Commission—

(a) establish and maintain generating stations in its district, and supply or combine with any other local authority in the generation, supply and distribution of electricity either within the limits of its district or within the limits of its district and the district of such other local authority combined;

(b) grant, in accordance with the standard form of contract for the time being and from time to time prescribed under section seventeen of this Act, a sole concession to a concessionaire for any period not exceeding twenty-one years, upon such terms and conditions, not inconsistent with the said prescribed form of contract, as the local authority may think fit to impose enabling the concessionaire to exercise the powers of the local authority conferred by paragraph (a) of this subsection in the whole or such part of the district of the local authority as may be specified;

(c) for the purpose of the effectual exercise of its powers under paragraphs (a) and (b) of this subsection—

(i) buy or otherwise acquire freehold and leasehold land, sell or exchange lands of either freehold or leasehold tenure, or let on lease for any period not exceeding twenty-one years any land of any tenure belonging to the local authority at such rent and upon and subject to such terms and conditions as it may think fit; and

(ii) acquire patent rights, licenses, apparatus, machinery, appliances and things; and

(iii) use all the powers conferred on it by its local governing Act relating to the carrying out of works and undertakings, including but without limiting the generality of this authority, power to use its corporate funds and to borrow money in the same manner as if as the local governing body under its said local governing Act it were carrying out an authorised work within the meaning of that Act.

(2) Provided that nothing in subsection (1) of this section shall operate so as in any way to interfere with or prevent the exercise by the Commission of its powers under the principal Act in respect of the supply direct of electricity or other power required by any Government Department or any Crown instrumentality, or by any industrial consumer having a connected load of two-hundred horse-power or more within the district of the local authority.

10. (1) Subject to this Act, whenever any land is required by a local authority for the purpose of exercising its powers under 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.

Local authority may acquire land compulsorily.
No. 45 of 1937, s. 7 (2).

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

11. (1) A supply authority shall—

(a) in the exercise of the powers conferred by this Act, cause as little detriment and inconvenience and do as little damage as possible; and

Supply authority to pay compensation for damage done.
No. 45 of 1937, s. 7.

- (b) make full compensation to all persons concerned for all damage (other than the compulsory acquisition of land) sustained by them in consequence of the exercise by the supply authority of the powers aforesaid.

(2) Where in accordance with paragraph (b) of subsection (1) of this section a supply authority is liable to make compensation to a person for damage sustained by him in consequence of the exercise of its said powers by such supply authority, the amount of the compensation to be paid, shall, in default of agreement between the parties, be determined by means of a reference to an arbitrator or arbitrators under and in accordance with the provisions of the Arbitration Act, 1895.

Crossing the district of a local authority with transmission works.
No. 45 of 1937, s. 9.

12. (1) A local authority may with the consent of the Commission, and shall, if so required by the Commission, grant to a supply authority a license, for such period as may be necessary but in any event not exceeding twenty-one years, authorising the construction and maintenance by the supply authority of transmission works within the district of the local authority.

(2) The exercise by a supply authority of a license granted to it under subsection (1) of this section shall be deemed to be the exercise by the supply authority of a power conferred by this Act within the meaning of section eleven of this Act, and the provisions of that section shall apply accordingly, and, where the supply authority does any damage to the works of the local authority which has granted the license, the local authority shall be a "person concerned" within the meaning of paragraph (b) of subsection (1) of the said section eleven.

Linking up schemes.
No. 45 of 1937, s. 11.

13. (1) Subject to this Act, and with the approval of the Commission, any supply authority may arrange with another supply authority for the establishment, maintenance and carrying on of a linking-up scheme for the supply by the one authority of electricity in bulk to the other, and the sale by such other authority of such electricity by retail.

(2) The supply authorities concerned in any such arrangement shall make application jointly in writing to the Commission for its approval and shall furnish

therewith such preliminary plans, specifications, estimates, technical details and other information as may be prescribed or be required by the Commission.

(3) After examining the application and the said plans, specifications, estimates, technical details and other information aforesaid and giving full consideration to the proposed arrangement the Commission may grant or refuse its approval, or grant its approval subject to any conditions it may think fit to impose.

(4) When the Commission grants its approval of an arrangement for a linking-up scheme, it shall determine the price or prices to be paid for electricity purchased in bulk by the one supply authority from the other for subsequent sale by retail by the former.

(5) In fixing the amount to be charged the Commission shall take into consideration—

(a) the following items of costs incurred or to be incurred at the generating station or proposed generating station based on the cost per kilowatt hour generated—

- (i) management and administration;
- (ii) the cost of fuel;
- (iii) wages, stores, oil, water and other necessities;
- (iv) maintenance of plant;
- (v) transmission; and
- (vi) capital charges (including interest) depreciation and obsolescence; and

(b) maximum demand.

(6) If the linking-up scheme is approved by the Commission, the supply authority which supplies the electricity in bulk shall not charge for such electricity prices in excess of those determined by the Commission without the consent of the Commission.

14. Where a supply authority, which generates electricity, supplies electricity in bulk under a linking-up scheme, then for the purpose of measuring the quantity supplied from the supplier to any supply authority or to any local authority participating in such scheme, the electricity supplied in bulk shall be metered at a point to

be mutually agreed upon between the supplier and the receiver of the electricity in bulk, or, in default of such agreement, to be determined by the Commission.

Joint
schemes.
No. 45 of
1937, s. 13.

15. (1) Subject to the consent of the Commission, any two or more local authorities may, by mutual agreement combine in a joint scheme for the establishment of a generating station, or for the carrying out of transmission or distribution works, and the supply of electricity to consumers in the combined districts of such local authorities.

(2) Any local authority which desires to combine with another or other local authorities in a joint scheme under this section may give notice in writing to that effect to the other local authority or local authorities.

(3) If after service of a notice pursuant to subsection (2) of this section two or more local authorities agree on a joint scheme, such local authorities shall, before putting the same into operation, make application in writing to the Commission for its consent thereto, and with such application shall furnish such particulars as may be prescribed or as may be required by the Commission.

(4) Upon receipt of an application under subsection (3) of this section the Commission may grant or refuse its consent to the joint scheme proposed as it thinks fit.

(5) Where two or more local authorities agree on and the Commission consents to a joint scheme under this section, the capital cost of the establishment of the generating station, the transmission works, the distribution works and all works in connection therewith shall be apportioned between the local authorities which are parties to the scheme on an equitable basis; and, if such parties are not able to agree mutually as to the proper apportionment of such capital cost, the same shall be referred to and determined by the Commission.

(6) The total amount of distribution costs of electricity generated at any generating station established under a joint scheme shall be borne and paid by the local authorities which are parties to such scheme in such proportion as may be mutually agreed upon, or, in default of such mutual agreement, as may be determined by the Commission.

16. (1) A local authority, in whose district there is no supply authority generating electricity and which desires to negotiate for a supply of electricity in bulk for transmission and distribution to consumers within its district with a supply authority generating electricity in the district of another local authority which adjoins its district, may give notice to that effect to such supply authority.

Local authority may apply to supply authority for supply of electricity in bulk.

No. 45 of 1937, s. 13 (4).

(2) If such local authority and such supply authority cannot reach agreement as to the supply of electricity, or as to the terms and conditions of such supply, the local authority may apply to the Commission for a determination of the matters in dispute or difference.

(3) Where any matter is referred to the Commission in accordance with subsection (2) of this section, the Commission shall determine the same as between the parties, and where the Commission decides that the supply authority shall supply electricity or determines the terms and conditions upon which the supply authority shall supply electricity as desired by the local authority, the supply authority and the local authority shall be bound by and shall observe and comply with the decision or determination of the Commission according to the tenor thereof.

17. (1) The Commission may from time to time cause to be prepared and published in the *Government Gazette* a standard form of contract to be entered into and executed by local authorities and concessionaires.

Standard form of concession agreement.
No. 45 of 1937, s. 14.

(2) Every contract with respect to the grant of a concession entered into by a local authority and a concessionaire shall be in accordance with the standard form of contract then last prepared and published in accordance with subsection (1) of this section.

Provided that with the consent of the Commission, and by mutual agreement of the parties, additional provisions not inconsistent with or repugnant to the provisions contained in the standard form of contract aforesaid may be included in the contract entered into by the said parties, or the provisions contained in the said form may be varied in the contract entered into by the said parties.

Division 2—General Powers and Obligations of Supply Authorities.

General
Powers.
No. 45 of
1937, s. 15.

18. Subject to this Act and as in this section hereafter provided, a supply authority may do all or any of the following things, that is to say: —

- (a) enter upon any land, street or place and survey and take levels thereof;
- (b) open and break up the soil, surface or pavement of any streets and bridges within the limits of any district or locality to be supplied by the supply authority with electricity, and open and break up any sewers, drains or tunnels within or under any such streets or bridges, and carry out and instal transmission and distribution works under, over, along or across any such street, bridge or shore of the sea, or of any stream or water but so that any electric line crossing above the surface of any street or of any water commonly used for navigation, shall be at least twenty feet from such surface, and that the free use of any street, bridge, shore, stream or water aforesaid shall not be obstructed more than is necessary for enabling the supply authority to exercise the rights, powers and authorities conferred upon it by this Act;
- (c) from time to time repair, alter or remove any such works;
- (d) for all or any of the purposes aforesaid remove and use all materials in, under or over any streets and bridges aforesaid;
- (e) carry out and instal any transmission works or distribution works in any place or in against or through any building for the purpose of supplying the same or any other place or building with electricity, and set up any service apparatus necessary for providing thereto a complete supply of electricity, and for measuring and ascertaining the extent of such supply but so that any line of aerial and any lamp shall be at least eighteen feet from the surface of the earth on which the building is situate.

Provided that if the owner of the building shall rebuild or alter the same, any work attached to the building shall be removed so far as may be necessary to enable such rebuilding or alteration to be carried out, and, if so required shall be affixed to the new or altered building at the cost of the supply authority; and

- (f) generally all other acts and things which the supply authority from time to time deems necessary with respect to the supply of electricity.

Provided that—

- (i) the supply authority shall not erect or instal any distribution works and apparatus for distribution in or against any building or on any land without the consent of the owners and occupiers thereof, but nothing in this proviso shall preclude the supply authority from entering such building or land and carrying out, erecting and installing new distribution works and apparatus for distribution to replace any distribution works or apparatus for distribution already lawfully carried out, erected or installed or to repair or alter any such works or apparatus;
- (ii) before the supply authority proceeds to open or break up any street, bridge, sewer, drain or tunnel it shall give to any public authority affected, under whose control or management the same or any part of the same or any works on, under or above the same may be placed, at least three clear days' notice in writing of the intention of the supply authority so to do except—
 - (a) in cases of emergency arising from defects in any transmission works or distribution works of the supply authority in which cases such notice shall be given with all reasonable dispatch after the beginning of the work or the necessity for the same has arisen; and

(b) in cases where the work to be carried out consists of the connection of any distribution works to any transmission works which have been previously laid or erected, in which cases one clear day's notice in writing shall be sufficient;

- (iii) no such street, bridge, sewer, drain or tunnel shall be opened up or broken up (except in the case of emergency) except under the superintendence of the public authority having the control or management thereof or of its officer, and according to such plan as shall be approved by such public authority or its officer, or, in case of any difference regarding such plan, then according to such plan as shall be determined, settled or approved by the Commission. Provided that if the public authority or its officer fails to attend at the time fixed for the opening up or breaking up of any such street, bridge, sewer, drain or tunnel after notice as required by paragraph (ii) of this proviso or shall not submit any plan for opening up or breaking up the same or shall refuse or fail to superintend the operations in connection therewith, then the supply authority may carry out the work specified in the said notice without the superintendence of the public authority or its officer.

Supply authority to reinstate works of a public authority. No. 45 of 1937, s. 16.

19. (1) When a supply authority carries out any works in the exercise of its powers under this Act, and in the course thereof damages or prejudicially affects the works of any public authority, the supply authority shall—

- (a) with all possible speed complete the works of the supply authority, reinstate and make good the damage done to the works of the public authority, and remove all spoil and rubbish occasioned by the operations of the supply authority;

- (b) cause a light sufficient for the warning of persons, to be set up and maintained at night against or near the works being carried out by the supply authority in any street or public place, and keep the said works adequately fenced and guarded for the protection of persons until the supply authority has duly discharged its obligations as specified in paragraph (a) hereof; and
- (c) keep any streets which have been broken up or disturbed in the course of the works carried out by the supply authority in good repair and condition for a period of three months after reinstating and making good any damage done to the same and for any further period, not exceeding twelve months in all, during which the said streets may continue to subside.

(2) If a supply authority makes default in the due discharge of any of its obligations under subsection (1) of this section, then without prejudice to any other liability at law or in equity to which it may be subject, the supply authority so in default shall forfeit and pay to the public authority, whose works or property have or has been damaged, a sum not exceeding ten pounds for every such default and a further sum not exceeding five pounds for each day or part of a day during which any such default is continued after notice thereof in writing has been served by the said public authority upon the said supply authority as shall be fixed and ordered by the Commission.

Penalty for default.
No. 45 of 1937, s. 17.

20. (1) Subject to this Act and to the regulations and by-laws made and from time to time in force under this Act:—

- (a) Where a supply authority in the exercise of its powers under this Act deems it necessary to alter the position of any works of any public authority in any street or place, the supply authority shall give to the public authority affected notice specifying the nature of the alteration proposed to be made.

Interference with works of public authorities and vice versa.
No. 45 of 1937, s. 18.

- (b) If the parties cannot agree as to the necessity for the alteration or as to any other matters pertaining to the proposed alteration, the matter in dispute or difference between them shall be referred to and be heard and determined by the Commission.
- (c) The supply authority shall make or secure to the public authority affected such amount of compensation and expenses as may be reasonably necessary to compensate the public authority in respect of the alteration of the position of works and the re-establishment thereof in such other position as may be agreed upon by the parties, or in default of agreement, be settled and determined by the Commission.

(2) (a) Any public authority which in the exercise of its statutory powers deems it necessary to alter the position of any transmission works or distribution works of a supply authority in any street or place may give to the supply authority notice specifying the nature of the alteration proposed to be made.

(b) Where notice is given by a public authority to a supply authority under this subsection the provisions of paragraphs (b) and (c) of subsection (1) of this section shall, with such adaptations thereof as may be necessary, apply and have effect.

Supply authority may let meters and apparatus.
No. 45 of
1937, s. 19.

21. A supply authority may let to a consumer any meter for ascertaining the quantity of electricity consumed or supplied and also any electric fittings or other apparatus required by the consumer in connection with the supply to him of electricity for such rent and on such terms in respect of the maintenance and repair of such meter, fittings or other apparatus and the assuring of the safety and return thereof to the supply authority as may be prescribed for that particular part of the State in which the meter, fittings or other apparatus aforesaid are used.

22. Subject to this Act, a supply authority may from time to time—

Power to contract to supply electricity.
No. 45 of 1937, s. 20.

- (a) enter into a contract with any person for the supply of electricity to any public or private building or for the providing of any person with electric fittings or other apparatus required in connection with the supply or use of electricity, and for the maintenance and repair of any such fittings or other apparatus; and
- (b) enter into a contract with any public authority having the control of streets within the limits of that area of the State in which the supply of electricity by such supply authority is authorised by or under this Act, for the supply of electricity for the lighting of such streets or of any public building or place with electricity, and for the providing of such public authority with electric fittings and other apparatus required in connection with the supply or use of electricity and for the maintenance and repair of such fittings or other apparatus in such manner and upon such conditions as shall be agreed upon between the parties.

23. Where on the premises of any consumer any person (whether the consumer or not) has wilfully or fraudulently damaged or tampered with or permitted or suffered to be damaged or tampered with any distribution works or service apparatus belonging to the supply authority, or altered the index of any meter or prevented any meter from registering correctly the quantity of electricity supplied, the supply authority may discontinue the supply of electricity to the said premises until the damage caused has been repaired or the interference has been rectified but for no longer period.

Power to cut off supply in case of illegal or fraudulent interference with works.
No. 45 of 1937, s. 21.

24. (1) Subject as hereinafter provided, any officer appointed for the purposes of this section by the supply authority in writing may at all reasonable times enter upon or into any place, building or premises in which electricity is or has been supplied by the supply authority.

Power of officer of supply authority to enter premises.
No. 45 of 1937, s. 22

Provided that if the occupier or other person for the time being in charge of such place, building or premises shall request such officer so to do, he shall before making any entry as aforesaid produce to such occupier or other person the written instrument of his said appointment.

(2) Upon making such entry such officer may—

- (a) inspect and examine all distribution works, and all service apparatus and electric fittings in or upon the place, building or premises entered and which belong to the supply authority for the purpose of ascertaining the quantity of electricity consumed or supplied therein or thereto; and
- (b) subject as hereinafter provided, where the supply authority desires to discontinue the supply of electricity as authorised by this Act, remove any service apparatus and electric fittings belonging to the supply authority.

Provided that when the supply authority does remove any service apparatus or electric fittings as aforesaid it shall make good or otherwise compensate the owner of the premises concerned in respect of the damage caused by such removal.

Division 3—Specific Obligations of Supply Authority.

Duties of supply authority.
No. 45 of
1937, s. 24.

25. (1) A supply authority shall—

- (a) at all times maintain all service apparatus belonging to the supply authority which is on the premises of any consumer, in a safe and fit condition for supplying electricity;
- (b) in the actual supply of electricity to the premises of a consumer take all reasonable precautions in order to avoid the risk of fire or of other damage on the said premises to the position on the said premises where the electricity passes beyond the service apparatus of the supply authority;

- (c) from the time when the supply authority begins to supply electricity through a distributing main, maintain a supply sufficient for the use of all consumers for the time being entitled to be supplied with electricity from that main, and, in the case of continuous current, maintain such supply constantly without a change of polarity; and
 - (d) declare the system pressure and/or frequency at which the supply authority proposes to supply electricity to the premises of a consumer at the position thereon where the electricity will pass beyond the service apparatus of the supply authority, and maintain constantly the said pressure within the limit of plus or minus six per centum and the said frequency within the limit of plus or minus two and one half per centum.
- (2) Subject as hereinafter provided—
- (a) If any supply authority fails to comply faithfully with any of the obligations imposed upon it by subsection (1) of this section, any person aggrieved by the default of the supply authority may make a complaint thereof to the Minister, and the Minister may refer such complaint to the Commission for inquiry and determination.
 - (b) When the Minister refers a complaint to the Commission, the Commission shall inquire into the matter of the complaint, and, if satisfied as to the truth thereof, may assess an amount by way of damages in respect of the damage suffered by the person aggrieved in consequence of the default complained of to be paid by the supply authority to such person.

Provided that—

(i) the amount of damages assessed shall not in any event in any one case exceed the sum of fifty pounds;

(ii) the assessment of damages by the Commission and the payment of same to the person aggrieved shall not preclude

such person from taking and pursuing any action or other proceeding at law or in equity against the supply authority in respect of damage suffered by him in consequence of the default committed by the supply authority; and

(iii) the amount of damages assessed by the Commission for payment by a supply authority to a person aggrieved shall be a debt owing by the supply authority to such person and as such shall be recoverable by such person by action in any court of competent jurisdiction.

PART III.—INSPECTION.

Inspectors.
No. 45 of
1937, s. 27.

26. (1) The Minister may on the recommendation of the Commission and for the purposes of this Act appoint any persons to be inspectors.

(2) Such inspectors shall have power—

(a) to inspect electric works, service apparatus, electric fittings and other apparatus used in connection with the generation, transmission, distribution, supply and use of electricity, and for that purpose at all reasonable times to enter all generating stations, places, buildings and premises where electricity is generated, transmitted, distributed, supplied, used or consumed; and

(b) to exercise such other authorities, and to perform such duties as may be prescribed by the regulations.

(2) The powers of every such inspector shall extend throughout the State to and in relation to all electric works and service apparatus, and to all other electric fittings and apparatus upon any premises to which electricity is supplied by whomsoever operated, controlled or used (including the Crown and a Crown instrumentality).

Special qualifications for inspection of generating stations.
No. 45 of
1937, s. 28

27. Notwithstanding anything to the contrary contained in section twenty-six of this Act, an inspector shall not be entitled to inspect generating stations, transmis-

sion works, or distribution works, unless he has the qualifications and holds a special certificate in relation thereto as prescribed by the regulations.

28. An inspector, after having made an inspection, may by notice in writing forbid the use of any electric works or service apparatus belonging to a supply authority, or of any electric installations or electric fittings belonging to a consumer which in the opinion of the inspector—

Inspectors
may require
dangerous
works to be
rectified.
No. 45 of
1937, s. 29.

(a) are not constructed in accordance with the provisions of this Act or the regulations made thereunder or in accordance with the provisions of any other Act applying thereto or the regulations or by-laws made thereunder; or

(b) are dangerous —

until such time as the same have been put into such a condition as to conform with the requirements of the Act or regulations made thereunder and applicable thereto and to obviate any danger arising from the use thereof.

29. (1) If an inspector forbids the use of any electric works, service apparatus, electric installations or electric fittings by a notice issued under section twenty-eight of this Act, any person aggrieved thereby may appeal in the prescribed manner to the Commission.

Right of
Appeal.
No. 45 of
1937, s. 31.

(2) The decision of the Commission in relation to any such appeal shall be final.

30. (1) A supply authority shall not supply electricity to any place, building or premises unless and until—

Installations,
etc., must be
passed before
electricity is
supplied.

(a) all service apparatus which belongs to the supply authority and will be used for supplying electricity to the said premises has been inspected by an inspector under this Act and has been passed by him as being in a safe condition for use and as being in accordance with this Act and the regulations made thereunder; and

- (b) there has been produced to the supply authority a certificate in writing in the prescribed form by an electrical worker licensed under this Act to undertake the carrying out of electric installations and the fitting of electric fittings that the electric installations and electric fittings on the premises to be supplied have been installed and fitted in accordance with this Act and the regulations thereunder.

(2) A supply authority which supplies electricity in contravention of this section shall be guilty of an offence.
Penalty—Fifty pounds.

Hindering
inspection.
No. 45 of
1937, s. 49.

31. A person shall not obstruct, hinder or delay any inspector appointed under this Act in the exercise of any power conferred or in the performance of any duty imposed upon him under this Act or the regulations or by-laws made thereunder.

Penalty—Fifty pounds.

PART IV.—REGULATIONS AND BY-LAWS.

Regulations.
No. 45 of
1937, s. 25.

32. (1) The Governor may, on the recommendation of the Commission, make any regulations not inconsistent with the provisions of the principal Act or of this Act which may be necessary or convenient for carrying this Act into operation or for facilitating the operation of this Act and of the Commission thereunder, and, without in any way limiting or restricting the generality of this section, may make regulations particularly in respect of the following matters, namely—

- (a) the limit within which and the conditions under which a supply of electricity by a supply authority shall be compulsory or permissive;
- (b) securing a regular and sufficient supply of electricity by supply authorities;
- (c) securing the safety of the public from personal injury and the property of the public from damage by fire or otherwise;
- (d) subject to existing contracts, the limitation of the prices which may be charged by supply authorities in respect of the supply of electricity and the rent and sale of service apparatus and electric fittings;

- (e) authorising inspection and inquiry from time to time by the Commission or by officers of the Commission duly appointed for such purposes;
- (f) the examination, qualifications and licensing of electrical workers, radio workers and contractors or of special classes of electrical workers and contractors (including cinematograph operators who operate plants electrically supplied with a pressure of not less than one hundred volts);
- (g) the enforcement of the due performance of the duties of any concessionaire in relation to the supply of electricity by the imposition of penalties or otherwise;
- (h) for the prevention of radio interference, authorising inspection of any premises in any part of the State from which radio interference is or is suspected of being caused;
- (i) for—
 - (i) the inspection, passing and branding by inspectors appointed under this Act of service apparatus and electric fittings (whether installed or first brought into use before or after the commencement of this Act);
 - (ii) forbidding the supply of electricity to, and the sale of and the use of any such apparatus and fittings which fail to pass the prescribed test or are unbranded or have not been inspected;
 - (iii) prescribing the fees which may be charged in connection with any inspection aforesaid; and
 - (iv) providing for the withdrawal of approval of any type, description or class of electrical apparatus, fitting or thing suggested or designed for use for the purposes of or for connection to any electrical installation;
- (j) prescribing standards for electrical wires and cables and for the materials used in the manufacture of electrical appliances, fittings and things used in connection with any supply of electricity;

- (k) prescribing the fees which may be charged for any services performed or rendered by the Commission or by any officer, inspector or other authority pursuant to this Act or the regulations or by-laws made thereunder;
- (l) prescribing the form and basis of charging for electricity by a supply authority, and the methods to be adopted in fixing such charges, and prescribing times for revising the same;
- (m) prohibiting interference by unauthorised persons with any electric work, service apparatus, electric fitting or other electrical installation;
- (n) conferring upon a supply authority power to refuse or discontinue the supply of electricity where under the conditions existing such supply may be dangerous to life, health or property, and regulating the exercise of such power by the supply authority;
- (o) requiring the periodical inspection by a supply authority for all its electric works installed in on over or under any street, or any public or private building or premises;
- (p) the safety of persons employed in or about generating stations or in the construction or installation of electric works;
- (q) prescribing standards for the voltages to be maintained by persons operating generating stations at that position on the premises of a consumer at which the main switch is situated; and prescribing standards and rules for the construction or installation of electric works, service apparatus, electric fittings and other electrical installations;
- (r) generally in regard to any other matters in connection with the supply of electricity by a supply authority; and
- (s) imposing penalties not exceeding fifty pounds for any breach of such regulations.

(2) Such regulations may be either general or restricted to the whole or any part of the area of the district or districts of a particular local authority or

particular local authorities, and, except where the context of subsection (1) of this section specifically requires, may be of general application throughout the State and apply generally to and incidental to the generation and use of electricity throughout the State.

33. (1) A local authority may with the approval of the Commission and the consent of the Commission make by-laws to have effect within the limits of its district for the purpose of—

*By-laws.
No. 45 of
1937, s. 26.*

(a) securing the safety of the public and preventing damage to property; and

(b) prescribing a penalty not exceeding fifty pounds for any breach of such by-laws.

(2) Before approving of the by-laws proposed to be made by a local authority, the Commission shall be satisfied that such by-laws will not conflict with the electrical wiring rules as made and adopted by the Standards Association of Australia.

(3) By-laws may be made by a local authority under subsection (1) of this section in addition to or as supplemental to the regulations made by the Governor with respect to the same matter, but in the event of any by-law being inconsistent with or repugnant to any regulation aforesaid, the regulation shall prevail, and to the extent of such inconsistency or repugnancy the by-law shall be invalid.

PART V.—MISCELLANEOUS.

34. Distribution works or service apparatus or electric fittings belonging to a supply authority in any place or building (not in the possession of the supply authority) and which are used for the purpose of supplying or in connection with the supply of electricity shall be exempted from any execution under any process of a court of law.

*Service apparatus, etc. of supply authority not subject to distraint.
No. 45 of
1937, s. 23.*

35. If any consumer neglects to pay to a supply authority any rent or the price of or any charge in respect of any service apparatus or electric fittings due and payable to the supply authority for the space of fourteen days next after demand in writing for payment of the

*Power to cut off supply.
No. 45 of
1937, s. 23.*

amount due shall have been served on the consumer, the supply authority may cut off the supply of electricity, and, until payment of the amount demanded together with any expenses incurred in connection with the collection or recovery of such amount may discontinue the supply of electricity to the consumer.

Powers where
electricity
wasted or
misused.
No. 45 of
1937, s. 33.

36. (1) If a consumer does anything or suffers or permits anything to be done or omits to do anything whereby electricity supplied by a supply authority escapes from any electric line laid in, over or along any street or land before it reaches the meter on the premises of the consumer, he shall be guilty of an offence.

Penalty—Fifty pounds.

(2) Where a consumer acts in contravention of subsection (1) of this section, in addition to prosecuting the offender for such offence, the supply authority may—

(a) disconnect such electric line and discontinue the supply of electricity to the consumer during such time as the cause of the escape of electricity from such line remains not remedied; and

(b) recover from the consumer the amount of all loss which is sustained by the supply authority in consequence of the wrongful act of such consumer.

(3) Any amount recoverable by the supply authority under paragraph (b) of subsection (2) of this section may be recovered summarily by a complaint before justices sitting in petty sessions.

Provided that where the supply authority prosecutes a consumer for an offence under subsection (1) of this section, the supply authority may in the same proceedings claim payment of compensation for loss sustained as provided for in paragraph (b) of subsection (2) of this section, and, if the consumer is convicted of the offence with which he is charged, the Court may, in addition to imposing a fine in respect of such conviction, assess and order payment of compensation by the consumer to the supply authority; and in such case the amount of compensation ordered to be paid shall be recoverable in the same manner as the fine is recoverable.

37. (1) Where the contract between a supply authority and a consumer for the supply of electricity or for the supply or letting of service apparatus or other apparatus or electric fittings has expired or otherwise been determined the supply authority may at any reasonable time enter the premises of the consumer and disconnect, remove and take away all service apparatus, other apparatus and electric fittings which belong to the supply authority.

Power to remove appliances.
No. 45 of 1937, s. 34.

(2) All damage to property of whatever description occasioned by such disconnection and removal shall be made good by or on behalf and at the expense of the supply authority.

38. Whenever any consumer shall leave the premises where electricity has been supplied to him by a supply authority without paying to such supply authority the rent and all charges due and payable by him for or in connection with such supply, the supply authority shall not be entitled to require from the next incoming occupier of such premises the payment of the arrears left unpaid by the former consumer as a condition precedent to the supply of electricity to such incoming occupier, unless to the knowledge of the supply authority the latter has undertaken with the former consumer to pay either for himself or on behalf of the former consumer, the amount of such arrears.

Incoming tenant must be supplied although outgoing tenant in arrears.
No. 45 of 1937, s. 35

39. The supply authority shall owe a duty to the consumer to keep any meter let on hire to him at all times in proper order for correctly registering the quantity of electricity supplied to the consumer; and if the supply authority fails, and while it continues to fail in the discharge of that duty, the consumer shall not be liable to pay rent or other consideration for the use of such meter.

Supply authority to keep meter in order.
No. 45 of 1937, s. 36.

40. (1) Subject to subsection (3) of this section, every meter used for ascertaining the quantity of electricity supplied by a supply authority to a consumer shall during the continuance of such supply and until all rent or other charges payable in respect thereof have been paid, be under the sole control of the supply authority, whether such meter belongs to the supply authority or not.

Control of meters and fittings.
No. 45 of 1937, s. 37

(2) A person shall not cut, connect, tap, fix, alter or remove any service apparatus, other apparatus or electric fittings which belong to a supply authority and are used in connection with the supply of electricity by that supply authority unless authorised so to do in writing by the supply authority.

Penalty—Fifty pounds.

(3) Nothing in this section shall affect the lawful exercise by any person or by any public authority of any power vested in such person or in such public authority by or under the provisions of this Act or of any other Act or the regulations or by-laws made under this Act or under any other Act.

Meter record
to be *prima*
facie evi-
dence.
No. 45 of
1937, s. 38.

41. (1) The register of the meter or other device used for ascertaining the quantity of electricity supplied by a supply authority shall be *prima facie* evidence of the quantity supplied or used.

(2) The supply authority shall be entitled to test any such meter or other device at any time, and if it fails to register or is found to register incorrectly, the account of the consumer for or in respect of the supply of electricity to him on the premises upon which the said meter or other device is installed for the period next following the period for which the then last preceding account was rendered to the consumer may be adjusted by the supply authority at its option upon any one of the following bases, namely—

- (a) any test carried out under the authority of this Act; or
- (b) the account rendered to the consumer in respect of such premises for the corresponding period of the then next preceding year; or
- (c) the account rendered to the consumer for the then last preceding account period in respect of such premises with a reasonable adjustment thereof for any known variations in the consumer's demand for electricity; or
- (d) the certificate of testing of the meter or other device aforesaid hereinafter provided for.

(3) Subject to subsection (4) of this section a consumer shall, upon payment of the prescribed testing fee, be entitled to demand a test of any meter or other device used for ascertaining the quantity of electricity supplied to him and when such a test is demanded the following provisions shall apply, that is to say:—

(a) The test demanded may, at the option of the person requiring the test, be performed—

(i) on the basis of a comparison of the working of the meter or other device under consideration with that of any other meter which has been certified by any tester approved by the Commission to be effective; or

(ii) on the basis of testing the meter or other device under consideration by a testing laboratory approved by the Commission.

(b) The testing fee prescribed in respect of a test upon the basis mentioned in subparagraph (1) of paragraph (a) of this subsection shall not exceed five shillings, and the testing fee prescribed in respect of a test upon the basis mentioned in subparagraph (ii) of the said paragraph (a) shall not exceed three pounds three shillings.

(c) If it be found on testing that the meter or other device is not more than two per centum fast, the testing fee shall be retained by the supply authority.

(d) If it be found on testing that the meter or other device is more than two per centum fast the testing fee shall be refunded to the consumer and a rebate, based on the result of the test shall be made on the last account rendered to the consumer and on the current account up to the date when the meter is removed or re-adjusted.

(4) Meters or other devices shall be considered correct if on testing they are found to register within two per centum of the correct registration.

(5) All outstanding accounts between the consumer and the supply authority shall be paid before any test demanded by such consumer is made.

Apparatus.
No. 45 of
1937, s. 39.

42. (1) A supply authority shall not be entitled—

- (a) to insist on the use of any special form of electrical installation, or electric apparatus or fitting by any person; or
- (b) to control or interfere with the manner in which electricity supplied by the supply authority in pursuance of this Act is used.

Provided that—

(i) a person shall not be entitled to use any form of electrical installation or electric apparatus or fitting or to use electricity supplied to him or to deal with such electricity for any purpose or in such manner as to interfere unduly or improperly with the supply of electricity to any other person; and

(ii) where electricity is supplied at a cheaper rate or concession rate for any particular use or purpose, a person shall not, with intent to obtain electricity at such cheaper rate or concession rate, use the electricity for any use or purpose for which a higher rate is charged or higher charge is made.

(2) If any dispute or difference shall arise between a supply authority and any person in relation to any matter mentioned in subsection (1) of this section (except paragraph (ii) of the proviso to subsection (1) of this section) such dispute or difference shall be referred to the Commission for settlement and the decision of the Commission shall be final and binding on the parties concerned and shall have effect according to the tenor thereof.

Uniform
charges and
zoning.
No. 45 of
1937, s. 40.

43. (1) The Commission may create zones in any district which is supplied or which it is proposed to supply with electricity by a supply authority, and may from time to time alter the boundaries of such zones.

(2) (a) A supply authority shall not make against any person for the supply to him of electricity any charge which exceeds the standard charge made by such supply authority against all other persons in the same zone for

electricity supplied to them for the same use or purpose as that for which the first-mentioned person desires to obtain a supply of electricity.

Penalty—Ten pounds.

(3) Any supply authority which acts in contravention of subsection (2) of this section shall, in addition to its liability under that subsection, be liable to repay on demand to the person against whom the overcharge has been made the amount of the excess overcharged: and if such repayment is not paid when demanded the person entitled to such repayment shall be entitled to recover the same as and for a debt owing to him by action against the supply authority in any court of competent jurisdiction.

44. There shall not be any obligation upon a supply authority to supply electricity to any person if the supply of electricity to such person would necessitate an extension of the then existing distribution system of such supply authority.

Obligation to supply.
No. 45 of
1937, s. 41.

45. Subject to the express provisions of this Act, whenever any person or any supply authority is liable to pay any sum of money by way of compensation or damages or for costs or expenses of any examination or inquiry or in relation to any matter or thing concerning the repairing or reinstating of any loss or damage caused by such person or such supply authority, the same may be recovered summarily before any two justices, and the justices dealing with the matter shall assess and determine the sum payable and the provisions of the Justices Act, 1902-1942, shall apply in relation to any such assessment and the enforcement of the payment of the amount thereof.

Damages may be assessed by justices.
No. 45 of
1937, s. 42.

46. (1) Where a supply authority is supplying electricity within the limits of the district of a local authority, and the supplying of gas by any other person is also authorised within the same limits by any Act under the provisions of which such other person is under any general or limited obligation to supply gas to any person demanding the same, the Commission may on application by such other person inquire into the circumstances of the case, and if satisfied that any specified part of the

Power to Commission to relieve gas company from obligation to supply gas in certain cases.
No. 45 of
1937, s. 44.

area comprised within the said limits is sufficiently supplied with electricity and that the supply of gas in such specified part of the said area has ceased to be remunerative to such other person authorised to supply the same as aforesaid and that it is just that the said other person shall be relieved from his obligation to supply gas to any person demanding the same, the Commission may make an order relieving such other person aforesaid from his said obligation within such specified part of such area either wholly or in part and upon such terms and conditions as it may think proper, and from and after the date of such order the other person aforesaid shall be so relieved accordingly.

(2) All expenses in connection with any inquiry by the Commission under subsection (1) of this section shall be borne and paid by the person upon whose application the inquiry and order is made.

Illegal interference with works, etc.
No. 45 of
1937, s. 45.

47. (1) Any person who—

- (a) wilfully and unlawfully removes, destroys, or damages any electric works connected with or relating to the supply of electricity by a supply authority in pursuance of this Act; or
- (b) wilfully and unlawfully extinguishes any public lamps or lights maintained by a supply authority in pursuance of this Act; or
- (c) wastes or wilfully and wrongfully uses electricity supplied by a supply authority under this Act—

shall be guilty of an offence.

Penalty—Five pounds.

(2) Upon the conviction of a person for an offence under subsection (1) of this section, the Court, in addition to imposing a fine under such subsection, may order the offender to pay to the supply authority the amount of any damage caused by him or a sum equal to the value of any electricity wasted or wrongfully used by him, and the amount so ordered shall be recoverable in the same manner as a fine imposed under subsection (1) of this section is recoverable.

48. Any person who obtains a supply of electricity from a supply authority under the name of any other person shall, unless he proves that such supply was obtained without any intent to defraud, be guilty of an offence.

Obtaining
supply under
false name.
No. 45 of
1937, s. 46.

Penalty—Ten pounds.

49. (1) Where electricity is supplied to a consumer and the quantity supplied is not ascertained by a meter; and the consumer does or permits or suffers any other person to do any one or more of the following things, namely:—

Unauthorised
use.
No. 45 of
1937, s. 47.

- (a) uses any electric fitting other than such as has been provided or approved of by the supply authority, or of larger dimensions or consuming capacity than the consumer has contracted to use; or
- (b) uses electricity for a longer time or in greater quantities than he has contracted to pay for; or
- (c) uses the electricity in a manner not authorised by the contract under which the electricity is supplied; or
- (d) contrary to the provisions of this Act, supplies any other person with any electricity supplied to him—

the consumer shall be liable to forfeit and pay to the supply authority in respect of each act complained of a penalty (not exceeding five pounds) to be fixed by the Commission on the application of the supply authority and also an additional penalty of forty shillings for every day or part of a day during which the doing of the act complained of shall continue.

(2) The supply authority may cut off the supply of electricity from the premises of the consumer who is responsible for the doing of any act mentioned in sub-section (1) of this section notwithstanding any contract made between the supply authority and such consumer and still subsisting.

50. (1) Any person who alters the index to any meter or prevents any meter from duly registering the quantity of electricity supplied by the supply authority or by

Alteration of
meter.
No. 45 of
1937, s. 48.

any means causes any meter to register incorrectly or by any means diverts electricity for his own or any other purpose so that the quantity of such electricity will not be registered by the meter shall be guilty of an offence.

Penalty—One hundred pounds.

(2) Upon the conviction of a person for an offence under subsection (1) of this section, the Court, in addition to imposing a fine under such subsection, may order that the offender pay to the supply authority affected a further sum as compensation for actual damage suffered in consequence of the wrongful act of the offender and also a still further sum (not exceeding twenty pounds) as exemplary damages, and payment of the total amount specified in such order shall be enforceable in the same manner as payment of the fine imposed under subsection (1) hereof is enforceable.

(3) The existence of artificial means for causing any alteration, prevention or diversion or for abstracting, consuming or using electricity mentioned in subsection (1) of this section shall, when the meter lines or works interfered with are under the control or charge or in the care of the consumer, be prima facie evidence that such alteration, prevention, diversion, abstraction or consumption (as the case may be) has been caused or carried out by the consumer in contravention of subsection (1) of this section.

Summary
remedy for
damage to
electric
works.
No. 45 of
1937, s. 50.

51. (1) Any person who carelessly or accidentally damages any electric works belonging to or under the control of a supply authority shall forfeit and pay to the supply authority by way of satisfaction for the damage done a sum (not exceeding fifty pounds) to be fixed by the Commission on the application of the supply authority.

(2) The amount of compensation fixed by the Commission under subsection (1) of this section shall be a debt payable by the person concerned to the supply authority and as such shall be recoverable by the supply authority by action in any court of competent jurisdiction.

(3) Nothing in this section shall affect or prejudice any other right, power or remedy which the supply auth-

ority may have at law in respect of the interference with its property or the damage suffered by the supply authority.

52. Any person who by any act or omission commits a breach of any provision of this Act shall be guilty of an offence, and, where no penalty is expressly provided by this Act for such offence, shall be liable to a penalty not exceeding twenty pounds.

General
penalty.
No. 45 of
1937, s. 51.

53. (1) Whenever by the provisions of this Act it is provided that a sum of money shall be forfeited and paid or that a penalty shall be paid by a supply authority or by a person, such sum may, if no other method of recovery is specified by or under this Act and without prejudice to any such other method of recovery authorised by law, be recovered summarily on complaint made before justices sitting in petty sessions.

Method of
recovery of
forfeitures
and
penalties.
No. 45 of
1937, s. 43.

(2) All proceedings for offences against this Act may be taken and dealt with summarily under the provisions of the Justices Act, 1902-1942.

54. Neither this Act nor any provision of this Act shall in any manner whatsoever affect, prejudice, limit or interfere with or be construed as affecting, prejudicing, limiting or interfering with any of the rights, powers or authorities conferred or any of the duties imposed upon the Commission by or under the provisions of the State Electricity Commission Act, 1945, or the exercise of any such rights, powers or authorities or the performance of any such duties by the Commission under the said Act.

Protection of
certain powers
of the
Commission.