

ACTS AMENDMENT (STATE ENERGY COMMISSION).

No. 25 of 1975.

AN ACT to amend the State Electricity Commission Act, 1945-1974, to amend Part I and to repeal Part II of, and the Schedules to, the Fuel, Energy and Power Resources Act, 1972-1974 for the purposes of constituting a State Energy Commission and an Energy Advisory Council, and for incidental and other purposes.

[Assented to 16th May, 1975.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the 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 *Acts Amendment (State Energy Commission) Act, 1975.* Short title.

Commence-
ment.

2. This Act shall come into operation on a date to be fixed by proclamation.

PART I.—AMENDMENTS OF THE STATE
ELECTRICITY COMMISSION ACT, 1945-1974.

Short title
and citation.

3. (1) In this Part of this Act the State Electricity Commission Act, 1945-1974 is referred to as the principal Act.

Reprinted as
approved for
reprint 23rd
September,
1970 and
amended by
Acts Nos. 8 of
1971, 19 and
41 of 1973
and 27 of
1974.

(2) The principal Act as amended by this Act may be cited as the State Energy Commission Act, 1945-1975.

Long title
amended.

4. The long title of the principal Act is amended by deleting the word "Electricity" in line three and substituting the word "Energy".

Section 2
amended.

5. Section 2 of the principal Act is amended—

- (a) by deleting the word "Electricity" in line three and substituting the word "Energy";
- (b) by deleting the figures "22" in line five and substituting the passage "22B"; and
- (c) by adding after the passage "PART III., ss. 16 to 22—ADMINISTRATION." the passage "PART IIIA., ss. 22C to 22Q—ENERGY ADVISORY COUNCIL."

Section 7
amended.

6. Section 7 of the principal Act is amended—

- (a) by adding after the passage "requires—" the following interpretations—

"Assistant Commissioner" means an Assistant Commissioner appointed under section eight A of this Act.

"Associate Commissioner" means an Associate Commissioner appointed under section eight A of this Act. ;

- (b) by deleting the interpretation “Chairman” and substituting the following interpretation—

“Chairman” means the person appointed under section eight A of this Act to be an Associate Commissioner and Chairman of the Energy Advisory Council. ;

- (c) by deleting the word “Electricity” in line one of the interpretation “Commission” and substituting the word “Energy”;

- (d) by deleting the interpretation “Commissioner” and substituting the following interpretation—

“Commissioner” means the person appointed under section eight A of this Act to be the Commissioner and Chief Executive Officer of the Commission. ; and

- (e) by adding after the interpretation “Consumer” the following interpretation—

“Council” means the Energy Advisory Council established under Part IIIA of this Act. .

7. Section 8 of the principal Act and the heading immediately preceding that section are repealed and the following heading and section substituted—

Heading to Part II and section 8 substituted.

PART II.—STATE ENERGY COMMISSION
OF WESTERN AUSTRALIA.

8. (1) On and after the commencement of this section the body corporate hitherto constituted under this Act by the name “The State Electricity Commission of Western Australia” is preserved and continues in existence as a body corporate under and subject

Change of name of body corporate.

to the provisions of this Act by the name "The State Energy Commission of Western Australia", but so that the corporate identity of the body corporate and its rights, powers, functions, duties and liabilities are not affected.

(2) A reference to The State Electricity Commission of Western Australia, whether by use of that name or a similar or abbreviated form of that name—

- (a) in a law of the State passed or made before the commencement of this section;
- (b) in any document or other instrument made, executed, entered into or done before the commencement of this section; or
- (c) made before the commencement of this section in any other manner,

shall, unless the context is such that it would be incorrect or inappropriate so to do, be read and construed as a reference to The State Energy Commission of Western Australia.

(3) For the purposes of this section the term "law of the State" means—

- (a) an Act;
- (b) regulations, rules or by-laws having effect by virtue of an Act; and
- (c) an instrument having effect by virtue of an Act or of any regulations, rules or by-laws referred to in paragraph (b) of this subsection.

Section 8A
added.

8. The principal Act is amended by adding after section 8 the following new section—

Constitution
of Com-
mission.

8A. (1) On and after the commencement of this section The State Energy Commission of Western Australia shall be constituted as hereinafter provided.

- (2) The Commission shall consist of—
- (a) a Commissioner who shall also be the Chief Executive Officer of the Commission;
 - (b) an Associate Commissioner who shall also be appointed the Chairman of the Energy Advisory Council established under Part IIIA of this Act;
 - (c) one other Associate Commissioner to represent industry; and
 - (d) two Assistant Commissioners who shall be full-time employees of the Commission.
- (3) The Commissioner and the Associate Commissioners shall be appointed by the Governor, and the Assistant Commissioners referred to in paragraph (d) of subsection (2) of this section shall be such two employees of the Commission as are from time to time, with the approval of the Minister, nominated by the Commissioner to be assistant Commissioners.
- (4) A person may be appointed to the office of Commissioner for a term not exceeding seven years and any person so appointed is eligible for re-appointment.
- (5) A person may be appointed to the office of Associate Commissioner for a term not exceeding three years, and any person so appointed is eligible for re-appointment.
- (6) If a person appointed to the office of Commissioner or Associate Commissioner—
- (a) is an undischarged bankrupt or person whose property is subject to an order or arrangement under the laws relating to bankruptcy;

- (b) becomes permanently incapable of performing the duties of his office or is removed from office by the Governor on the grounds of neglect of duty, misbehaviour or incompetence; or
- (c) resigns his office by writing under his hand addressed to the Minister,

the office of that Commissioner or Associate Commissioner becomes vacant.

(7) The Governor may appoint a person to be the deputy of any Associate Commissioner, and may terminate such an appointment at any time, and the Minister may appoint one of the Assistant Commissioners to be the deputy of the Commissioner and may terminate such an appointment at any time.

(8) A person who is the deputy of the Commissioner or of an Associate Commissioner, is in the event of the absence from a meeting of the Commission of the Commissioner or Associate Commissioner, as the case requires, of whom he is the deputy, entitled to attend that meeting, and, when so attending, has all the powers, functions and duties of the Commissioner or Associate Commissioner for whom he is deputy.

(9) The Commissioner, the Associate Commissioners and the deputies of the Associate Commissioners and members of committees appointed under subsection (10) of this section shall be paid such remuneration and allowances as are from time to time determined by the Governor.

(10) The Commission may, from time to time, appoint a committee or committees, consisting in each case of two or more persons who need not be members of the Commission, to advise the Commission on such matters relating to its functions as are referred by the Commission to the committee. .

9. Section 9 of the principal Act is amended by deleting the word "Electricity" in line two and substituting the word "Energy".

Section 9
amended.

10. Sections 10, 11, 12, 13 and 14 of the principal Act are repealed.

Sections 10,
11, 12, 13
and 14
repealed.

11. Section 15 of the principal Act is repealed and re-enacted as follows—

Section 15
repealed
and re-
enacted.

15. Any Commissioner or Associate Commissioner who has a direct or indirect pecuniary interest in any matter that is before a meeting of the Commission for consideration shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest to those present at the meeting and such disclosure shall be recorded in the record of the meeting.

Interest to
be disclosed.

12. Section 18 of the principal Act is amended—

Section 18
amended.

(a) by deleting the words "Any five commissioners" in line one of subsection (2) and substituting the passage "At any meeting of the Commission, the Commissioner and one Associate Commissioner";

(b) by repealing and re-enacting subsections (3) and (4) as follows—

(3) At any meeting of the Commission the Commissioner shall preside.

(4) At any meeting of the Commission—

(a) the Commissioner and any Associate Commissioner present is entitled to a deliberative vote;

(b) any Assistant Commissioner is entitled to be present but is not, except when he is then acting as the deputy of the Commissioner, entitled to vote;

- (c) subject to paragraph (d) of this subsection, where the votes cast on any question are equally divided, the question shall remain unresolved until a subsequent meeting of the Commission; and
- (d) where the votes cast on a question at a previous meeting were equally divided and the votes cast on that question at a subsequent meeting are also equally divided, the Commissioner shall exercise a casting vote on the question. .

Section 22
amended.

13. Section 22 of the principal Act is amended—

- (a) by adding after the section number “22.” the subsection designation “(1)”;
- (b) by deleting paragraph (d) and substituting the following paragraphs—
 - (d) A contract made by the Commission where the consideration exceeds fifty thousand dollars but does not exceed two hundred thousand dollars shall not take or have effect unless it is ratified by the Minister.
 - (da) A contract made by the Commission where the consideration exceeds two hundred thousand dollars shall not take or have effect unless it is ratified by the Governor.
 - (db) Subject to paragraph (dc) of this section, a contract made by the Commission the performance of which appears at the time of execution thereof to be likely to extend over a period of more than three years shall not take or have effect unless it is ratified by the Governor.

- (dc) The Governor may from time to time exempt any class of contracts from the operation of paragraph (db) of this section. ; and
- (c) by adding at the end thereof the following subsection—

(2) The Commission shall give proper consideration and, where possible, preference, to Western Australian suppliers, manufacturers and contractors when letting contracts or placing orders for works, materials, plant, equipment and supplies where price, quality, delivery and service are equal or better than that obtainable outside the State. .

14. The principal Act is amended by adding immediately after section 22B a heading and sections as follow—

Heading
and section
22C added.

PART IIIA.—ENERGY ADVISORY COUNCIL.

22C. (1) There shall be a council to be known as the Energy Advisory Council.

Energy
Advisory
Council.

(2) The Council shall consist of—

- (a) the person for the time being appointed under section eight A of this Act to be an Associate Commissioner and Chairman of the Council;
- (b) permanent members appointed by the Governor, of whom two shall be persons respectively representing the Department of Industrial Development and the Department of Mines of the Public Service of the State;
- (c) representative members appointed by the Governor; and
- (d) members co-opted by the Minister.

(3) The Council shall hold meetings at such times and places as it determines, but—

- (a) the Minister or the Commissioner may at any time convene a meeting of the Council; and

(b) the Council shall hold not fewer than ten meetings in any year.

(4) The Council has power, subject to the approval of the Minister and on such terms and conditions as the Minister may determine, to invite any body or person to act in an advisory capacity to the Council in relation to any or all aspects of the functions of the Council.

Functions of
the Council.

22D. The functions of the Council are—

- (a) to assist and advise the Commission and the Minister in respect to the administration of this Act, and the making, amending or revoking of regulations under this Act;
- (b) to make recommendations to the Commission on any matter pertaining to the present and future sources and supplies of fuel, energy, and power in and to the State;
- (c) to advise the Commission on any proposals or questions that may be referred to the Council by the Commission; and
- (d) such other functions as are entrusted to the Council by the Minister or the Commission in the administration of this Act.

Permanent
members.

22E. (1) Each of the bodies following, that is to say—

- (a) the body known as The West Australian Chamber of Manufactures (Incorporated); and
- (b) the body known as The Chamber of Mines of Western Australia (Incorporated),

has the right to submit to the Minister a panel of names from which a person shall be selected by the Minister for recommendation to the Governor and appointment by the Governor as a permanent member of the Council to represent the interests of the body by whom he was nominated.

(2) A person appointed to be a permanent member of the Council upon the nomination of a body referred to in subsection (1) of this section shall be appointed for a term not exceeding three years, but—

- (a) his appointment may be sooner terminated by the Governor at any time and shall, in any event, be terminated by the Governor if the body by which he was nominated so requests; and
- (b) where his appointment is terminated by effluxion of time he is, subject to subsection (1) of this section, eligible for re-appointment.

22F. (1) The Minister, after consultation with the Commission and with such bodies or persons as he considers to be representative of the interests concerned, may make recommendations to the Governor, from time to time, for the appointment to the Council by the Governor of persons to serve as representative members in relation to interests which appear to the Minister to be substantially affected, or likely to be substantially affected, by the operation of this Act.

Representa-
tive
members.

(2) The West Australian Chamber of Manufactures (Incorporated), acting after consultation with and with the concurrence of The Chamber of Mines of Western Australia (Incorporated), has the right to nominate industries engaged in the search for, development, processing, and distribution, of sources and supplies of fuel, energy, and power, and industries or categories of commercial activity which are large scale consumers of fuel, energy, and power, as being interests which are likely to be substantially affected by the operation of this Act.

(3) Where an interest is nominated under subsection (2) of this section the Minister may make recommendations to the Governor from time to time for the appointment to the Council by the Governor of persons to serve as representative members in relation to that interest.

(4) A representative member appointed to the Council under subsection (3) of this section shall be selected for recommendation by the Minister from a panel of three names submitted by The West Australian Chamber of Manufactures (Incorporated) acting after consultation with and with the concurrence of The Chamber of Mines of Western Australia (Incorporated) as being the names of persons possessing special experience or qualifications in relation to that industry or commercial activity.

(5) A representative member of the Council shall hold and vacate office in accordance with the terms of the instrument under which he is appointed, but—

- (a) such a member shall not be appointed for a term exceeding three years; and
- (b) nothing in paragraph (a) of this subsection renders a person ineligible for re-appointment as a representative member.

Nominations
may be
requested,
etc.

22G. (1) The Minister may, as the occasion requires, by notice in writing to the president or secretary of any body having the right to nominate a permanent member or a representative member, require that body to submit a panel of not less than three names within a period of thirty days after receipt by the president or secretary of that notice, and if upon the expiration of that period the Minister has not received the required panel of names, the Minister may recommend to the Governor for appointment to the Council by the Governor such person as, having regard to the category in respect of which a person was required to be nominated, he thinks fit.

(2) Where the Minister considers that an interest should be represented on the Council he may, as the occasion requires by notice in writing require any body representing that interest in any other field of activity, or the nominating body which in the opinion of the

Minister is most likely to represent that interest adequately for the purposes of this Act, to submit a panel of not less than three names within the period specified in the notice.

(3) Where the Minister considers that the interests of employees engaged in any industry or commercial activity should be represented on the Council, he shall, as the occasion requires, recommend to the Governor for appointment to the Council such person as he considers appropriate to represent the interests of those employees.

22H. If a person appointed to be a member of the Council— Disqualifica-
tion, etc.

- (a) is an undischarged bankrupt or person whose property is subject to an order or arrangement under the laws relating to bankruptcy;
- (b) becomes permanently incapable of performing the duties of his office or is removed from office by the Governor on the grounds of neglect of duty, misbehaviour or incompetence; or
- (c) resigns his office by writing under his hand addressed to the Minister,

his office becomes vacant.

22J. No proceeding or act of a duly constituted Council shall be invalidated or illegal in consequence of there being any vacancy in the number of members of the Council at the time of such proceeding or act, or in consequence of there being some defect in the appointment or qualification of a person purporting to be a member. Matters not
invalidated
by reason of
vacancy in
Council.

22K. (1) Subject to this Act and to any direction which may be given by the Minister, the proceedings at any meeting of the Council may be regulated in such manner as the members think fit. Proceedings.

(2) A record of the proceedings of every meeting of the Council shall be kept in such manner as the Minister may direct or approve, and shall be certified as correct by the member presiding at that or the next succeeding meeting.

Disclosure
of interest.

22L. Any member who has a direct or indirect pecuniary interest in any matter that is before a meeting of the Council for consideration shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest to those present at the meeting and such disclosure shall be recorded in the record of the meeting.

Deputies.

22M. (1) Subject to subsection (2) of this section, the Governor may, in respect of each member of the Council, appoint a person representative of the same interests as that member to be his deputy and may terminate such an appointment at any time.

(2) The person appointed to be the deputy of the Associate Commissioner who is also Chairman of the Energy Advisory Council shall also be his deputy in respect of his functions as Chairman of the Energy Advisory Council.

(3) While taking the place of a Council member a deputy has all the powers and entitlements of, and all the protection given to, the member under this Act.

(4) Any reference in this Act to a Council member shall be construed as including a reference to a deputy taking the place of that member.

Meetings of
the Council.

22N. (1) At any meeting, the Council shall be constituted by—

- (a) the Chairman or his deputy, who, in either case, if present shall preside; or
- (b) a Council member nominated in writing by the Minister to preside at that meeting; and

- (c) not less than two other persons from amongst—
- (i) the permanent members;
 - (ii) such of the representative members as, after consultation with the permanent members, the Chairman in the notice convening the meeting requests to attend that meeting; and
 - (iii) the persons co-opted under section twenty-two P of this Act.

(2) The Chairman and the permanent members are eligible to attend every meeting of the Council and to vote on any matter.

(3) A representative member is eligible to attend a meeting and to vote on any matter under consideration by the Council only if—

- (a) his presence at the meeting was requested in the notice convening the meeting; and
- (b) the matter is likely materially to affect the interests which he represents,

and any question as to whether or not any interest is likely to be materially affected may be referred to the person presiding at that meeting whose decision is final.

(4) The Commissioner, the Associate Commissioner who is not also the Chairman and the Assistant Commissioners are not eligible to vote at a meeting of the Council, but may attend any meeting.

(5) A person who is not eligible to vote on any matter may nevertheless speak to, and be heard, on the matter.

(6) The Chairman and each other Council member present and eligible to vote may cast a deliberative vote on any question and the question shall be decided by the majority, but if the votes are equal the question shall be taken to have been decided in the negative.

Co-opted members.

22P. (1) After consultation by the Commission with the permanent members and the Minister, the Minister may for the purposes of any meeting co-opt any person possessing special experience or qualifications, or having a particular interest, relevant to the matters under consideration, to serve as a member of the Council.

(2) Any reference in this Act to a Council member shall be construed as including a reference to a person whose services have been co-opted by the Minister under this section.

Remuneration, etc.

22Q. A Council member and the deputy of a Council member shall be paid such remuneration and allowances as the Governor from time to time determines. .

Section 27 substituted.

15. Section 27 of the principal Act is repealed and the following section substituted—

General powers and duties of the Commission.

27. (1) Subject to this Act and to the Minister, the powers and duties of the Commission shall include the following—

- (a) to investigate and evaluate the means by which the present and future sources and supplies of fuel, energy, and power in and to the State can be conserved and utilised to the best advantage of the people of Western Australia;
- (b) to assist and advise, and make recommendations to the Minister, irrespective of whether the matter has been referred to the Commission for its advice, in respect to matters relevant to this Act including questions as to policy and the means by which it is to be achieved;

- (c) to undertake negotiations and otherwise to implement the policy determined by the Minister in relation to fuel, energy and power matters;
- (d) to promote, and with the approval of the Minister, to co-ordinate the development and use of the sources and supplies of fuel, energy, and power in and to the State and in particular, to report to the Minister 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 interconnection 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;
- (e) 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;
- (f) 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;

- (g) to make recommendations for regulations to be made under this Act by the Governor;
- (h) 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;
- (i) to carry out investigations to determine the demand for fuel and power in the State and the capacity of the State to meet those demands whether from internal resources or otherwise;
- (j) to institute or promote inquiries to assess the impact of any present or future lack of fuel or power on the development programme of the State or in any specific case;
- (k) to initiate or promote negotiations, consultations, or other measures to ensure that supplies of suitable fuel and power are available for use in the State in the manner best calculated to further the public interest in all respects;
- (l) to engage in any activities which can, in the opinion of the Minister, advantageously be conducted by the Commission with a view to making the best use of the sources and supply of fuel, energy and power available whether originating in the State or elsewhere and in particular to—
 - (i) conduct and promote relevant research and training;

- (ii) specify for the purposes of this Act such standards, criteria, or methods of testing as may be necessary where no appropriate specification has been established in any industry by the Standards Association of Australia or other body generally recognised within that industry;
 - (iii) undertake investigations, inspections and prosecutions;
 - (iv) publish reports and provide information for the purpose of increasing public awareness of the problems and remedies that exist in relation to the use of fuel and power; and
 - (v) promote, encourage, co-ordinate and carry out short term and long term planning and projects for the purposes of this Act;
- (m) to keep under review the progress made in the attainment of the objects and purposes of this Act;
 - (n) through the Minister, to advise other departments, agencies and instrumentalities of the State on matters concerned with the development of energy resources and the utilization of energy;
 - (o) generally to administer and give effect to the provisions of this Act; and
 - (p) to report to the Minister upon any matters referred to the Commission by the Minister for report.
- (2) In order to promote greater efficiency in the execution of its powers and functions the Commission may—
- (a) on matters relevant to this Act, confer and collaborate with—
 - (i) the departments of the Public Service of the State and in particular those departments

having to do with development and decentralisation, mining and environmental protection;

(ii) departments of the Commonwealth and of the States of the Commonwealth and other bodies or instrumentalities of the Commonwealth or States of the Commonwealth having to do with fuel and energy matters and the supply and use of power; and

(iii) the Council; and

(b) consult with and take into consideration the views and requirements of such industrial, commercial or other interests, being interests likely to be substantially affected by the operation of this Act, as the Minister may direct or the Commission considers appropriate.

(3) Where the Commission has referred a question or matter to the Council for advice, the Commission may act notwithstanding that the advice has not been received, and where advice is received from the Council the Commission is not bound to act on or give effect to it.

Section 35
amended.

16. Section 35 of the principal Act is amended—

(a) by adding after the section number “35.” the subsection designation “(1)”; and

(b) by adding at the end thereof the following subsections—

(2) The Commission may, with the approval of the Minister, engage under contract for services such professional and technical or other assistance as may be necessary to enable the Commission to carry out effectively its functions under this Act.

(3) The Commission may enter into arrangements with—

- (a) a Minister of the Crown of any State of the Commonwealth, a Minister of State of the Commonwealth, a department or an instrumentality of the Commonwealth or any State of the Commonwealth; or
- (b) a university or other tertiary institution; or
- (c) any other body or person,

with respect to the conduct of any investigation, study or research that may be necessary or desirable for the purposes of this Act. .

17. The principal Act is amended by adding after section 36 the following new section—

Section 36A added.

36A. (1) The Commission shall, in writing, forthwith after the commencement of this section, offer to each person who was, immediately prior to the commencement of this section, employed under the provisions of the Public Service Act, 1904, within the department of the Public Service then known as the Fuel and Power Commission, an appointment to a position within the Commission at a salary not less than that which he was receiving under the Public Service Act, 1904 immediately prior to the commencement of this section.

Rights of persons formerly employed by Fuel and Power Commission.

(2) An offer made pursuant to subsection (1) of this section shall include particulars of the proposed appointment.

(3) A person to whom an offer is made pursuant to subsection (1) of this section may, within one month of receiving the offer, elect in writing to accept an appointment in the terms specified therein and the Commission shall give effect to any election so made.

(4) The provisions of the Government Employees (Promotions Appeal Board) Act, 1945 do not apply to or in relation to any appointment to the Commission made pursuant to this section.

(5) Any person appointed to the Commission pursuant to this section shall retain any rights that may have accrued to him under the Public Service Act, 1904, as those rights existed immediately prior to his appointment, and his right, if any, to continue to be a contributor under the Superannuation and Family Benefits Act, 1938.

(6) Where a person to whom an offer is made pursuant to subsection (1) of this section declines to accept an appointment to the Commission, he shall be entitled to continue to be employed under and subject to the Public Service Act, 1904 in an office at a salary not less than that which he was receiving immediately prior to the commencement of this section. .

Section 44
amended.

18. Section 44 of the principal Act is amended—

(a) by deleting the word “Electricity” where occurring in line two of subsection (2a) and in line two of subsection (2b) and substituting the word “Energy”, in both cases;

(b) by adding after paragraph (a) of subsection (4) the following paragraph—

(aa) the costs of the administration of Part IIIA of this Act; ; and

(c) by adding after the word “paragraphs” in line two of item (ii) of the proviso to subsection (4) the passage “(aa),”.

Sections 45,
45A, 46, 48
and 49
amended.

19. The principal Act is amended by deleting the word “Electricity” where occurring in—

(a) line nine of subsection (1) of section 45;

(b) line three of subparagraph (ii) of paragraph (b) of subsection (3) of section 45A;

- (c) line two of subsection (1) of section 46;
 - (d) line two of subsection (1) of section 48; and
 - (e) line two of section 49,
- and substituting the word “Energy” in each case.

20. The principal Act is amended by adding after section 59 the following new section—

Section 59A
added.

59A. Returns or other information obtained under, or as a result of information obtained under, this Act shall not, without the consent of the person carrying on the business to which the information relates, be disclosed otherwise than—

Disclosure
of informa-
tion.

- (a) in the form of a summary of similar returns or information furnished by or obtained from a number of persons, being a summary so framed as not to enable particulars relating to any individual business to be ascertained; or
- (b) to, or to an officer of, the Commission or the Minister for the purposes of this Act.

21. The principal Act is amended by adding a section as follows—

Section 59B
added.

59B. A person who discloses any information relating to any business that has been furnished to him or obtained by him under this Act, or in connection with the execution of this Act, is, unless the disclosure is made—

Secrecy.

- (a) with the consent of the person carrying on or operating the business;
- (b) in connection with the execution of this Act and with the prior permission of the Minister; or

(c) subject to the provisions of subsection (3) of section seventy-one A of this Act, for the purposes of any legal proceedings arising out of this Act or of any report of such proceedings, guilty of an offence against this Act.

Penalty: Two thousand dollars, or imprisonment for twelve months, or both such fine and imprisonment. .

Section 59C added.

22. The principal Act is amended by adding a section as follows—

Information to be furnished.

59C. For the purpose of obtaining information necessary for the appreciation of the fuel and power requirements of the State, economic or other relevant trends, the provision of a statistical service for industry and for the discharge by government departments and instrumentalities of their functions, the Commissioner may by notice in writing served on any person require that person to furnish to the Commission, in the form and manner and within the time specified in that notice, such periodical or other returns, estimates or information, as to the quantity, quality, source or supply of any fuel or power held or required by that person in the State or imported into the State by him, and as to the facilities available for storing, distributing, or utilising any such supply, as appears to the Commission to be required for the exercise of its functions under this Act and as may be specified in that notice. .

Section 59D added.

23. The principal Act is amended by adding a section as follows—

Occupier of premises to furnish information.

59D. The Commissioner, by notice in writing served on the occupier of any premises, may require the occupier to furnish to the Commission within seven days or such longer period

as may be specified in the notice, such information as to any equipment, industrial plant, or process in or on the premises as the Commission requires by the notice for the purposes of this Act. .

24. The principal Act is amended by adding a section as follows—

Section 59E
added.

59E. A person who, when required to give any information to the Commission under section fifty-nine C or fifty-nine D of this Act knowingly makes any false or misleading statement in relation thereto, or in relation to any investigation or inquiry made in accordance with the provisions of either of those sections, commits an offence against this Act.

Offences as
to informa-
tion.

Penalty: One thousand dollars. .

25. The principal Act is amended by adding a section as follows—

Section 59F
added.

59F. (1) For the purposes of this section the expression "trade secret" includes any knowledge or information relating to technology, marketing, fuel or energy reserves, or the business of the person objecting, that might reasonably be expected adversely to affect the business or interests of that person if publicly disclosed.

Trade
secrets.

(2) Where under the provisions of this Act a person is obliged to supply information to the Commission, or to any member of the Commission or any person on behalf of the Commission, and that person is of the opinion that compliance with the obligation will result in the disclosure of a trade secret, he may within seven days declare in writing to the Minister that he objects to the obligation in so far as it relates to that trade secret.

(3) On receipt of an objection made under subsection (2) of this section the Minister may after such investigation and inquiry as he thinks fit by notice under his hand exempt the person concerned from the obligation either generally in relation to the trade secret alleged or to such extent as he may therein specify.

(4) Where the Minister refuses to exempt a person, either generally or to such extent as he may specify under subsection (3) of this section, from the obligation to supply information, he shall cause notice in writing of his decision to be served on the person objecting who may within twenty-one days of receiving that notice appeal to a Judge against the decision of the Minister.

(5) An appeal made under subsection (4) of this section to a Judge shall be heard in Chambers, and the Judge may reverse the decision of the Minister, or may confirm it absolutely or upon such conditions as the Judge thinks fit, which may include conditions intended to protect the business or interest of the person objecting, and may make such order as to the costs of, and incidental to, the appeal as the Judge thinks fit.

(6) In determining an appeal under this section, a Judge may, if declining to reverse the decision of the Minister, make an order—

- (a) prohibiting the Commission and every person who is, becomes or has been a member of the Commission, or other employee, servant or agent of the Minister or the Commission, from disclosing any information relating to the trade secret supplied in compliance with the obligation, except in the circumstances specified in the order;
- (b) prohibiting, where any information so supplied is subsequently adduced in evidence in any proceedings, the publication of that evidence,

and any order so made shall be complied with notwithstanding anything to the contrary contained in this Act. .

26. Section 60 of the principal Act is repealed and re-enacted as follows—

Section 60
repealed and
re-enacted.

60. A person who is or has been a member of the Commission or of the Council, and any officer of the Commission, is not personally liable in civil proceedings, and the Crown in right of the State is not liable, for any act done, default made, or statement issued by the Commission, the Council, or an officer of the Commission in good faith in the course of the operations of the Commission or the Council. .

Liability.

27. The principal Act is amended by adding after section 71 the following section—

Section 71A
added.

71A. (1) Without limiting the operation of section seventy-one of this Act, a person who wilfully obstructs any person acting in the execution of this Act commits an offence against this Act.

Persons
obstructing
execution of
this Act.

Penalty: One hundred dollars.

(2) A person who without reasonable excuse fails to give to any person acting in the execution of this Act any information which that person is expressly authorized by this Act to call for or may reasonably require, or who, when required to give any such information, knowingly makes any false or misleading statement in relation thereto, shall be deemed to have wilfully obstructed that person.

(3) Any statement made pursuant to any requirement made pursuant to this section, shall not, if the person making the statement objected, at the time of making it, to doing so on the ground that it might tend to incriminate

him, be admissible in evidence in any prosecution against the person for any offence not being the offence of contravening or failing to comply with the provisions of this section. .

Section 71B added.

28. The principal Act is amended by adding a section as follows—

Vicarious liability.

71B. (1) Where an offence under this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer, of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) In the case of any prosecution in respect of an offence deemed to have been committed under the provisions of subsection (1) of this section it shall be a defence for any person who would otherwise be liable to the penalties prescribed for that offence to prove that neither he nor any agent or servant of his did, or knew of the doing of, any act that constituted the offence or can reasonably be regarded as having been the cause or amongst the causes of it, or omitted to do, or knew of an omission to do, any act the omission whereof constituted the offence or the doing whereof can reasonably be regarded as a precaution that would have prevented it. .

PART II.—AMENDMENTS OF PART I, AND REPEAL OF PART II AND THE SCHEDULES, OF THE FUEL, ENERGY AND POWER RESOURCES ACT, 1972-1974.

Short title and citation.

29. (1) In this Part of this Act, the Fuel, Energy and Power Resources Act, 1972-1974 is referred to as the principal Act.

(2) The principal Act as amended by this Act may be cited as the Fuel, Energy and Power Resources Act, 1972-1975.

30. Section 4 of the principal Act is repealed and re-enacted as follows— Section 4 repealed and re-enacted.

4. In this Act, unless the context requires otherwise— Interpretation.

“Commission” means the State Energy Commission established under the State Energy Commission Act, 1945-1975 as amended from time to time;

“section” means section of this Act. .

31. Section 4A of the principal Act is amended by deleting the passage “PART II.—ADMINISTRATION BY THE COMMISSION, ss. 5-40;”. Section 4A amended.

32. Part II of the principal Act is repealed. Part II repealed.

33. The First and Second Schedules to the principal Act are repealed. Schedules repealed.
