

STATE ELECTRICITY COMMISSION.

9° and 10° Geo. VI., No. LX.

No. 60 of 1945.

[As amended by Acts No. 33 of 1948 (a); No. 4 of 1952 (b); No. 23 of 1954 (c); No. 73 of 1954 (d); and No. 41 of 1955 (e); and reprinted pursuant to the Amendments Incorporation Act, 1938.]

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

[Assented to 14th February, 1946.]

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

1. (1) This Act may be cited as the *State Electricity Commission Act, 1945-1955*.

Short title
and com-
mencement.
Vic. 1928,
No. 3776, s. 1.
No. 60 of
1945, s. 1,
amended by
No. 41 of
1955, s. 1.

(a) Assented to 14th December, 1943.

(b) Assented to 4th September, 1952.

(c) Assented to 7th October, 1954.

(d) Assented to 14th January, 1955. Proclaimed to come into operation on the 1st day of March, 1955; See *Gazette* dated 13th February, 1955, p. 343.

(e) Assented to 5th December, 1955.

* See also the City of Perth Electricity and Gas Purchase Act, 1948. (No. 33 of 1948.)

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

Act divided
into parts.

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

PART I., ss. 3 to 7—PRELIMINARY.

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

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

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

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

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

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

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

SECOND SCHEDULE—ACTS REPEALED BY THIS ACT.

PART I.—PRELIMINARY.

Construction.

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

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

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

Acts repealed.
Second Schedule.

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

* This Act was proclaimed to come into operation on the 20th day of March, 1946: See *Gazette* dated 20th March, 1946, p. 283.

6. This Act shall not affect or interfere with the operation of any other Act whereby powers or rights with respect to the manufacture or generation and the distribution and supply of electricity or gas are conferred upon any person, whether corporate or unincorporate, or to the exercise and enjoyment of such powers or rights by such person or his assignees or successors under such other Act; and, subject to section four of this Act, no such other Act aforesaid shall affect or interfere with the operation of this Act or the purchase or acquisition under the provisions of this Act of the undertaking of any person established and being carried on by such person under the authority of such other Act aforesaid.

Saving provisions.

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

Interpretation.
Vic. 1928,
No. 3776, s. 3.

“Chairman” means chairman of the Commission.

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

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

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

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

“Department” includes the Department of Public Works, the Treasury Department, the Government Railways Department, the Forests Department, the Department of Industrial Development, the Main Roads Department, the Department of Lands and

* See now the Electricity Act, 1945-1953. See No. 72 of 1953, s. 1.

State Electricity Commission.

Surveys, and any other Government Department which the Governor may by order in council declare to be a department for the purposes of this Act.

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

“Electric Works” includes any works for the generation, transmission and distribution of electricity or for any of such purposes, and any work or thing pertaining thereto.

“Electric Fitting” means any apparatus which uses or consumes electricity or is used as a means of connection therefor.

“Generating Station” means any machinery, plant or appliance utilised for the purpose of generating power, including the site on which the same is situated, and all buildings and appurtenances belonging thereto.

“Land” includes land and any easement, right or privilege in, over or affecting any land.

“Linking up scheme” means a scheme whereby power is supplied in bulk by a supply authority to one or more supply authorities for distribution to consumers or for the interchange of power between supply authorities.

“Local authority” means the council of a municipality or the board of a road district.

“Metropolitan Area” means the metropolitan area as constituted under and for the purposes of the Metropolitan Water Supply, Sewerage and Drainage Act, 1909-1941.*

* Now the Metropolitan Water Supply, Sewerage and Drainage Act, 1909-1955. See No. 33 of 1955, s. 1.

“Minister” means the Minister appointed and holding the portfolio of Minister for Electricity, and includes any other Minister of the Crown temporarily acting in the place of such Minister.

“Power” includes electricity, gas, water and any other material substance or element used for lighting, heating or motive purposes.

“Public authority” means any authority controlling any service such as roads, bridges, water supply, sewerage or drainage and any service or utility for the benefit of the public.

“Repealed Acts” means the Acts repealed by this Act and specified in the Second Schedule to this Act.

“Secretary” means the Secretary to the Commission.

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

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

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

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

* See now the Electricity Act, 1945-1953. See No. 72 of 1953, s. 1.

“Undertaking” means—

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

ances used for or in connection with the works mentioned in subparagraph (i) of this paragraph; and

- (iii) all concessions held by the supply authority under the Electricity Act, 1937,* and all rights held by the supply authority under any other Act with respect to the generation, distribution and supply of power;
- (iv) patents held by the supply authority for the purposes of or in connection with its business; and
- (v) all beneficial contracts held by the supply authority in relation to the generation and supply or sale by the supply authority of electricity or other power.

PART II.—STATE ELECTRICITY COMMISSION OF
WESTERN AUSTRALIA.

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

Establishment of Commission. Vic. 1928, No. 3776, s. 4. No. 60 of 1945, s. 8, amended by No. 23 of 1954, s. 2.

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

Amended by No. 23 of 1954, s. 2 (a).

(3) Of the said eight Commissioners—

Amended by No. 23 of 1954, s. 2 (a).

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

* See now the Electricity Act, 1945-1953. See No. 72 of 1953, s. 1.

Added by
No. 23 of
1954, s. 2 (b).

(aa) one shall be a person nominated, in accordance with the provisions of subsection (3a) of this section as the representative of commercial consumers, by the Minister;

Amended by
No. 23 of
1954, s. 2 (c),
(d) and (e).

(b) one shall be a person who is an employee of the Commission nominated in accordance with the provisions of subsection (3b) of this section as the representative of the employees of the Commission by the Minister;

(c) one shall be the Under Treasurer of the State ex officio or his deputy; and

(d) three shall be persons who are corporate members either of the Institution of Electrical Engineers, London, or of the Institution of Engineers, Australia.

Added by
No. 23 of
1954, s. 2 (f).

(3a) (a) Where the Minister intends to nominate a Commissioner mentioned in paragraph (aa) of subsection (3) of this section as representative of the commercial consumers, he shall before making the nomination, give written notice of that intention to the President of the body known as The West Australian Chamber of Manufactures (Incorporated).

(b) If within thirty days of the giving of the notice, the President of that body submits to the Minister

a panel of the names of three persons who are eligible to hold the office of Commissioner as representative of commercial consumers; and

a statement signed by the President of that body and by the Secretary of the body known as The Perth Chamber of Commerce (Incorporated), to the effect that both of those bodies concur in the submission of the three names;

the Minister shall nominate for the office of Commissioner, as representative of commercial consumers, one of the persons whose names are so submitted.

(c) If at the expiration of that period, or such extension of that period as the Minister thinks fit and is hereby authorised to grant, he has not received the panel and statement, or has received the panel and statement but none of the names submitted is that of a person who is eligible to hold office as a Commissioner, the Minister shall nominate such person as he thinks fit.

(3b) (a) Where the Minister intends to nominate a Commissioner mentioned in paragraph (b) of subsection (3) of this section as representative of the employees of the Commission, he shall, before making the nomination, give written notice of that intention to the General Secretary of the body known as the Western Australian Branch of the Australian Labor Party.

Added by
No. 23 of
1954, s. 2 (f).

(b) If within thirty days of the giving of the notice, the General Secretary of that body signs and submits to the Minister

a panel of the names of three persons, who are eligible to hold the office of Commissioner as representative of the employees of the Commission; and

a statement that the panel has been approved by the State Executive of that body;

the Minister shall nominate for the office of Commissioner as representative of the employees of the Commission, one of the persons whose names are so submitted.

(c) If at the expiration of that period, or such extension of that period as the Minister thinks fit and is hereby authorised to grant, he has not received the panel and statement, or has received the panel and statement but none of the names submitted is that of a person who is eligible to hold office as a Commissioner, the Minister shall nominate such person as he thinks fit.

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

Amended by
No. 23 of
1954, s. 2 (g)
and (h).

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

Provided that when the vacancy occurs in the office of a commissioner who represents the consumers or commercial consumers or the employees (as the case may be) the person to fill such vacancy shall be appointed on the nomination of the Minister made in accordance with the provisions of this section applicable to the nomination.

Commission
to be a body
corporate.
Vic. 1928, No.
3776, s. 4 (4).

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

Tenure of
office.
Vic. 1928, No.
3776, s. 5.

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

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

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

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

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

* Now the Public Service Act, 1904-1955. See No. 53 of 1955, s. 1.

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

Resignation
or removal
for absence.
Vic. 1928, No.
3776, s. 6.

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

Removal
for mis-
behaviour,
etc.

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

Persons
insolvent
not to be
or continue
to be Com-
missioners.
Vic. 1928, No.
3776, s. 7.

14. (1) The chairman—

Chairman.
Vic. 1928, No.
3776, s. 8 (1).

- (a) may by writing under his hand delivered to the Minister resign his office as chairman;
- (b) subject to this Act shall unless removed be entitled to hold the office of chairman for the term for which he was appointed as such, and shall be eligible for re-appointment as chairman;
- (c) shall be paid a salary at such rate per annum as the Governor shall determine prior to his appointment or re-appointment; and

- (d) unless the Governor otherwise approves, shall, during his continuance in office as chairman, devote his whole time to the service of the Commission and shall not engage in any employment other than in connection with the duties of his office.

Remuneration to Commissioners.
Vic. 1928, No. 3776, s. 8 (2).

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

Incapacity on ground of interest.
Vic. 1928, No. 3776, s. 9.

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

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

PART III.—ADMINISTRATION.

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

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

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

Expenses of administration to be paid out of funds of the Commission.
Proceedings of Commission.

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

No. 60 of 1945, s. 18, amended by No. 23 of 1954 s. 3.

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

Quorum.
Vic. 1928, No. 3776, Third Schedule.
Amended by No. 23 of 1954, s. 3.

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

Persons who shall preside at meetings.

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

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

(d) The Commission may at any meeting at which every commissioner is present, elect any one of their number (other than the chairman) to be vice chairman. The person so elected shall hold the said office during the pleasure of the Commission.

and shall, when present, preside at all meetings from which the chairman is absent and at which no person appointed by the Governor as the deputy of or to act in the place of the chairman is present.

Voting at meetings.

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

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

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

Minutes.

(5) The Commission shall cause to be kept minutes of all its proceedings in such manner and form as the Minister may direct or approve; and, if so required by the Minister, shall forthwith after each meeting of the Commission submit to the Minister a copy of the minutes of the business transacted at such meeting.

Matters not invalidated by reason of vacancy in Commission. Vic. 1928, No. 3776, Third Schedule.

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

Minister to have reports, etc., and assistance of officers and employees under the Commission. Vic. 1928, No. 3776, Third Schedule.

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

(a) all such reports, documents, papers, and information as are required by Parliament pursuant to any Act or pursuant to any order or resolution of either House of Parliament; and

(b) full information on all business of the Commission to enable answers to be made to all questions asked in Parliament

concerning the Commission or to enable the Minister to furnish any returns required by Parliament or which he himself requires.

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

21. The Commission may make rules—

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

The Commission may make certain rules. Vic. 1928, No. 3776, Third Schedule.

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

- (a) Every contract made by the Commission may, if the Commission so thinks fit, specify the person to whose satisfaction the same is to be completed and the mode of determining any dispute which arises concerning or in consequence of such contract.
- (b) The powers granted to the Commission under this or any other Act to make contracts may be exercised as follows:—
 - (i) Any contract which if made between private persons would be by law required to be in writing under seal

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

Mode of determining disputes, etc.

Form of contracts.

may be made on behalf of the Commission in writing under the common seal of the Commission, and may in the same manner be varied or discharged;

(ii) any contract which if made between private persons would be by law required to be in writing signed by the parties to be charged therewith may be made on behalf of the Commission in writing signed by any person acting under its authority express or implied and may in the same manner be varied or discharged;

(iii) any contract which if made between private persons would by law be valid although made by parol only and not reduced into writing may be made by parol on behalf of the Commission by any person acting under its authority express or implied and may in the same manner be varied or discharged.

Effect of
contracts.

(c) All contracts so made and duly executed by the parties thereto respectively shall be effectual in law and binding on the Commission and all other parties thereto, their successors, heirs, executors or administrators (as the case may be). In the case of default in the execution of any such contract either by the Commission or by any other party thereto, such actions or suits or other proceedings may be instituted either by or against the Commission in its corporate name or by or against the other parties making the default, and such damages and costs recovered as might be instituted and recovered had the like contract been made between private persons.

Sanction of
Governor
for certain
contracts.

(d) No contract made by the Commission the consideration of which exceeds five thousand pounds or the performance of

which may extend over a period exceeding three years shall have any force or effect unless sanctioned by the Governor.

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

Power to compound for breach of contract.

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

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

Certain powers, obligations and rights transferred to the Commission.

- (a) All the powers and obligations vested in or imposed on or purporting to be vested in or imposed upon the Government of the State, or upon any Minister of the Crown as representing the said Government or upon the Commissioner of Railways by any of the Acts mentioned in the First Schedule to this Act or by any other Act relating to the production and distribution of power, or by any agreement authorised or ratified or approved by, or made under any of the provisions of any of the said Acts or any other Act aforesaid; and
- (b) all the powers and obligations vested in or imposed on or purporting to be vested in or imposed upon the Commissioner of Railways under any agreements taken over or made by him pursuant to any of the repealed Acts, and still subsisting at the commencement of this Act.

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

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

Commission
to take over
and assume
certain
liabilities.

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

Certain
assets
transferred
to Commis-
sion.

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

(a) all contractual rights and benefits with respect to the production and distribution of power acquired or held by or on behalf of the Government of the State, or by the Commissioner of Railways on behalf of His Majesty under any agreements or contracts authorised or ratified or approved by or made under any of the provisions of any of

the Acts specified in the First Schedule to this Act or made or entered into by the Commissioner of Railways under any of the repealed Acts and subsisting at the time of the commencement of this Act; and

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

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

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

PART V.—POWERS AND FUNCTIONS OF COMMISSION.

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

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

Administra-
tion of
certain
Acts.
Vic. 1928, No.
3776, s. 11.

- (b) The Electric Light and Power Agreement Act Amendment Act, 1923.
- (c) The Electric Light and Power Agreement Act Amendment Act, 1928; and
- (d) The Electricity Act, 1937—*

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

General powers and duties of the Commission. Vic. 1928, No. 3776, s. 12.

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

- (a) To inquire into and report to the Minister as soon as practicable, and from time to time as to—
 - (i) the steps which in its opinion should be taken to secure the ultimate co-ordination of all State or other electrical and other power undertakings in the State, and to secure the adoption of such standards of plant and equipment and of system frequency and pressure for the generation, transmission, distribution and supply of electricity and other power as will admit of the efficient inter-connection of such undertakings and interchange of electricity or other power throughout the same and generally the safe, economical, and effective supply of electricity and other power throughout the State, and to secure the amalgamation or concentration of such undertakings;
 - (ii) the prospects of establishing in the State new industries requiring large quantities of cheap electrical or other power energy; and

* See now the Electricity Act, 1945-1953. See No. 72 of 1953, s. 1.

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

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

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

Powers of
Commission
as to under-
takings.

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

- (a) construct, maintain and work any electrical or other undertaking as defined in this Act;
- (b) supply electricity or other power to any Commonwealth or State Government department and to any public body or institution;
- (c) supply electricity or other power in bulk to any supply authority or to any statutory corporation;
- (d) supply electricity or other power to any person or body of persons corporate or unincorporate outside any area of the State, in which immediately prior to the commencement of this Act the Commissioner of Railways was supplying or was at liberty to supply electricity to consumers under the provisions of the repealed Acts or under any of the Acts specified in the First Schedule to this Act;
- (e) in connection with any such undertaking, carry on any business usually associated with such an undertaking;
- (f) open, establish, supervise, operate and maintain workings for the production of coal or mineral oil, briquetting works, and by-product recovery works.

(2) The Commission may—

- (a) Purchase electricity or other power in order to supply or sell the same for any purpose for which it is authorised to supply or sell electricity or other power;
- (b) supply, sell and dispose of electricity, coal, pulverised coal, oil, briquettes or any by-products of its works and undertakings;

- (c) sell, dispose of and trade in all classes and types of equipment, gear, fittings and machinery associated with the electrical or any other power industry;
- (d) acquire such rights in or licenses for the use of any patented or protected processes, inventions, machinery, apparatus, methods, materials or things as it thinks fit; and
- (e) do all such acts, matters and things as the Commission may deem necessary, desirable or expedient for the proper conduct and development of any business which it may carry on under the provisions of this or any other Act.

29A. (1) As from the Transfer Day defined in the City of Perth Electricity and Gas Purchase Act, 1948, the Commission shall constitute a superannuation scheme for the benefit of officers and workmen taken over by the Commission from the City of Perth under section seven of that Act.

Added by
No. 33 of
1948, s. 9.
Amended by
No. 41 of
1955, s. 2.

(2) Except as provided in subsections (5) and (6) of this section and in sections twenty-nine B and twenty-nine C of this Act, such scheme shall be in all respects on the same terms and conditions as the scheme existing on the transfer day under the City of Perth Superannuation Fund Act, 1934, as amended.

Amended by
No. 41 of
1955, s. 2.

(3) Those officers and workmen who were contributors to the City of Perth scheme on the transfer day but no others shall be contributors to the Commission's scheme. For the purpose of ascertaining the rights of such contributors in the Commission's scheme their service with the City of Perth and their contributions to the City of Perth scheme shall be deemed to have been service with the Commission and contributions to the Commission's scheme.

(4) The Commission may pay out of its ordinary revenue all contributions which it may be required to make to the scheme.

(5) A contributor to the Commission's scheme may at any time by notice in writing to the Commission cease to be a contributor, and the Commission shall thereupon pay to such person twice the total amounts paid by him to the City of Perth scheme and to the Commission's scheme, or such greater sum as the Commission may from time to time determine.

(6) A person who has been a contributor to the Commission's scheme and who has ceased to be a contributor shall not be entitled again to become a contributor to the Commission's scheme.

Supplementary allowance payable to persons entitled to Superannuation allowance under s. 29A. Added by No. 41 of 1955, s. 3.

29B. (1) Where an officer, not being a wages employee of the Commission was, on the eighth day of March, 1955, or after that day was or becomes, entitled to receive a superannuation allowance payable out of the superannuation scheme constituted under the provisions of section twenty-nine A of this Act, he is entitled

if the rate of superannuation allowance does not exceed four pounds per week

to receive from the scheme a supplementary allowance of fifty per centum of such superannuation allowance as he was or becomes entitled to receive from and after that day; or

if the rate of superannuation allowance exceeds four pounds per week

to receive from the scheme a supplementary allowance calculated on a weekly basis, which is equivalent to

- (a) fifty per centum of such portion of the superannuation allowance, which he was or becomes so entitled to receive, as does not exceed four pounds per week, and
- (b) twenty-five per centum of such portion of that superannuation allowance as exceeds four pounds per week.

(2) Where a wages employee of the Commission was, on the eighth day of March, 1955, or after that day was or becomes, entitled to receive a superannuation allowance payable out of the superannuation scheme constituted under the provisions of section twenty-nine A of this Act he is entitled to receive from the scheme a supplementary allowance at the rate of six shillings and three pence per week for the period from and after that day, for which he was or becomes entitled to receive a superannuation allowance.

(3) The widow of an officer or of a wages employee of the Commission is entitled to receive from the scheme a supplementary allowance of one-half of the supplementary allowance which her husband would have been entitled to receive under the provisions of subsection (1) or subsection (2) of this section had he been living and in receipt of a superannuation allowance, but no supplementary allowance is payable to the widow in respect of a period which is prior to the death of her husband and prior to the eighth day of March, 1955, nor unless she is entitled to receive a superannuation allowance from the scheme.

(4) The provisions of this section are subject to those of section twenty-nine C of this Act.

29C. (1) Notwithstanding the provisions of section twenty-nine B of this Act, where a person is entitled to a superannuation allowance payable out of the superannuation scheme constituted under section twenty-nine A of this Act and to a pension under the Superannuation and Family Benefits Act, 1938,

Added by
No. 41 of
1955, s. 3.
Rate of supplementary
allowance
affected if
person is also
entitled to
pension
under Super-
annuation
and Family
Benefits Act,
1938.

if the rate of pension, calculated on a weekly basis, is not less than six pounds per week,

the person is entitled to receive, as the supplementary allowance payable out of the superannuation scheme, twenty-five per centum of the superannuation allowance to which he is entitled, but

if the rate of pension, calculated on a weekly basis, is less than six pounds per week,

the person is entitled to receive, as the supplementary allowance calculated on a weekly basis and payable out of the superannuation scheme, an amount which is equivalent to—

(i) either

one-third of the difference between the sum of six pounds and the amount which he is entitled to receive per week as pension under the Superannuation and Family Benefits Act, 1938,

or

one-half of the amount which he is entitled to receive per week as superannuation allowance from the superannuation scheme,

whichever is the lesser amount,

and

(ii) one-fourth of so much of the superannuation allowance, calculated on a weekly basis, as exceeds two-thirds of the difference between the sum of six pounds and the amount which he is entitled to receive per week as pension under the Superannuation and Family Benefits Act, 1938.

(2) Notwithstanding the provisions of subsection (3) of section twenty-nine B of this Act, the widow of a person who was a contributor both for a superannuation allowance payable out of the superannuation scheme and to a pension under the Superannuation and Family Benefits Act, 1938, is entitled to receive, as the supplementary allowance payable out of the scheme, one-half of the supplementary allowance which her husband would have been entitled to receive under the provisions of subsection (1) of this section, had he been living and in receipt of a superannuation allowance and a pension, but no supplementary allowance is payable to a widow under this subsection unless she is entitled to receive a superannuation allowance from the scheme.

29D. Notwithstanding anything contained in the Superannuation and Family Benefits Act, 1938, or in this Act which is inconsistent with this section, a person who is a contributor to the superannuation scheme constituted under section twenty-nine A of this Act is not eligible to become a contributor under the Superannuation and Family Benefits Act, 1938, for a pension which

Added by No. 41 of 1955, s. 3. Pension and Superannuation allowance not to exceed maximum of pension under Superannuation and Family Benefits Act, 1938.

together with the superannuation allowance which, in the estimation of the Commission, he would be entitled to receive from the superannuation scheme,

entitles him to a pension and a superannuation allowance which in the aggregate exceeds the maximum amount of pension for which he is eligible to contribute under the provisions of section thirty-seven of the Superannuation and Family Benefits Act, 1938.

29E. When all the liabilities incurred under the superannuation scheme constituted under the provisions of section twenty-nine A of this Act have been paid and discharged and the Chairman and Auditor General have certified to that effect, the balance, if any, standing to the credit of the scheme is to be paid to the credit of the Electricity Commission General Fund Account at the Treasury and shall be regarded as income derived by the Commission from the business carried on by it under the authority of this Act.

Added by No. 41 of 1955, s. 3. When all liabilities under superannuation scheme paid, balance to be credited to Commission. (Cf. s. 44 (1) of this Act).

30. Subject to this Act, the Commission may—

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

Power to Commission to purchase private undertakings, coal mines, etc.

Power for compulsory acquisition of land.

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

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

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

Power for compulsory acquisition of undertaking of supply authority.

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

(2) Any compulsory acquisition under the power conferred by subsection (1) of this section shall be effected under the powers contained in and in accordance with the procedure prescribed by the

* Now the Public Works Act, 1902-1955. See No. 59 of 1955, s. 1

Public Works Act, 1902-1933,* and for the purposes of this section the complete undertaking of a supply authority shall be deemed to be a "public work" within the meaning of that Act.

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

Power to Commission to sell or lease land.

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

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

Commission to have certain rights to water.

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

* Now the Public Works Act, 1902-1955. See No. 59 of 1955, s. 1.

† Now the Rights in Water and Irrigation Act, 1914-1954. See No. 73 of 1954, s. 5.

for Water Supply, Sewerage and Drainage with respect to works vested in such Minister, or with the powers, authorities and functions of water boards and with the rights, benefits and privileges of other persons under the provisions of the Water Boards Act, 1904-1941.‡

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

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

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

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

Right of appeal.

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

(i) fined; or

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

(iii) dismissed by the Commission—

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

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

Constitution of Appeal Board.

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

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

‡ Now the Water Boards Act, 1904-1954. See No. 73 of 1954, s. 5.

- (ii) one person to be appointed from time to time by the Commission, or a person appointed in like manner to act as his deputy; and
- (iii) one person, his deputy, and his substitute to be elected from time to time in the prescribed manner from among their number by the salaried staff of the Commission; and
- (iv) one person, his deputy, and his substitute to be elected from time to time in the prescribed manner from among their number by the wages employees of the Commission.

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

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

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

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

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

Tenure of office.

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

Vacancy.

(i) dies; or

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

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

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

Ballot at
Elections of
elective
members.

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

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

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

Notice of
appeal.

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

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

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

Quorum.

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

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

Procedure on appeals.

- (a) The Board may admit evidence taken at any inquiry held by the Commission at which the appellant was present and had an opportunity of hearing the evidence and of giving evidence.
- (b) Evidence of witnesses resident more than twenty miles from the place of the sitting of the Board may be taken by affidavit or otherwise as prescribed.
- (c) Any member of the Board may administer an oath to any witness, and the appellant shall be entitled to have the witnesses examined on oath.
- (d) No solicitor, counsel, or agent, other than an employee of the Commission or the secretary of the industrial union to which the appellant belongs shall appear or be heard on any appeal, but the appellant shall appear in person or by another employee of the Commission or by the secretary of the union aforesaid, and the Commission by some employee thereof authorised by the Commission in that behalf.
- (e) The Board may, subject to the regulations, regulate its own procedure and issue summonses for the attendance of witnesses.

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

Attendance of witnesses.

Penalty—Ten pounds.

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

**Powers of
Appeal
Board.**

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

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

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

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

**Incidental
powers.**

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

(a) enter upon any land, street, or place and survey and take levels thereof and dig, fell, remove and carry away from the land any earth, stone, gravel, sand or other soil or timber or trees required to be used in constructing or maintaining any part of any such undertaking;

(b) set up or lay down and maintain any necessary electric or other power line or any electric or other power works upon, over, under or through any land, or any shore of the sea, street, stream or water,

and at any time alter or remove any such line or works, and break, excavate and remove any soil to the extent and depth required for placing, altering or removing any such line or works.

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

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

Provided that—

- (i) any line, if aerial, and any lamp shall be at least eighteen feet from the surface of the earth on which the house, building or other structure is situate; and
 - (ii) if the owner of the house, building or other structure shall rebuild or alter the same, the electric line or other power line or the lamp shall be removed, and, if so required affixed to the new structure at the cost of the Commission;
- (d) cut down or lop such trees, bushes and branches as in the opinion of the Commission obstruct any electric line or other power line;
- (e) for any of the aforesaid purposes break up any street and open and alter the position of any pipe, sewer, drain or tunnel within or under any street and alter the position of any wires (not being wires belonging to the Postmaster General or the Commonwealth) over or under any street;

- (f) erect in or on any land or street, pillars, poles, standards, lamps and other things necessary for the purpose of supplying or conveying electricity or other power;
- (g) enter into such contracts as are necessary or incidental to the execution and discharge of its powers, authorities and duties under this or any other Act;
- (h) subject to the approval of the Minister, contract with any other body corporate or public body or person for or with respect to the doing and the control and management by either or both of the contracting parties of any matter or thing which such contracting parties are or either of them is by law empowered to do, control and manage, and to carry out every such contract according to the tenor thereof; and
- (i) do all such acts and things as it shall reasonably consider necessary for the purposes of this Act.

Notice
before
breaking up
of streets in
certain
cases.

38. (1) Before the Commissioner proceeds to break up any street or to open or alter the position of any sewer, drain or tunnel or of any wires, it shall give to the person or the local or other authority under whose control or management the same may be, notice in writing of its intention so to do not less than three clear days before beginning the work, except in cases of emergency arising from defects in any lines or works in which cases the notice shall be given as soon as practicable.

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

(2) Before the Commission proceeds to exercise any of the other powers conferred by paragraphs (a) to (f) of section thirty-seven of this Act a like

notice shall be given by the Commission to the local authority or the owner or occupier of the land or premises in respect of which such power is to be exercised.

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

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

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

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

39. (1) When the Commission has broken up any street or opened or altered the position of any sewer, drain, tunnel or wires for the purpose of executing any work it shall with all practicable speed, complete such work and fill in the ground and reinstate or make good the street, sewer, drain, tunnel or wires so broken up, opened or altered in position, and carry away any earth, rubbish or obstruction arising from its operations; and until such operations are completed and the foregoing provisions are complied with the Commission shall take reasonable precau-

*Streets, etc.,
broken up
to be
reinstated.*

tions for the prevention of accidents by causing every opening, heap of earth or rubbish or other obstruction to be fenced and guarded and to be well and sufficiently lighted at night time.

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

Application
of Public
Works Act,
1902-1933.*

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

Commission
to make good
all damage
done.

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

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

* Now the Public Works Act, 1902-1955. See No. 59 of 1955, s. 1.

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

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

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

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

Power to Commission to make by-laws.

- (a) The construction, due management, maintenance, repair, use and protection of the undertakings and other property of the Commission;
- (b) preventing and remedying the waste, misuse or undue consumption of electricity or other power generated or produced by the Commission;
- (c) prescribing scales of charges for electricity or other power supplied by the Commission, and the minimum quantity to be charged for, and the rent for the use of meters, fittings and other apparatus;

* Now the Public Works Act, 1902-1955. See No. 59 of 1955, s. 1.

State Electricity Commission.

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

(2) By-laws made by the Commission under this section shall be subject to the regulations made by the Governor under this Act; and where any such

by-law is in any respect inconsistent with or repugnant to any such regulation, the regulation shall prevail, and the by-law shall be read and be construed and have effect accordingly, or shall be null and void as the case may require.

PART VI.—FINANCE AND ACCOUNTS.

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

Funds.
Ibid., ss. 33
and 36.

- (a) such moneys as are from time to time appropriated by Parliament for that purpose;
- (b) the income derived by the Commission from the business carried on by it under the authority of this Act; and
- (c) such moneys as the Commission may borrow under and subject to the provisions of this Act.

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

Provided that—

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

State Electricity Commission.

(3) The said account shall be operated upon in such manner as may be prescribed.

(4) The moneys from time to time in the said account shall be chargeable with—

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

Provided that—

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

instance be charged against and be paid out of those moneys in the said account which are recorded or entered in the books of account as revenue or profit or income moneys.

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

Borrowing power.
No. 60 of 1945, s. 45, amended by No. 4 of 1952, s. 2.

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

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

45A. (1) Subject to subsection (2) of this section, the Commission may at any time and from time to time with the approval of the Governor—

Power of Commission to borrow money on issue of debentures or inscribed stock.
Cf. No. 51 of 1946, s. 25.
Added by No. 4 of 1952, s. 3.

(a) borrow and reborrow moneys by the issue and creation and sale of debentures and of inscribed stock for the purpose of raising the funds of the Commission for the effectual exercise by the Commission of the powers conferred by this Act;

(b) create and issue debentures and inscribed stock in exchange for any debentures and inscribed stock respectively issued in respect of moneys previously borrowed by the Commission, and not repaid;

- (c) create, issue and sell debentures and inscribed stock for the purpose of borrowing money for redeeming any loans owing by the Commission and for paying the expenses incurred in the issue and creation of the debentures and inscribed stock and otherwise carrying out the provisions of this Act;
- (d) effect any conversion authorised by this section either by arrangement with the holders of the existing debentures or registered owner of inscribed stock, or by the purchase of the debentures or inscribed stock out of the moneys raised by the sale of debentures and inscribed stock or partly in the one way and partly in the other.

(2) The Governor shall not approve of the borrowing by the Commission of moneys under the provisions of this section, unless a proposal in writing showing—

- (a) the term and particulars of the proposed loan;
- (b) the rate of interest to be paid on the loan;
- (c) the purposes to which the money proposed to be borrowed is to be applied; and
- (d) the manner in which the loan is to be repaid,

is first submitted by the Commission to, and approved of by, the Minister.

Tasmania,
No. 20 of
1952, s. 4.

(3) Any moneys borrowed by the Commission under the provisions of this section—

- (a) may be raised as one loan or as several loans; and
- (b) may be raised—
 - (i) by the issue of debentures with or without interest coupons attached;
 - (ii) by the creation and issue of inscribed stock to be called the "State Electricity Commission of Western Australia Inscribed Stock";

- (iii) partly as provided by subparagraph (i) and partly as provided by subparagraph (ii) of this paragraph; or
- (iv) in such other manner as may be prescribed or as the Governor may approve.

45B. For the purpose of making provision to pay off either the whole or any part of any loan raised by the Commission under the provisions of this Act, the Commission may with the consent of the Governor, and subject to subsection (2) of section forty-five A of this Act, borrow the necessary moneys before the loan or part of it becomes payable.

Power to borrow to pay off loan. Cf. Tasmania No. 20 of 1952, s. 4. Added by No. 4 of 1952, s. 3.

45C. (1) (a) Due payment of debentures and inscribed stock respectively issued or created under the provisions of section forty-five A of this Act and sold by the Commission, with all interest thereon shall be charged on and secured upon the revenues of the Commission.

Moneys borrowed to be a charge on Commission's revenues and guaranteed by the State. Cf. Tasmania No. 20 of 1952, s. 4(2). Added by No. 4 of 1952, s. 3.

(b) For the purposes of this section, "revenues" of the Commission means all charges, fees, rents, interest and profits given to or vested in or authorised to be demanded or received by the Commission.

(2) (a) The due repayment of the principal moneys and the payment of all interest secured by debentures or inscribed stock issued by the Commission under the provisions of section forty-five A of this Act is hereby guaranteed by the Government of The State.

Victoria 2 Geo. VI. No. 4512, s. 10(8).

(b) Any sums required by the Treasurer of The State for fulfilling any guarantee given by this Act shall be paid out of the consolidated revenue, which is hereby to the

Victoria 2 Geo. VI. No. 4512, s. 10(8).

necessary extent appropriated accordingly, and any sums received or recovered by the Treasurer from the Commission or otherwise in respect of a sum so paid by the Treasurer shall be paid into the consolidated revenue.

Application of provisions of Third Schedule to debentures and inscribed stock.
 Vict. 2
 Geo VI,
 No. 4512,
 s. 15.
 Added by No. 4 of 1952, s. 3.

45D. (1) The provisions of Part I of the Third Schedule shall apply with respect to debentures and inscribed stock issued under section forty-five A of this Act.

(2) The provisions of Part II of the Third Schedule shall apply with respect to debentures issued under section forty-five A of this Act.

(3) The provisions of Part III of the Third Schedule shall apply with respect to inscribed stock issued in Perth under the provisions of section forty-five A of this Act.

Power to trustees to invest in Commission's debentures or inscribed stock.
 Added by No. 4 of 1952, s. 3.

45E. (1) Debentures and inscribed stock issued by the Commission under the provisions of section forty-five A of this Act shall—

- (a) be securities authorised by the laws relating to the investment of trust moneys, and
- (b) have the status of Government securities within the meaning of any Act in force for the time being relating to friendly societies.

(2) A trustee unless expressly forbidden by the instrument, if any, creating the trust, may invest trust funds in his hands in the debentures and inscribed stock.

(3) The debentures and inscribed stock shall be a lawful investment for moneys which a body corporate is authorised or directed to invest in addition to any other investments expressly authorised for the investment of the moneys.

(4) A trustee or body corporate may pursuant to this Act convert the debentures in his or its hands into inscribed stock.

46. (1) There shall be entered and debited in the said Electricity Commission General Fund Account in each year such amounts as shall be fixed by the Treasurer as the interest and sinking fund contributions payable for the year in respect of such portion of the General Loan Fund as shall have been applied to the exercise by the Commission of any of the powers conferred upon it or the discharge of the duties imposed upon it by this Act.

Contribution
of interest
and sinking
fund.

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

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

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

Interest on
capital
expenditure
from
revenue.

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

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

Charges for use of property and service.

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

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

Provided that where a departmental vote has already been debited in the current financial year, then the amount shall be credited to such vote or treated as a rebate of the departmental expenditure where the annual estimates of such department provide for a rebate of expenditure.

Temporary investment of moneys.

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

Application of profit.

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

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

Accounts.
Application
of Public
Works Act,
1902-1933,*
s. 34.

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

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

Depreciation.

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

Reserve
accounts.
Vic. 1928, No.
3776, s. 35.

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

Annual
Estimates.
Vic. 1928, No.
3776, s. 35.

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

Books may
be inspected

* Now the Public Works Act, 1902-1955. See No. 59 of 1955, s. 1.

Accounts to
be balanced.

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

Accounts to
be audited.
Vic. 1928, No.
3776, ss. 32
and 34.

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

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

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

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

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

Annual
Report.
Vic. 1928, No.
3776, s. 35.

58. The Commission shall prepare an annual report of its proceedings and operations during the preceding year which report together with copies

* Now the Audit Act, 1904-1953. See No. 71 of 1953, s. 2.

of the balance sheet and statements of account then last prepared and audited and the Auditor General's report thereon shall be laid by the Minister before both Houses of Parliament as soon as practicable in each year.

PART VII.—MISCELLANEOUS.

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

Saving as to Government Departments. Commission to confer and co-operate with other departments. Vic. 1928, No. 3776, s. 49.

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

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

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

Protection of Commissioners, officers, etc. Vic. 1928, No. 3776, Third Schedule, para. 8.

61.* [*Section 61 repealed by No. 73 of 1954, s. 5.*]

62. No action shall lie or be brought or continued against the Commission in respect of any injury to the person, unless the person injured submits him-

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

* See now Limitation Act, 1935-1954, s. 47A.

self to examination by a medical practitioner or medical practitioners appointed by the Commission at all reasonable times as the Commission may require.

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

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

Service of notices and legal proceedings.
Vic. 1928, No. 3776, Third Schedule, para. 2.

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

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

Documents how authenticated.
Vic. 1928, No. 3776, Third Schedule, para. 3.

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

Power to direct prosecutions.
Vic. 1928, No. 3776, Third Schedule, para. 4.

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

Power of officer to represent Commission.
Vic. 1928, No. 3776, Third Schedule, para. 5.

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

68. (1) In any prosecuting or legal proceeding under the provisions of this Act or the by-laws or regulations instituted by or under the direction of the Commission no proof shall be required (until evidence is given to the contrary) of—

Proof of certain matters not required. Vic. 1928, No. 3776, Third Schedule, para. 6.

- (a) the constitution of the Commission;
- (b) any order of the Commission to prosecute;
- (c) the particular or general appointment of the secretary or any other officer of the Commission to take proceedings against any person;
- (d) the powers of the said secretary or other officer to prosecute;
- (e) the appointment of the chairman or of any commissioner or of the secretary or other officer of the Commission; or
- (f) the presence of a quorum at any meeting at which any order is made or any act is done by the commission.

(2) The production of—

- (a) a copy of the *Government Gazette* containing any rule, by-law, regulation, order or notice purporting to have been made or given under any of the provisions of this Act; or
- (b) a copy purporting to be a true copy of any such rule, by-law, regulation, order or notice certified as such under the hand of the secretary of the Commission shall be evidence until the contrary is proved of the due making, existence, confirmation, approval and giving of such rule, by-law, regulation, order or notice and of all preliminary steps necessary to give full force and effect to the same.

69. All documents whatever purporting to be issued or written by or under the direction of the Commission and purporting to be signed by the secretary shall be received as evidence in all courts

Evidence of documents issued by the Commission. Vic. 1928, No. 3776, Third Schedule, para. 7.

and before all persons acting judicially within the State and shall without proof be deemed to have been issued or written by or under the direction of the Commission until the contrary is shown.

Powers of Commission in conducting investigations, etc.
Vic. 1928, No. 3776, Third Schedule, para. 9.

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

Offences and penalties.
Vic. 1928, No. 3776, Third Schedule.

71. (1) Every person who—

- (a) wilfully obstructs any person acting under the authority of the Commission in the lawful exercise of its powers in setting out or forming, laying down, altering, repairing, improving or renewing any works or undertakings; or
- (b) without the authority of the Commission or the proper officer thereof—
 - (i) pulls up or removes any poles or stakes driven into the ground for the purpose of setting out such works or undertakings; or
 - (ii) defaces or destroys any marks made for the same purpose; or
 - (iii) extinguishes any light provided or takes down, alters or interferes with any bars, chains, fences or hoardings erected or placed for the protection of any such works or undertakings or for guarding against accidents—

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

Penalty—Fifty pounds.

(2) Every person who—

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

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

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

Penalty—Fifty pounds.

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

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

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

Exemption
from rates
and taxes.

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

Regulations.

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

Section 4.

FIRST SCHEDULE.

Acts to which this Act shall be subject.

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

Section 5.

SECOND SCHEDULE.

Acts repealed by this Act.

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

THIRD SCHEDULE.**PART I—DEBENTURES AND INSCRIBED STOCK.**

The following provisions shall apply to debentures and inscribed stock issued by the Commission under the provisions of section forty-five A of this Act—

1. All debentures and inscribed stock—

- (a) shall bear interest at such rate and be redeemable on such date and at such place as the Commission may, with the approval of the Governor, determine; and

Interest.

Added by No. 4 of 1952, s. 4.
S. 45D.

(b) may with the consent of the holder or the registered owner thereof, as the case may be, be paid off at any time before the due date for repayment, at not more than the face value thereof.

Debentures and stock payable before due date.

2. Interest secured by any debentures or inscribed stock issued or created pursuant to this Act shall be payable half-yearly on such days and at such places as the Commission determines.

When interest payable.

3. The Commission may, at the request of the holder of a debenture or of the registered owner of inscribed stock issued or created pursuant to this Act, in lieu thereof issue to him inscribed stock or debentures, as the case may be, in respect of the same loan, and of the same amount, and of the same currency, and bearing the same interest.

Debentures and stock interchangeable.

4. The Commission may pay moneys by way of brokerage for the making, procuring, negotiating, or obtaining the loan of any money borrowed under the authority conferred by section forty-five A of this Act.

Brokerage.

5. (1) The Commission shall set aside half-yearly by way of a sinking fund for the purpose of redeeming any loans raised by it pursuant to section forty-five A of this Act an amount calculated at a rate approved by the Treasurer and sanctioned by the Governor.

Sinking Fund.

(2) When it is necessary to have resort to any sinking fund referred to in subclause (1) of this clause for the purpose of paying off either the whole or any part of any loan in respect of which the fund is provided, the Commission may sell any securities in which the fund is invested, or may obtain an advance thereon from any bank or from the Treasurer of The State.

6. No notice of any trust, express, implied or constructive, shall be received by the Commission or by an officer of the Commission in relation to a debenture or inscribed stock issued or created pursuant to this Act, and the Commission or the officer shall not be bound to see to the execution of the trust to which the debenture or inscribed stock may be subject.

Notice of trust not receivable.

7. A person advancing money to the Commission and receiving in consideration of the advance a debenture or inscribed stock issued under this Act shall not be bound to inquire into the application of the money advanced or be in any way responsible for the non-application or mis-application thereof.

Owners of securities not responsible for application of moneys.

PART II—DEBENTURES.

The following provisions shall apply to debentures issued by the Commission under this Act—

1. A debenture shall be in the form prescribed by the regulations.

Form of debenture.

2. A debenture shall—

- Seal.** (a) be sealed with the common seal of the Commission in the presence of the chairman and the secretary; and
- Number.** (b) be numbered consecutively beginning with the number one and proceeding in an arithmetical progression whereof the common difference is one.

Pass by delivery. 3. A debenture with the interest coupons annexed thereto and every interest coupon after being detached therefrom shall pass by delivery and without any assignment or endorsement.

Rights of bearer. 4. The bearer of a debenture or detached interest coupon shall have the same rights as if he were expressly named as payee therein.

Payment of interest. 5. No interest shall be payable in respect of a debenture except to the holder of the coupon representing the interest claimed and upon delivery of the same.

Register of debentures. 6. (1) The Commission shall cause to be kept in one or more books a register of debentures, and within a reasonable time after the date of a debenture shall cause to be made an entry in the register specifying the number date and amount of the debenture.

Inspection. (2) The register of debentures—

(a) may be inspected at all reasonable times by a person on payment of one shilling for each inspection; and

(b) shall be evidence of any matters required or authorised by or under this Act to be inserted therein.

Copies to be supplied. (3) A person shall be entitled to obtain from the Commission copies or extracts certified by the officer in whose custody the register is kept to be true copies or extracts from such register upon payment for each copy or extract of a fee of two shillings and sixpence and twopence for every folio of seventy-two words; and any copy or extract so certified shall be admissible in evidence.

Provision for lost debentures. 7. Upon proof being made before a judge in chambers by affidavit of any credible person that a debenture issued by the Commission under this Act and held by such person the number and sum whereof is specified by him has been lost or accidentally burnt or otherwise destroyed before the same has been paid off, and after the insertion of such advertisements as the judge directs and upon the judge certifying that he is satisfied with the proof, the Commission may after the expiration of six months cause a new

debenture with interest coupons attached to be made having the like currency and bearing the same number date principal sum and rate of interest as the debenture so lost or destroyed and to be delivered to the person upon his giving sufficient security to the Commission to indemnify the Commission against any double payment.

8. If a debenture is defaced by accident—

Provision for defaced debentures.

(a) the Commission may cancel the same and cause a new debenture to be made in lieu thereof; and

(b) the new debenture shall have the like currency and be in all respects subject to the same provisions and bear the same number date and principal sum and rate of interest as the cancelled debenture.

9. (1) A debenture paid off discharged exchanged or converted into stock shall—

Discharged debentures to be destroyed.

(a) be cancelled by the secretary; and

(b) be burnt in the presence of the secretary and the Auditor-General or one of his officers thereto authorised by him in writing.

(2) The Auditor General or such officer (as the case may be) before the debenture is burnt shall audit the same and allow the accounts thereof and furnish the Commission with a certificate particularising the debenture so burnt; and the secretary shall file that certificate in the office of the Commission.

PART III—STOCK.

The following provisions shall apply to the State Electricity Commission of Western Australia Inscribed Stock issued in Perth, Western Australia (in this part called "stock")—

1. The Commission may establish at the office of the Commission a registry for the inscription of stock created and issued under the authority of this Act and appoint an officer of the Commission to be registrar of stock.

Establishment of registry and appointment of registrar.

2. Stock may be sold by the Commission for ready money in parcels or amounts of ten pounds or some multiple of ten pounds.

Parcels of stock.

3. (1) The Commission shall cause to be provided and kept at the office of the Commission books to be called "stock ledgers."

Stock Ledgers.

(2) All stock issued shall be inscribed in the stock ledgers by entering the names of the purchasers of stock and the amount of stock purchased by them respectively.

Inscription of stock.

Joint purchasers.

(3) In the case of joint purchasers of stock the names of not more than four of them shall be inscribed as the joint purchasers.

Evidence.

(4) The stock ledgers shall be evidence of any matters appearing therein and required or authorised by or under this Act to be inserted therein.

Stock how transferable.

4. (1) Stock or any share therein shall be transferable in the manner prescribed by the regulations from one person to another by instrument in the form so prescribed and not otherwise.

Restrictions on amount of stock which may be transferred.

(2) A person shall not be entitled or allowed to transfer any fraction of one pound or any smaller sum than ten pounds unless that smaller sum is the full amount of the balance standing to his credit in the stock ledger.

Execution of transfer.

(3) An instrument of transfer of the stock or any share therein shall be executed by all parties and the signatures to the instrument shall be attested in the manner prescribed by the regulations.

Registration of transfer.

(4) An instrument of transfer when executed shall be delivered to the registrar who shall register the same by entering a memorial of it in the stock ledger and shall inscribe the name of the transferee in the stock ledger as the owner of the stock.

Application for transmission (other than transfer) of stock.

5. (1) A person to whom stock is transmitted in consequence of the death or bankruptcy or insolvency of the registered owner of the stock or by any other lawful means than by a transfer in accordance with this Act may apply in the form prescribed by the regulations to the registrar at the registry to be inscribed as the owner of the stock.

Verification of application for transmission.

(2) An application for transmission shall be verified by statutory declaration or in such other manner as is so prescribed, and—

(a) in the case of a transmission consequent on death—the probate of the will or the letters of administration shall be produced to the registrar or in the case of transmission to a survivor or the survivors of a joint owner a certificate of the death of the owner who has died accompanied by a statutory declaration identifying the person named in the death certificate with the person who is shown as the registered owner of the stock may if the registrar approves be produced to him in lieu of probate or letters of administration; and

(b) in the case of a transmission consequent on bankruptcy or insolvency—an office copy of the adjudication or order of sequestration shall be delivered to the registrar.

(3) The registrar shall if he is satisfied that the provisions of this Act have been complied with register any such transmission by entering a memorial of it in the stock ledger and inscribe the name of the person to whom the stock has been transmitted in the stock ledger as the registered owner of the stock.

Registration of transmission.

6. (1) A person may by power of attorney under his hand and seal and attested by two or more credible witnesses appoint some person to be his attorney for any purpose in relation to stock (including an application for conversion or to receive interest or redemption money).

Power of attorney.

(2) A power of attorney shall be valid and effectual for all purposes therein mentioned until notice of its revocation or of the bankruptcy insolvency lunacy unsoundness of mind or death of the principal has been received by the registrar at the registry.

7. (1) An instrument of transfer of stock or of any part thereof shall not be registered on any Saturday or holiday or within the period of fourteen days or within such period (not exceeding twenty-one days) as is prescribed next before any of the days on which the interest thereon is payable.

When transfer books to be closed and ledgers balanced.

(2) During the periods referred to in the last preceding subclause the Commission shall cause the amount of the stock respectively standing to the credit of the several registered owners thereof to be ascertained and the balances to be struck and carried forward in the proper stock ledger.

(3) An instrument of transfer of stock or of any part thereof shall not be registered during the period of twenty-one days immediately preceding the date of maturity of stock.

8. (1) The receipt of the person in whose name stock stands in the stock ledger, or if it stands in the names of more persons than one the receipt of one of the persons named in the stock ledger shall be a sufficient discharge to the Commission for any interest payable in respect of the stock, notwithstanding any trusts to which the stock may then be subject and whether or not the Commission has had notice of the trusts, and the Commission shall not be bound to see to the application of the money paid upon such receipt.

Receipt of registered stock-holders to discharge without regard to trust.

(2) If stock is held in joint names and one or more of the registered owners of the stock dies becomes bankrupt insolvent or otherwise legally incapable, the receipt of any one of the other joint owners or survivors shall be a sufficient discharge to the Commission for any interest payable in respect of the stock, notwithstanding that a transmission has not been registered as required by this Act.

Receipt where one of joint holders dies etc.