

FUEL, ENERGY AND POWER RESOURCES.

No. 56 of 1972.

AN ACT to make provision for the conservation and utilisation of the present and future sources and supplies of fuel, energy, and power in and to Western Australia, the establishment and functions of the Fuel and Power Commission of Western Australia and the Fuel and Power Advisory Council, and for purposes connected therewith.

[Assented to 13th October, 1972.]

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

1. This Act may be cited as the *Fuel, Energy and Power Resources Act, 1972.* Short title.

Commence-
ment.

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

Crown
bound.

3. This Act binds the Crown.

Interpre-
tation.

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

“Commission” means the Fuel and Power Commission of Western Australia established under section 6;

“Commission member” means a member of the Commission;

“Commissioner” means the Commissioner for Fuel and Power appointed under section 13;

“Council” means the Fuel and Power Advisory Council established under section 19;

“Council member” means a member of the Council;

“nominating body” means a body to which the provisions of section 21 apply;

“permanent member” means a member of the Council appointed under section 21;

“representative member” means a member of the Council appointed under section 22;

“section” means section of this Act.

Administra-
tion of fuel
and power
legislation.

5. (1) The administration of this Act shall be vested in a responsible Minister of the Crown and, subject to the Minister, shall be carried out by the Commission.

(2) Notwithstanding the provisions of any other Act, the administration of the Acts specified in the First Schedule to this Act shall be placed under the control of the Minister for the time being responsible for the administration of this Act.

The Fuel
and Power
Commission
of W.A.

6. (1) For the purpose of carrying this Act into effect there shall be a commission constituted under the name of the Fuel and Power Commission of Western Australia.

(2) In the discharge of its duties and in the execution of its powers and functions the Commission shall—

(a) on matters relevant to this Act, confer and collaborate with—

(i) the State Electricity Commission;

(ii) the departments of the Public Service of the State and in particular those departments having to do with development and decentralisation, mining and environmental protection;

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

(iv) the Council;

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

(c) be subject to the Minister.

(3) Subject to this Act, the provisions contained in the Second Schedule to this Act have effect in relation to the Commission.

(4) The Commission—

(a) shall be a body corporate with perpetual succession and an official seal;

(b) may, in its corporate name, acquire, hold and dispose of real and personal property;

(c) shall be capable of suing and being sued in its corporate name.

**Duty of the
Commission.****7. (1) It is the duty of the Commission—**

- (a) to investigate and evaluate the means by which the present and future sources and supplies of fuel, energy, and power in and to the State can be conserved and utilised to the best advantage of the people of Western Australia;
- (b) to assist and advise, and make recommendations to the Minister, irrespective of whether the matter has been referred to the Commission for its advice, in respect to matters relevant to this Act including questions as to policy and the means by which it is to be achieved;
- (c) to undertake negotiations and otherwise to implement the policy determined by the Minister in relation to fuel, energy and power matters; and
- (d) to promote, and with the approval of the Minister, to co-ordinate the development and use of the sources and the supplies of fuel, energy, and power in and to the State.

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

**Functions of
Commission.****8. The functions of the Commission are—**

- (a) to carry out investigations to determine the demand for fuel and power in the State and the capacity of the State to meet those demands whether from internal resources or otherwise;
- (b) to institute or promote inquiries to assess the impact of any present or future lack of fuel or power on the development programme of the State or in any specific case;

- (c) to initiate or promote negotiations, consultations, or other measures to ensure that supplies of suitable fuel and power are available for use in the State in the manner best calculated to further the public interest in all respects;
- (d) to engage in any activities which can, in the opinion of the Minister, advantageously be conducted by the Commission with a view to making the best use of the sources and supply of fuel, energy and power available whether originating in the State or elsewhere and in particular to—
 - (i) conduct and promote relevant research and training;
 - (ii) specify for the purposes of this Act such standards, criteria, or methods of testing as may be necessary where no appropriate specification has been established in any industry by the Standards Association of Australia or other body generally recognised within that industry;
 - (iii) undertake investigations, inspections and prosecutions;
 - (iv) publish reports and provide information for the purpose of increasing public awareness of the problems and remedies that exist in relation to the use of fuel and power; and
 - (v) promote, encourage, co-ordinate and carry out short term and long term planning and projects for the purposes of this Act;
- (e) to keep under review the progress made in the attainment of the objects and purposes of this Act; and
- (f) generally, to administer and give effect to the provisions of this Act.

Powers
of the
Commission.

9. (1) The Commission has all such powers, rights and privileges as may be reasonably necessary to enable it to carry out its duties and functions.

(2) For the purposes of this Act, the Commission may, with the consent of the Minister of the Crown having responsibility for the administration of the Act relating to a department of the Public Service of the State or an instrumentality or agency of the Crown, make use of the services of any officer of that department, instrumentality or agency, or request the secondment of any such person, upon such terms as may be agreed between that Minister and the Commission.

(3) Where the services of any person are co-opted or a person is seconded under the provisions of this section, it does not prejudice that person's existing or accruing rights under the Public Service Act, 1904, or under any other Act applying to him as a public servant, and his service with the Commission under this Act shall be regarded as service in the Public Service of the State for the purposes of determining those rights.

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

(5) There shall be appointed under and subject to the Public Service Act, 1904, such officers as are necessary to assist the Commission in carrying out its functions under this Act.

(6) The Commission may enter into arrangements with—

- (a) a Minister of the Crown of any State of the Commonwealth, a Minister of State of the Commonwealth, a department or an instrumentality of the Commonwealth or any State of the Commonwealth; or

(b) a university or other tertiary institution;
or

(c) any other body or person,

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

10. (1) A person engaged under the provisions of subsection (4) of section 9 is not a person appointed under the Public Service Act, 1904, and subject to this Act and to any award or agreement in force under the Industrial Arbitration Act, 1912, the Commission may effect, suspend, and terminate the engagement subject to such terms and conditions as the Commission thinks fit.

*Terms of
service.*

(2) Where a person so engaged was, immediately prior to his engagement, in the service of a department of the Public Service of the State he retains any rights that may have accrued to him under the Act pursuant to which he was then serving and, in particular, his rights, if any, under the Superannuation and Family Benefits Act, 1938.

(3) A person so engaged may be appointed at such salary and other remuneration, travelling allowance and leave entitlement as may be determined by the Public Service Board established under the Public Service Act, 1904.

11. (1) The Commission shall request the Minister to whom the administration of the Superannuation and Family Benefits Act, 1938, is committed to recommend that the Commission be included as a corporate body in the term "department" for the purposes of that Act, and the Treasurer may, on such recommendation and upon the Commission complying with the requirements of that Act, approve of the Commission as, and the Commission shall thereupon be deemed to be, a department for the purposes of that Act.

*Super-
annuation.*

(2) A member of the staff or other employee of the Commission is not obliged to become a contributor under the Superannuation and Family Benefits Act, 1938.

Power
of the
Commission
to borrow.

12. (1) If at any time the funds of the Commission are not sufficient for the purposes of this Act, the Commission may with the approval of the Governor borrow from the Treasurer of the State moneys for those purposes, and where moneys are borrowed under this subsection advances may be made by the Treasurer to the Commission out of moneys appropriated by Parliament for those purposes.

(2) The Commission shall pay to the Treasurer, on moneys borrowed by the Commission from the Treasurer under this section, interest at such rate and at such times as the Governor determines.

(3) Any moneys borrowed and the interest payable under this section are a charge upon the assets of the Commission.

Commis-
sioner for
Fuel and
Power.

13. (1) A person shall be appointed to the office of Commissioner for Fuel and Power.

(2) The Commissioner may be appointed—

- (a) by the Governor for a term not exceeding seven years; or
- (b) under and subject to the Public Service Act, 1904.

(3) Where the Commissioner is appointed by the Governor for a term of years—

- (a) the conditions of service of the Commissioner shall be such as the Governor determines;
- (b) the Commissioner shall be paid such remuneration and allowances as the Governor may, from time to time, determine;

- (c) the Commissioner may be re-appointed, from time to time at the expiration of the term, unless he has previously been removed from office by the Governor under paragraph (d) of this subsection;
- (d) the Commissioner may, at any time, be removed from office by the Governor for disability, bankruptcy, neglect of duty or misconduct, or if, without the consent of the Governor, he engages in any other remunerative employment;
- (e) subject to the provisions of his conditions of service, the Commissioner may at any time resign his office by writing under his hand addressed to the Governor.

14. (1) The Fuel and Power Commission of Western Australia shall consist of the Commissioner and three other members appointed by the Governor, of whom—

Members
of the
Fuel and
Power
Commission.

- (a) one shall be representative of the State Electricity Commission;
- (b) one shall be representative of the department of the Public Service known as the Department of Development and Decentralisation; and
- (c) one shall be a representative of the department of the Public Service known as the Department of Mines.

(2) A member of the Commission appointed by the Governor under subsection (1) of this section shall hold and vacate office in accordance with the provisions of the instrument under which he is appointed.

(3) The Commissioner shall be the Chairman of the Commission and the Governor shall appoint one of the other members of the Commission to be the deputy Chairman of the Commission.

(4) The Governor may appoint a person to be the deputy of a Commission member and may terminate such an appointment at any time and a person so appointed is, in the event of the absence from a meeting of the Commission of the member of whom he is the deputy, entitled to attend that meeting and, when so attending, has all the powers, functions and duties of a member.

(5) A reference in this Act to a Commission member shall be construed as including a reference to a deputy taking the place of that member.

Meetings
of the
Commission.

15. (1) The Commission shall hold meetings at such times and places as it determines, but the Minister or the Commissioner may at any time convene a meeting of the Commission.

(2) At any meeting of the Commission—

- (a) the Commissioner, if present, shall preside and if the Commissioner is not present the deputy Chairman of the Commission shall preside;
- (b) three members constitute a quorum;
- (c) each member may cast a deliberative vote on any question;
- (d) any question shall be decided by a majority of the votes of the members present but a question shall not be decided unless at least two members vote thereon; and
- (e) if the votes are equal, the question shall be decided in the negative.

Committees.

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

17. (1) Where by reason of the specialised nature of the matter, or of the locality in which the matter is to be determined, or for any other cause it is considered expedient that the powers of the Commission should be exercised on its behalf by a person or body other than the Commission, the Commission may, by resolution with the approval of the Minister—

Delegation.

(a) delegate to a member of the Commission or to any person or body specified in the instrument of delegation all or any of its powers and functions under this Act in respect to any particular matter, other than this power of delegation; and

(b) vary or revoke a delegation.

(2) A power or function delegated by the Commission may be exercised or performed by the delegate—

(a) in accordance with the instrument of delegation; and

(b) if the exercise of the power or the performance of the function in relation to a matter is dependent upon the opinion, belief or state of mind of the Commission—upon the opinion, belief, or state of mind of the delegate in relation to that matter.

(3) A delegation under this section does not prevent the exercise of a power or the performance of a function by the Commission.

18. (1) The Commission shall as soon as practicable after the thirtieth day of June in each year make to the Minister a report of the proceedings of the Commission during the year ending on that day, and the Minister shall cause the report to be laid before each House of Parliament within nine sitting days of the House after the receipt of the report by the Minister.

Annual
report,
accounts
and audit.

(2) No particulars relating to any individual business shall be disclosed in the report of the proceedings of the Commission laid before Parliament.

(3) The Commission shall cause to be kept proper records relating to its operations in such manner and form as the Treasurer of the State approves.

(4) The Auditor General has, in respect of the accounts of the Commission, all powers conferred on him by any law for the time being in force relating to the audit of public accounts.

**Advisory
Council.**

19. (1) For the purposes of this Act there shall be a council to be known as the Fuel and Power Advisory Council.

(2) The Council consists of—

- (a) the Commissioner or other person nominated to preside in accordance with the provisions of section 26;
- (b) permanent members;
- (c) representative members; and
- (d) co-opted members.

(3) The Council shall hold meetings at such times and places as it determines, but the Minister or the Commissioner may at any time convene a meeting of the Council.

(4) Subject to this Act, the provisions contained in the Second Schedule to this Act have effect in relation to the Council.

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

20. The functions of the Council are—

Functions
of the
Council.

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

21. (1) Each of the bodies following, that is to say— Permanent
members.

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

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

(2) The term of tenure of a permanent member of the Council continues until his nomination as a Council member is withdrawn by the body by which he was nominated or until his appointment is terminated by the Governor.

22. (1) The Minister, after consultation with the Commission and with such bodies or persons as he considers to be representative of the interests Representative
members.

concerned, may make recommendations to the Governor, from time to time, for the appointment to the Council by the Governor of persons to serve as representative members in relation to interests which appear to the Minister to be substantially affected, or likely to be substantially affected, by the operation of this Act.

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

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

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

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

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

Nominations
may be
requested.

(2) Where the Minister considers that an interest should be represented on the Council he may, as the occasion requires by notice in writing require any body representing that interest in any other field of activity, or the nominating body which in the opinion of the Minister is most likely to represent that interest adequately for the purposes of this Act, to submit a panel of not less than three names within the period specified in the notice.

(3) (a) When the Minister considers that the interest of the employees engaged in any industry or commercial activity should be represented on the Council he shall, as the occasion requires, by notice in writing to the Secretary of the body known as the Trades and Labor Council of Western Australia require that body to submit a panel of not less than three names within a period of thirty days after receipt by the Secretary of that notice from which a person shall be selected by the Minister for recommendation to the Governor and appointment to the Council by the Governor as representative of those employees.

(b) If upon the expiration of that period, or such extension of that period as the Minister thinks fit and is hereby authorised to grant, the Minister has not received the required panel of names, the Minister may recommend for appointment such person as he thinks fit.

Resignation.

24. Any member of the Council may resign his office by a written notice given under his hand to, and accepted by, the Minister, and a Council member who resigns from office shall be eligible for re-appointment unless otherwise disqualified.

Deputies.

25. (1) The Governor may, in respect of each member of the Council, appoint a person representative of the same interests as that member to be his deputy and may terminate such an appointment at any time.

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

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

**Meetings
of the
Council.**

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

- (a) the Commissioner, who, if present shall preside; or
- (b) a Commission member nominated in writing by the Commissioner to preside at that meeting; or
- (c) a Council member nominated in writing by the Minister to preside at that meeting; and
- (d) not less than two other persons from amongst—
 - (i) the permanent members;
 - (ii) such of the representative members as, after consultation with the permanent members, the Commissioner in the notice convening the meeting requests to attend that meeting; and
 - (iii) the persons co-opted under section 27.

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

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

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

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

(4) A Commission member, other than the Commission member presiding at the meeting, is not eligible to vote at a meeting of the Council, but may attend any meeting.

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

(6) Each Council member present and eligible to vote, and the Commission member presiding at the meeting, may cast a deliberative vote on any question and the question shall be decided by the majority, but if the votes are equal the question shall be taken to have been decided in the negative.

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

Co-opted
members.

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

28. (1) Subject to subsection (2) of this section—

Remunera-
tion, etc.

- (a) a Commission member, other than the Commissioner;

- (b) a Council member;
- (c) a person appointed by the Minister to act in the place of a Commission member, or a Council member, while his appointment subsists;
- (d) a person appointed as a member of a committee under section 16,

shall be paid such remuneration and allowances as the Minister from time to time determines.

(2) The Minister shall not determine the remuneration and allowances to be paid to a person to whom the Public Service Act, 1904, applies except with the prior approval, in writing, of the Chairman of the Public Service Board.

Liability.

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

Disclosure
of information.

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

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

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

Secrecy.

- (a) with the consent of the person carrying on or operating the business;
- (b) in connection with the execution of this Act and with the prior permission of the Minister; or
- (c) subject to the provisions of subsection (3) of section 35, for the purposes of any legal proceedings arising out of this Act or of any report of such proceedings,

guilty of an offence against this Act.

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

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

Information
to be
furnished.

33. The Commissioner, by notice in writing served on the occupier of any premises, may require the occupier to furnish to the Commission within

Occupier
of premises
to furnish
information.

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

Offences
as to
information.

34. A person who, when required to give any information to the Commission under section 32 or section 33 knowingly makes any false or misleading statement in relation thereto, or in relation to any investigation or inquiry made in accordance with the provisions of either of those sections, commits an offence against this Act.

Penalty: One thousand dollars.

Persons
obstructing
execution
of this Act.

35. (1) A person who wilfully obstructs any person acting in the execution of this Act commits an offence against this Act.

Penalty: Two hundred dollars.

(2) A person who fails to give to any person acting in the execution of this Act any assistance which that person may reasonably request him to give, or any information which that person is expressly authorized by this Act to call for or may reasonably require, or who, when required to give any such information, knowingly makes any false or misleading statement in relation thereto, shall be treated as having wilfully obstructed that person.

(3) Any statement made pursuant to any requirement made pursuant to this section, shall not, if the person making the statement objected, at the time of making it, to doing so on the ground that it might tend to incriminate him, be admissible in evidence in any prosecution against the person for any offence not being the offence of contravening or failing to comply with the provisions of this section.

Vicarious
liability.

36. (1) Where an offence under this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the

part of, any director, manager, secretary or other similar officer, of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

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

37. In any proceedings before Justices under this Act any officer of the Commission appointed by the Commissioner in writing under his hand may represent the Commission in all respects.

Officer may
represent
Commission.

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

Trade
secrets.

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

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

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

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

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

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

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

39. Any question, difference or dispute arising or about to arise between the Commission and any department of the Public Service of the State, or any instrumentality of the government of the State with respect to the exercise of any rights, powers or authority or the discharge of any duty by either or both of them may be finally and conclusively determined by the Governor.

Disputes with governmental bodies.

40. (1) The Governor may make regulations for or with respect to any matter or thing which is required or permitted for the proper administration of this Act or for achieving the objects and purposes of this Act.

Regulations.

(2) The regulations may prescribe penalties, not exceeding a fine of two hundred dollars in respect of a breach of any of the regulations.

(3) The regulations may require that any information, account, document or form required to be given or furnished thereunder shall be verified by statutory declaration.

FIRST SCHEDULE.

S. 5 (2).

Electricity Act, 1945.

State Electricity Commission Act, 1945.

Liquid Petroleum Gas Act, 1956.

Gas Standards Act, 1972.

Gas Undertakings Act, 1947.

SECOND SCHEDULE.

ss. 6 (3) and 19 (4).

Provisions common to the Commission and to the Council.

1. (1) Where—

Vacancies, etc.

- (a) any member is absent or is temporarily incapable of fulfilling his duties as a member; or
- (b) the office of a member is vacant and is not filled in accordance with this Act,

the Minister may appoint a person to act in the place of that member during that absence or incapacity, or until the vacancy is filled, as the case requires, and any person so appointed has, while his appointment subsists, all the powers, functions and duties of a member.

(2) Subject to the requirement that a quorum be present at any meeting, the performance or exercise of any function, power, right, authority, duty or obligation shall not be affected by reason only of there being a vacancy in the office of a member.

Proceedings. 2. (1) Subject to this Act, and to any direction which may be given by the Minister, the proceedings may be regulated in such manner as the members think fit.

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

Disqualifi-
cation.

3. If a member other than the Commissioner—

- (a) is an incapable person within the meaning of section five of the Mental Health Act, 1962;
- (b) is a discharged bankrupt or person whose property is subject to an order or arrangement under the laws relating to bankruptcy;
- (c) is convicted of an indictable offence; or
- (d) has his appointment terminated by the Governor for inability, inefficiency or misbehaviour,

his office becomes vacant and he is not eligible for re-appointment.

Validity of
proceedings.

4. All acts done at any meeting shall, notwithstanding it is afterwards discovered that there was some defect in the appointment or qualification of a person purporting to be a member, be as valid as if that defect had not existed.

Disputes.

5. In all cases of dispute, doubt or difficulty respecting or arising out of matters of procedure or order, or as to the determination of an interest, the decision of the member presiding is final.

Disclosure
of interest.

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