

WESTERN AUSTRALIA

STATE ENERGY COMMISSION AMENDMENT ACT

No. 24 of 1986

AN ACT to amend the *State Energy Commission Act 1979*.

[Assented to 28 July 1986.]

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

Short title

1. This Act may be cited as the *State Energy Commission Amendment Act 1986*.

Commencement

2. (1) This Act, other than sections 4, 5, 9, 10, 11, 15, 40 and 42, shall come into operation on the day on which it receives the Royal Assent.

(2) Sections 4, 5, 9, 10, 11, 15, 40 and 42 of this Act shall come into operation on such day as is, or days as are respectively, fixed by proclamation.

Principal Act

3. In this Act the *State Energy Commission Act 1979** is referred to as the principal Act.

[*Act No. 111 of 1979 as amended by Acts Nos. 63 and 101 of 1981 and 36 of 1984.]

Long title amended

4. The long title to the principal Act is amended by deleting “to provide for an Energy Advisory Council;”.

Section 4 amended

5. Section 4 of the principal Act is amended, in subsection (1)—

(a) by deleting the definitions following—

“Chairman”, “Council”, “Deputy Commissioner”,

“paragraph”, “section”, and “subsection”;

(b) by inserting in the appropriate alphabetical sequence the definitions following—

“ “Chairman of the Commission”, or “Chairman” other than in section 8 (5), means the person appointed under section 12 to be the chairman of the Commission;

“Deputy Commissioner” means a person appointed under section 12 to the office of Deputy Commissioner;

“member” means a member of the Commission as constituted in accordance with section 11; ”; and

- (c) in the definition of “government department”, by deleting “Act;” at the end of paragraph (b) and substituting the following—

“ Act,

but where such an Order specifies that a body is only to be deemed to be a government department for the purposes of the provisions of this Act specified in that Order means that body in relation to those provisions but not otherwise; ”.

Section 6 amended

6. Section 6 of the principal Act is amended in subsection (1)—

- (a) by deleting “and” after paragraph (a);
 (b) in paragraph (b) by deleting “safety,” and substituting the following—

“ safety; and ”; and

- (c) by inserting after paragraph (b) the paragraph following—

“ (c) in relation to land vested in the Crown in right of the State, ”.

Section 8 amended

7. Section 8 of the principal Act is amended—

- (a) in subsection (1), by inserting before “document” the following—

“ instrument or other ”;

- (b) in subsection (1a), by deleting “by writing under” and substituting the following—

“ pursuant to a document affixed with ”;

- (c) in subsection (1b), by deleting “instrument” and substituting the following—

“ document ”; and

(d) in subsection (2)—

(i) by deleting “summons, notice or order” and substituting the following—

“ including any instrument, summons, notice or order, ”;

(ii) by inserting after “authentication by” the following—

“ , or execution on behalf of, ”;

(iii) by inserting after “authenticated” the following—

“ or validly executed ”;

(iv) by deleting “or an Assistant Commissioner,” and substituting the following—

“ an Assistant Commissioner or a person empowered for that purpose pursuant to subsection (1a), ”;

and

(v) by deleting “any such person” and substituting the following—

“ that officer or person, and where a facsimile signature is used effect shall be given to the document as if it bore the original of that signature ”.

Section 10 amended

8. Section 10 of the principal Act is amended by repealing subsections (2), (3), (4) and (5) and substituting the subsections following—

“ (2) The Minister may, in writing, give to the Commission a direction—

(a) as to the performance of any function in relation to which a power is conferred on the Commission by this Act or any other Act; or

(b) to act as agent for the Crown, or to carry out such a function on behalf of the Crown,

and the Commission shall give effect to the direction.

(3) Subject to subsection (2), the Commission is charged with the duty of implementing the provisions of this Act. ”.

Section 11 amended

9. Section 11 of the principal Act is amended—

(a) by repealing subsection (1) and substituting the subsection following—

“ (1) The Commission shall be constituted by—

(a) the Chairman of the Commission, who shall be appointed on the recommendation of the Minister;

(b) the Commissioner, who shall hold office thereby as the Chief Executive Officer of the Commission;

(c) not less than 4 persons appointed as Associate Commissioners; and

(d) not more than 3 persons appointed as Deputy Commissioners, each of whom shall respectively hold office thereby as a Deputy Chief Executive Officer of the Commission. ”;

(b) in subsection (2)—

(i) by deleting “A person” and substituting the following—

“ An officer of the Commission ”; and

(ii) by deleting “Commission.” at the end of the subsection and substituting the following—

“ Commission, but a person who is or has been a member of the Commission or an Assistant Commissioner shall not be eligible for appointment to the office of Secretary. ”;

and

(c) in subsection (3), by inserting before “3” the following—

“ not less than ”.

Section 12 amended

10. Section 12 of principal Act is amended—

(a) in subsection (1), by inserting before “the Commissioner” the following—

“ the Chairman of the Commission, ”;

(b) by inserting after subsection (1) the subsection following—

“ (1a) A person may be appointed to the office of Chairman of the Commission for a term not exceeding 3 years, and any person so appointed is eligible for re-appointment. ”;

(c) by repealing subsection (4);

(d) in subsection (6)—

(i) by inserting before “Commissioner or Associate Commissioner”, where it first appears, the following—

“ Chairman of the Commission, ”; and

(ii) by deleting “of that Commissioner or Associate Commissioner” and substituting the following—

“ to which that person was appointed ”;

(e) by repealing subsection (7) and substituting the subsection following—

“ (7) The Minister, after taking into consideration any recommendation that may be made by the Commissioner, may appoint a person to the office of Deputy Commissioner and, subject to section 52 of the *Interpretation Act 1984*, a person so appointed shall hold office for such period as is specified in the instrument by which he is appointed, and is eligible for re-appointment. ”;

(f) in subsection (8)—

(i) by deleting “Commissioner”, wherever it appears other than in the expression “Deputy Commissioner”, and substituting the following—

“ Chairman of the Commission ”; and

(ii) by deleting “Deputy Commissioner” and substituting the following—

“ Commissioner ”;

and

(g) in subsection (10), by inserting before “the Commissioner” the following—

“ the Chairman of the Commission, ”.

Section 13 amended

11. Section 13 of the principal Act is amended—

- (a) in subsection (2), by deleting “, the Commissioner, or in his absence the Deputy Commissioner, and two Associate Commissioners” and substituting the following—

“ any 3 out of the persons holding office as Chairman of the Commission or as Associate Commissioner together with a person who holds office either as Commissioner or as a Deputy Commissioner ”;

- (b) in subsection (3), by deleting “the Commissioner” and substituting the following—

“ the Chairman of the Commission, or in his absence a person appointed under section 26 to act in the place of the Chairman of the Commission, or in the absence of any such person the Commissioner ”;

- (c) in subsection (4)—

- (i) by deleting paragraph (a) and substituting the paragraph following—

“ (a) each of the Chairman of the Commission, the Commissioner, and the Deputy Commissioners and the Associate Commissioners, when present, is entitled to exercise a deliberative vote; ”;

- (ii) by deleting “and” after paragraph (c);

- (iii) in paragraph (d), by deleting “Commissioner shall exercise a casting vote on the question.” and substituting the following—

“ Chairman of the Commission, or where the person presiding at that subsequent meeting is not the Chairman of the Commission or a person appointed under section 26 to act in the place of the Chairman of the Commission the person so presiding, may exercise a casting vote, ”; and

- (iv) by adding after paragraph (d) the following—

“ and the Secretary shall attend. ”;

and

- (d) in subsection (5), by inserting after “kept” the following—

“ , by the Secretary or some other person designated by the Commission, ”.

Section 14 amended

12. Section 14 of the principal Act is amended—

(a) by deleting “A Commissioner or Associate Commissioner, or any other” and substituting the following—

“ (1) A member, ”;

(b) by deleting “or to a responsible officer of the Commission, and any such disclosure shall be made known generally to the persons required to consider the matter in question and shall be recorded in the minutes of the meeting at which the disclosure is first made known” and substituting the following—

“ or to the Secretary, or to any other responsible officer of the Commission ”;

and

(c) by adding the following subsections—

“ (2) For the purposes of subsection (1), a general notice given to the Commission to the effect that a person has an interest in a specified body corporate, partnership or other business and is to be regarded as interested in any matter affecting that body corporate, partnership or business, shall be deemed to be a sufficient disclosure of interest.

(3) Any disclosure made pursuant to subsection (1) or subsection (2) shall be made known generally to the persons required to consider the matter in question and shall be recorded in the minutes of the meeting at which the disclosure is first made known. ”.

Section 16 repealed

13. Section 16 of the principal Act is repealed.

Section 18 amended

14. Section 18 of the principal Act is amended by repealing subsections (2), (3) and (4).

Sections 20, 21, 22, 23, 24 and 25 repealed

15. Sections 20, 21, 22, 23, 24 and 25 of the principal Act are repealed.

Section 26 amended

16. Section 26 of the principal Act is amended in subsection (1) by deleting paragraphs (a), (b) and (c) and substituting the following paragraphs—

- “ (a) a member of the Commission is absent or temporarily incapable of fulfilling the duties of a member; or
- (b) the office of such a member is vacant and is not filled in accordance with this Act, ”.

Section 28 amended

17. Section 28 of the principal Act is amended in subsection (3) by adding, after “resources” at the end of paragraph (g), the following—

- “ and for the purposes of obtaining advice and information, or of assisting the Minister to do so, may provide financial assistance, accommodation, facilities, and services to any committee or body of persons established by the Minister to provide policy or planning recommendations in respect of energy related matters ”.

Section 39 amended

18. Section 39 of the principal Act is amended—

- (a) by repealing subsection (2) and substituting the subsections following—

“ (2) Where the fee simple of, or any other estate or interest in, any land is vested in the Commission but the Commission for the time being does not require the exclusive use and occupation of the land then—

- (a) section 29A of the *Public Works Act 1902* shall not have effect in relation to that land notwithstanding that it is not being used for a public work where the Commission certifies to the Governor that the land—

- (i) will in the future be required to be used for a public work within the meaning of that Act;

or

(ii) is presently or may in the future be so required but the requirement does or may not extend to a requirement for exclusive use and occupation; and

(b) the Commission may, subject to the approval in writing of the Minister, grant to any person—

(i) a lease or licence to occupy the land or any part of the land, either exclusively or concurrently with the Commission; or

(ii) any other interest in or right to use that land or any part of that land.

(2a) Where a lease, licence or other interest or right granted in relation to land under subsection (2) is stated in that grant as being by way of consideration for the acquisition of the land, or an estate or interest in the land, by the Commission the grant shall not be revoked without compensation unless the parties otherwise agree. ”;

(b) in subsection (3), by deleting “subsection (2)” in paragraph (b) and substituting the following—

“ subsection (2a) ”; and

(c) by adding the subsection following—

“ (4) The Minister may in writing direct that in relation to—

(a) any specific class of land or estate or interest in land vested in the Commission; or

(b) any specific class of lease, licence, interest or right under this section granted by the Commission,

and referred to in that direction, his approval shall be deemed to have been given to the exercise of the powers conferred by subsection (2) on the Commission. ”.

Section 40 amended

19. Section 40 of the principal Act is amended in subsection (1) by deleting “and no longer required for such purposes.” and substituting the following—

“ where—

- (a) that land, or that estate or interest, is no longer required for such purposes; or
- (b) that estate or interest is of a kind not considered by the Commission to be necessary or appropriate for a particular purpose, notwithstanding that the land, or an estate or interest in the land, is required for such purposes. ”.

Section 42 amended

20. Section 42 of the principal Act is amended—

- (a) in subsection (1), by deleting “Part III of the Rights in Water and Irrigation Act, 1914, or the provisions of the Metropolitan Water Supply, Sewerage and Drainage Act, 1909, apply” and substituting the following—

“ the *Water Authority Act 1984* or a relevant Act within the meaning of that Act applies ”;

and

- (b) in subsection (2)—
 - (i) in paragraph (a), by inserting before “irrigation” the following—

“ the Authority or any statutory authority within the meaning of the *Water Authority Act 1984*, ”; and
 - (ii) in paragraph (b), by deleting “or the Water Boards Act, 1904”.

Section 45 amended

21. Section 45 of the principal Act is amended—

- (a) in subsection (2), by deleting “only”;
- (b) in subsection (3), by deleting “only”;
- (c) in subsection (4), by inserting before “required” the following—
“ , except where the land is land to which subsection (15) applies, ”; and

(d) by adding the subsection following—

“ (15) The requirement imposed by subsection (4) does not extend to land which is vested in, or is otherwise occupied or managed by or on behalf of, the Crown in right of the State, a government department, or a local authority. ”.

Section 48 amended

22. Section 48 of the principal Act is amended—

- (a) in subsection (3) by deleting “remove anything left on the land, premises or thing entered and shall make good any damage, or effect restoration, rehabilitation or restitution and section 120 shall have effect” and substituting the following—

“ as regards any land, premises or thing entry on or into which was effected for the purposes of this section—

- (a) remove or cause to be removed any machinery, equipment or other thing under the control of the Commission or that person and not necessarily remaining as part of the measures to deal with the emergency; and
- (b) where the emergency arose in relation to a supply system or other matter owned by the Commission or for which the Commission is otherwise responsible, make good any physical damage or effect restoration, rehabilitation or restitution,

and for that purpose the provisions of section 120 shall be construed ”;

and

(b) by adding the subsection following—

“ (4) Where entry is effected on or into any land, premises or thing under this section in respect of an emergency situation arising in relation to a supply system or other matter for which the Commission is not responsible, the Commission may recover as a debt from the person who is responsible for that supply system or other matter the costs of any expenses incurred in dealing with that emergency situation and of making good any physical damage thereby occasioned. ”.

Section 57 amended

23. Section 57 of the principal Act is amended in subsection (1)—

(a) by deleting “supply system of the Commission” and substituting the following—

“ supply system, whether or not a supply system owned by the Commission or for which the Commission is otherwise responsible, by reason of which the ability of the Commission to maintain a supply of energy is, or may reasonably be expected to be, affected (and for the purposes of this section a reference to a supply system shall be taken to extend to any act, matter or thing which affects, or in the opinion of the Commission may affect, the supply of energy or the obtaining or manner of delivery of any energy or energy resource) ”;

and

(b) by deleting “the supply system thereby” and substituting the following—

“ a supply system of the Commission thereby ”.

Section 58 amended

24. (1) Section 58 of the principal Act is amended in subsection (2)—

(a) by inserting after “any supply of energy,” the following—

“ or to effect, maintain or continue any such supply having particular characteristics, qualities or specifications, ”;

(b) by inserting after “any contract or agreement” the following—

“ (except to the extent to which subsection (4) applies) ”;

- (c) by inserting after “in any other case effected” the following—
 - “ from time to time ”;
- (d) by deleting “supply from time to time” and substituting the following—
 - “ a supply of energy, or such a supply having particular characteristics, qualities or specifications ”;
- (e) by deleting “effect or continue such supply” and substituting the following—
 - “ effect, maintain or continue the supply of energy, or a supply having those particular characteristics, qualities or specifications, ”;
- (f) by deleting “liable for” and substituting the following—
 - “ required to pay compensation for or be liable in respect of ”;
- (g) in paragraph (a), by deleting “, whether of capital or by way of maintenance or otherwise,”;
- (h) in paragraph (c)—
 - (i) by inserting before “cause annoyance” the following—
 - “ interfere with, or adversely affect, any supply system, or ”;
 - (ii) by deleting “interfere with,” and substituting the following—
 - “ or interfere with ”; and
 - (iii) by inserting a comma before “other”;
- (j) by repealing paragraph (d) and substituting the paragraph following—
 - “ (d) relates to any land, premises or thing where—
 - (i) any installation or apparatus provided or installed by any person, or the manner of use of the energy, or any other matter or thing, is not in compliance with a requirement previously made known by the Commission, whether or not a prescribed requirement, applicable thereto; or

- (ii) any service apparatus provided or installed by or belonging to the Commission has been interfered with or has not been maintained in compliance with a requirement previously made known by the Commission, whether or not a prescribed requirement, applicable thereto; ”; and

(k) by repealing paragraph (f) and substituting the paragraph following—

“ (f) is prevented, interrupted, curtailed, reduced or detrimentally affected by reason of any cause other than a negligent act or omission on the part of the Commission or an officer, servant or agent of the Commission. ”.

(2) Section 58 of the principal Act is further amended by adding the subsection following—

“ (4) Where any contract or agreement executed by the Commission under its Common Seal so stipulates effect shall not, or shall to the extent stipulated but not otherwise, be given to subsection (2) (a) in relation to that contract or agreement. ”.

Section 61 amended

25. Section 61 of the principal Act is amended—

(a) in subsection (1), by adding after “require” at the end of the subsection the following—

“ and for the purposes of this section and of all agreements entered into by the Commission pursuant to this section, or section 32A of the *State Electricity Commission Act 1945* as from time to time amended, a reference to maintenance shall be construed as including, and always having included, a reference to the felling, lopping, or removal of, or any other method of dealing with, vegetation growing on any land over, on or in which the works in question pass or are situated for the purpose of safeguarding those works ”;

and

(b) in subsection (2)—

(i) by inserting before “to be” the following—

“ to be secured by security to the satisfaction of the Commission or ”; and

(ii) by deleting “or both” and substituting the following—

“ or by both ”.

Section 64 amended

26. Section 64 of the principal Act is amended by repealing subsection (5).

Section 67 amended

27. Section 67 of the principal Act is amended—

(a) in subsection (1)—

(i) by deleting “has supplied any meter or other device of a kind referred to in section 64” and substituting the following—

“ supplies any energy ”;

(ii) in paragraph (a), by deleting “such meter” and substituting the following—

“ meter relating to that supply ”;

(iii) in paragraphs (a), (b) and (c), by deleting “or device” wherever it appears;

(iv) in paragraph (d), by deleting “unlawfully”;

(v) in paragraph (e), by deleting “by means of a diversion or otherwise,” and substituting the following—

“ by any means ”; and

(vi) in paragraph (e), by deleting “or other device”;

(b) in subsection (2)—

(i) by deleting “may order” and substituting the following—

“ shall order ”;

(ii) by inserting after "such amount" the following—

“ (if any) ”; and

(iii) by deleting "of the offender" and substituting the following—

“ in respect of which the offender is convicted ”;

and

(c) by repealing subsection (4) and substituting the following subsection—

“ (4) Where upon any complaint brought pursuant to subsection (1) in relation to any premises or any part of those premises it is shown—

(a) that there was present in or about any relevant service apparatus any means enabling, or capable of enabling, any offence alleged in the complaint to be committed; and

(b) that the alleged offender is the person liable to the Commission for the payment of the charges relating to those premises or that part of those premises,

an inference exists that the offence was committed and that the offence was committed by the alleged offender, but the alleged offender shall be at liberty to show that the inference in the particular circumstances should not be so drawn, and in considering the weight to be given to the evidence the Court shall regard such an inference as raising a presumption of law. ”.

Section 67A inserted

28. After section 67 of the principal Act the following section is inserted—

“ **Liability for charges, and damage to apparatus**

67A. (1) For the purposes of this section, unless the name of the occupier of the premises or of the relevant part of the premises has been notified to the Commission, the person who is liable under this Act to pay the charges for the supply of energy to the premises or that part of the premises (as the case may be) or, if there be no such person, then the owner of the premises, shall be deemed to be their occupier.

(2) Where any service apparatus the property of the Commission is placed on any premises, or on any part of any premises, in connection with the supply of energy to those premises, it remains the property of the Commission and the occupier of those premises or that part of those premises shall be liable to the Commission in respect of any damage to that service apparatus howsoever caused. ”.

Section 68 amended

29. Section 68 of the principal Act is amended—

(a) by repealing subsection (1) and substituting the following—

“ (1) The Commission may appoint a person to be an inspector for the purposes of this Act if that person is—

(a) an officer or servant of the Commission;

(b) an employee of a party to—

(i) a contract entered into with the Commission; or

(ii) an Agreement to which the State is also a party and which, or the execution of which, is or has been ratified, authorized or approved by an Act,

being a contract or Agreement with respect to the production, manufacture, generation, conversion, requisition, provision, distribution, supply, sale or use of energy;

(c) the holder of qualifications, or has experience, prescribed as required for inspectors of that classification; or

(d) a person who in the opinion of the Commission has special experience or qualifications appropriate to the particular appointment. ”;

and

(b) in subsection (4), by deleting “but subject to his classification” and substituting the following—

“ but unless the classification of an inspector imposes a limitation to the contrary ”.

Section 70 amended

30. Section 70 of the principal Act is amended by inserting after “Commissioner”, wherever it appears, the following—

“ , a Deputy Commissioner or the Secretary ”.

Sections 71 and 72 amended

31. Sections 71 and 72 of the principal Act are respectively amended—

- (a) by inserting after the section designation “71.” the subsection designation “(1)”;
- (b) by deleting the section and subsection designations “72. (1)” and substituting the subsection designation “(2)”;
- (c) by deleting “Penalty: One thousand dollars.”; and
- (d) by repealing subsection (2) of section 72.

Section 72 substituted

32. Subject to section 31, the principal Act is amended by inserting a new section 72 as follows—

“ Secrecy and unauthorised use of information

72. (1) Subject to subsection (11), a person who is or has at any time been—

- (a) appointed as—
 - (i) a member of the Commission;
 - (ii) a member of a committee appointed by the Commission; or
 - (iii) a member of a committee or body of persons established by the Minister in respect of energy related matters;
- (b) engaged as an officer or servant of the Commission; or
- (c) authorised under this Act, or any other Act administered by the Commission, to perform or exercise any function or power of the Commission or any function or power on behalf of the Commission,

shall not make a record of, or divulge to any other person either directly or indirectly, any information acquired by him or to which he has gained access by reason of having been so appointed, engaged or authorised, except for the purpose of, and to the extent necessary for, the performance of official duties or the performance or exercise of a function or power of the kind referred to in paragraph (c), or where, in the case of information to which section 70 applies, the prior permission of the Minister or of the person owning or operating the business to which that information relates has been obtained, and shall not make use of any such information (whether or not section 70 applies) for any purpose other than the performance of official duties or the performance or exercise of the function or power.

Penalty: (a) in the case of information to which section 70 applies \$2 000, or imprisonment for 12 months, or both such fine and imprisonment; and

(b) in any other case \$1 000.

(2) A person who—

- (a) is a person to whom subsection (1) applies;
- (b) carries on, or has at any time carried on, in common with the Commission or on behalf of the Commission any venture, enterprise or investigation;
- (c) acts, or has at any time acted, in a professional capacity for, or in a business relationship with, or as agent of, the Commission; or
- (d) is, or has at any time been an officer or employee of, or otherwise associated with or under the control of, a person to whom or which this subsection refers, or acts or acted on behalf of such a person in relation to any matter relating to the affairs of the Commission,

shall not, unless subsection (11) applies, divulge either directly or indirectly, whether in the State or elsewhere—

- (e) to any person; or
- (f) in, or for the purposes of, any proceedings or matter before any court,

any information of a kind to which subsection (5) refers.

Penalty: \$5 000, or imprisonment for 2 years, or both.

(3) Where a person of a kind to whom or which subsection (2) refers divulges to another person for the purposes of this Act information of a kind to which subsection (5) refers that other person and any employee or person associated with or under the control of that other person, if not a person of a kind to whom or which subsection (2) refers, shall be deemed, in relation to that information, also to be a person to whom subsection (2) applies.

(4) Information of a kind to which subsection (5) refers—

- (a) shall be deemed to be property, held in trust by the Commission on behalf of the Crown in right of the State;
- (b) in the public interest, is required to be dealt with by a person who obtains access to it as property held in trust for the Commission; and
- (c) shall not be divulged by any person who obtains access to it otherwise than in accordance with the public interest,

and in relation to such information any question as to what constitutes the public interest shall be determined by the Commission.

(5) The information to which this subsection refers is any information regarding energy (from whatever source that energy is or is to be derived) being energy which is or is to be obtained, supplied, distributed or utilised by the Commission whether in the State or elsewhere, in so far as that information relates to—

- (a) the source, cost or selling price of the energy which was, is or is to be sold to or supplied by the Commission;
- (b) the obligations of the Commission, or of any person dealing with the Commission, as to any matter to which paragraph (a) refers, under any former, existing or future contract or agreement to which the Commission was, is or proposes to be a party and which relates to a dealing in, or the production or consumption of, a quantity of energy in excess of 10 terajoules (or, if the contract or agreement relates to a period of more than 12 months, in excess of a rate of 10 terajoules in any 12 month period);

or

- (c) any negotiations relating to any such matter,

being information obtained from, or in the course of any association with, the Commission or a person to whom or which subsection (2) applies or is deemed to apply.

(6) Where a contravention of this section committed by a body corporate is proved—

- (a) to have been committed with the consent or connivance of; or
- (b) to be attributable to any failure to take all reasonable steps to secure compliance by the body corporate with this section on the part of,

any director, manager, executive officer, secretary or other person concerned in the management of the body corporate, or any person purporting to act in any such capacity, that person as well as the body corporate shall be guilty of that offence and is liable to be proceeded against and punished accordingly.

(7) Where, on the application of the Commission, it appears to the Court that a person—

- (a) has committed an offence under this section; or
- (b) is about to do an act that, if done in the State, would be such an offence,

the Court may make such order or orders as it thinks fit for the purpose of securing compliance with this section, including an order directing a person to do or refrain from doing a specified act, and any ancillary order deemed to be desirable in consequence.

(8) Where an application is made to the Court for an order under subsection (7), the Court may, if in the opinion of the Court it is desirable to do so, before considering the application, grant an interim order, being an order of the kind applied for that is expressed to have effect pending the determination of the application.

(9) The Court may rescind, vary or discharge an order made under subsection (7) or (8) or suspend the operation of such an order.

(10) The Court may, before making an order under subsection (7), direct that notice of the application be given to such persons as the Court thinks fit or direct that notice of the application be published in such manner as the Court thinks fit, or both, and in the case of an application for an interim order under subsection (8) may dispense with any requirement for the giving of notice.

(11) Nothing in this section precludes a person from—

- (a) producing a document to a court in the course of—
 - (i) criminal proceedings;
 - (ii) proceedings under this Act or any other Act administered by the Commission a prescribed Act or a prescribed Commonwealth Act; or
 - (iii) proceedings to enforce, or arising out of, any contract or agreement to which subsection (5) (b) or any Agreement to which section 5 (1) (b) applies;
- (b) divulging to a court in the course of any proceedings referred to in paragraph (a) any information coming under his notice in the performance of his official duties, or the performance of a function or the exercise of a power, under this Act or any other Act administered by the Commission or a prescribed Act;
- (c) producing a document or divulging information to a person where—
 - (i) it is, in the opinion of the Commission, in the public interest that the document be produced or the information be divulged; or
 - (ii) the Minister so requires;
- (d) producing a document or divulging information that is required by any other Act to be so produced or divulged; or
- (e) producing a document, or divulging information, that is relevant to those proceedings in any industrial tribunal established under an Act or Commonwealth Act.

(12) In this section—

“information” includes any record relating to information;

“record” includes any document, accounts or accounting records and any other method of compiling information however prepared, recorded or stored;

“to divulge” includes to communicate by any means whatsoever, or to produce or furnish any record, or any copy of or extract from a record;

“to produce” includes to permit access to, obtain for or make available,
and a reference—

(a) to “the Court” means the Supreme Court;

but

(b) to “a court” includes any tribunal, authority, or arbitrator, and any person who may receive or require the giving of evidence or the production of documents or other records,

and cognate expressions shall be construed in accordance with the expressions defined. ”.

Section 75 amended

33. Section 75 of the principal Act is amended in subsection (1)—

(a) by deleting “or” after paragraph (b);

(b) in paragraph (c), by deleting “Commission,” and substituting the following—

“ Commission; ”; and

(c) by adding after paragraph (c) the paragraphs following—

“ (d) removes, defaces, damages, alters or interferes with any notice, sign, order or written instruction attached by or with the authority of the Commission to any undertaking, works or thing the property of or under the control or management of the Commission or to any service apparatus or consumer installation; or

(e) without the approval in writing of the Commission affixes any poster, sign, advertisement or notice to any undertaking, works or thing the property of or under the control or management of the Commission or makes any inscription, drawing or mark thereon, ”.

Section 86 amended

34. Section 86 of the principal Act is amended by inserting after subsection (2) the subsection following—

“ (2a) Where the affairs of a body corporate are managed by its members, subsection (2) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate. ”.

Section 88 amended

35. Section 88 of the principal Act is amended in subsection (1) by inserting after "signed by" the following—

" , or to bear the facsimile signature of, ".

Section 102 amended

36. Section 102 of the principal Act is amended in subsection (1) by inserting after "of the use by" the following—

" the Minister or by ".

Section 106 amended

37. Section 106 of the principal Act is amended in subsection (1) by inserting before "and any sums received" the following—

" which is accordingly appropriated to the extent required for the purposes of this subsection ".

Section 120 amended

38. Section 120 of the principal Act is amended by inserting after "except where" the following—

" a power under section 48 is exercised in respect of an emergency in relation to a supply system or other matter which is not owned by the Commission and for which the Commission is not otherwise responsible or unless ".

Section 121 amended

39. Section 121 of the principal Act is amended, in subsection (1), by deleting the passage after "Commission" where it secondly appears, to the end of the section and substituting the following—

" unless it is attributable to negligence on the part of the Commission, or any officer, servant or agent of the Commission. ".

Section 123 amended

40. Section 123 of the principal Act is amended by adding the subsection following—

“ (3) For the purposes of any law, relating to trade practices or otherwise, provisions of—

(a) contracts or agreements to which the Commission is, or proposes to become, a party, whether for the purpose of obtaining or of furnishing a supply of energy; or

(b) tariffs, including particular charges or charges made pursuant to by-laws,

may be specially authorised or approved by regulations made under this section. ”.

Section 124 amended

41. (1) Section 124 of the principal Act is amended, in subsection (4)—

(a) by inserting, after subparagraph (i) of paragraph (d), the subparagraph following—

“ (ia) any formula, index or other base to be used for the purposes of calculating or ascertaining any fee or charge that is to apply to or in relation to a service provided by the Commission or a supply of electricity, gas or any other form of energy; ”; and

(b) in paragraph (m), by adding after “Commission” the following—

“ , providing for frequency control voltages to be imposed on normal supply voltage and prohibiting the use of frequency control voltages within prescribed limits otherwise than by the Commission ”.

(2) Section 124 of the principal Act is further amended by adding the subsection following—

“ (5) Subject to the by-laws regulating or specifying standards of supply and standards of service, the Commission may, by notice in the *Government Gazette* including any necessary diagrams, from time to time declare—

(a) the system pressure and frequency, or both, at which the Commission operates or proposes to operate its electricity supply systems or any of them;

- (b) the point or points in a supply system where pressure or frequency values, or both, are measured; and
- (c) the system or systems of earthing utilised in respect of the Commission's supply systems or any of them or of consumer installations,

and where the Commission has made a declaration under paragraph (b) the Commission shall for so long as that declaration has effect at all times maintain the system pressure at that declared point within the limits of plus or minus 6% of the declared pressure and the frequency at that declared point within the limits of plus or minus 2½% of the declared frequency. ”.

Further amendments relating to consequential changes

42. The principal Act is amended as set out in the Schedule.

SCHEDULE

s. 42.

<i>Provision</i>	<i>Amendment</i>
Section 8(2) and 8(3)	Delete “the Deputy Commissioner”, substitute “ a Deputy Commissioner ”.
Section 56(2)	Delete “Penalty: Five hundred dollars.”.
Section 56(8)	Delete “Penalty: Two hundred dollars.”.
Section 57(10)	Delete “Penalty: Five hundred dollars.”, substitute— “ Penalty: (a) in the case of a natural person \$1 000; and (b) in the case of a body corporate \$10 000. ”.
Section 67(1)	Delete “Penalty: For a first offence, \$500; for a second offence, \$1 000 or imprisonment for 6 months, or both such fine and imprisonment; for a third or subsequent offence, \$2 000 or imprisonment for 12 months, or both such fine and imprisonment.”, substitute— “ Penalty: (a) in the case of a natural person \$2 000 or imprisonment for 6 months, or both such fine and imprisonment; and (b) in the case of a body corporate \$10 000. ”.

SCHEDULE—*continued*

<i>Provision</i>	<i>Amendment</i>
Section 71(b)	Delete “, the Council”.
Section 73(1)	Delete “or the Council”, wherever it appears.
Section 73(6)	Delete “or the Council” and “, or the Council”, wherever it appears.
Section 75(1) and 75(2)	Delete “five hundred dollars”, substitute “ \$2 000 ”.
Section 75(4)	Delete “two hundred dollars”, substitute “ \$2 000 ”.
Section 76	Delete “two hundred dollars”, substitute “ \$2 000 ”.
Section 79(1)	Delete “two hundred dollars”, substitute “ \$2 000 ”.
Section 81	Delete “one hundred dollars”, substitute “ \$1 000 ”.
Section 87(1)(e)	Delete “the Deputy Commissioner”, substitute “ a Deputy Commissioner ”.
Section 88(1)	Delete “the Deputy Commissioner”, substitute “ a Deputy Commissioner ”.
Section 94(2)	Delete “Fifty dollars”, substitute “ \$500 ”.
Section 122	Delete “or the Council”, wherever it appears.
Section 123(1)	Delete “or the Council”.
Section 123(2)	Delete “two hundred dollars”, substitute “ \$2 000 ”.
Section 124(3)	Delete “one hundred dollars”, substitute “ \$2 000 ”.