

TASMANIA.

THE HYDRO-ELECTRIC COMMISSION
ACT 1944.

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1944.

ANNO OCTAVO ET NONO

GEORGH VI. REGIS.

No. 22.



AN ACT to consolidate and amend the Law relating to the Constitution, Powers, and Functions of the Hydro-Electric Commission. [14 December, 1944.]

A.D.
1944
—

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

PART I.

PRELIMINARY.

1—(1) This Act may be cited as the *Hydro-Electric Commission Act 1944*.

Short title
and read al

(2) The Acts specified in the first schedule are repealed.

(3) The repeal of the Acts so specified shall not affect the constitution of the Commission or any of the rights, obligations, or liabilities of the Commission.

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Interpre-
tation.20 Geo. V.
No. 83, s. 3.**2** In this Act, unless the contrary intention appears—

- “appliance” means a consuming device, other than a lamp, in which electrical energy is converted into some other form of energy;
- “Associate Commissioner” means an Associate Commissioner of the Hydro-Electric Commission;
- “Commission” means the Hydro-Electric Commission;
- “Crown land” means land vested in the Crown which is not dedicated to some public use, and includes land vested in the Crown which is held or occupied for pastoral, mining, or other purposes under any lease or licence issued or applied for in pursuance of any Act, other than the *Closer Settlement Act 1929**, but does not include land contracted to be sold by the Crown to any person;
- “council” means the council of any city or municipality;
- “easement” includes a licence or other right in the nature of an easement;
- “electric line” includes all means used for the purpose of conveying, transmitting, transforming, or distributing electricity, and any casing, coating, covering tube, tunnel, pipe, standard, frame, bracket, or insulator enclosing, surrounding, or supporting the same or any part thereof, or any apparatus connected therewith;
- “electrical energy” means electricity however produced;
- “electrical work” includes all operations in, or in connection with, the installation or the repairing, alteration, or removal of any electric line, electrical machinery, or apparatus or appliance used for, or in connection with, any supply of electricity;
- “hydro-electric works” or “the hydro-electric works” means all works vested in or acquired or constructed by the Commission, and all real and personal property used for the purposes of those works or in connection therewith;
- “new power development” includes any works connected with the design, erection, construction, and provision of works for the generation of electricity;
- “private purposes” means any purposes other than public purposes to which electricity may be applied;
- “public purposes” or “public works” includes all electrical and other work for the purposes of, or in connection with, the lighting of streets, or the supply of electrical energy to city and municipal tram services, or to governmental or semi-governmental works and authorities, but does not include the supply of electrical energy to private consumers;

* 20 Geo. V. No. 77, as amended by 21 Geo. V. No. 54, 22 Geo. V. No. 57, 24 Geo. V. No. 54, 1 Edw. VIII. No. 8, 1 Edw. VIII. No. 27, 1 Geo. VI. No. 71, 2 Geo. VI. No. 52, 3 & 4 Geo. VI. No. 64, 4 Geo. VI. No. 35, 4 Geo. VI. No. 60, and by Statute Law Revision. (See Reprint of Statutes, Vol. I., page 435.)

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- “road or street” means any tramway, public and common highway, road, bridge, culvert, footway, square, court, alley, lane, thoroughfare, or public way or passage; A.D. 1944.
- “standard” means any pole, pillar, tower, erection, or other contrivance above the ground constructed for the purpose of carrying, supporting, or suspending any cable, wire, or conductor, used for or in connection with the transmitting, distributing, or supplying of electrical energy;
- “the Commissioner” means the Commissioner of the Hydro-Electric Commission, and “Commissioner”, when not immediately preceded by the definite article, includes the Commissioner and an Associate Commissioner;
- “wayleave contract” means any contract or agreement made or entered into, whether before or after the commencement of this Act, in connection with any wayleave easement;
- “wayleave easement” means any easement for or in connection with—
- (a) the erection upon any land of any standard or line of standards for the suspension thereon; or
 - (b) the laying on or below the surface of any land,

of any cable, wire, conductor, or apparatus for the transmission or distribution of electrical energy, or for telephonic communication, and includes any easement in connection with the cutting, constructing, or laying through or upon any land of any canal, race, aqueduct, fluming, line of pipes, or other works for the passage of water, or the entry upon any land for the construction, operation, and maintenance thereof;
- “works” includes any aqueduct, building, structure, tramway, canal, channel, dam, fluming, line of pipes, race, weir, conduit, conductor, meter, standard, wire, engine, machinery, plant, or other appliance, apparatus, or construction of any kind whatsoever vested in or erected, constructed, or acquired by the Commission for the purposes of or in connection with the generation, reception, transmission, distribution, use, supply, or sale of electricity, or for any other purpose under this Act, or which is proposed to be erected, constructed, or acquired by the Commission for those purposes, or is required for or incidental to those purposes, and also includes any natural features of the country used by the Commission in connection with the generation, transmission, or distribution of electricity for the purposes of this Act.

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PART II.

THE HYDRO-ELECTRIC COMMISSION.

The Hydro-
Electric
Commission.
Sections
4 and 5.

3—(1) For the purposes of this Act there shall be a Commission, called the Hydro-Electric Commission, which shall consist of three persons appointed by the Governor, of whom one shall be appointed and be known as the Commissioner of the Hydro-Electric Commission, and two shall be appointed and be known as the Associate Commissioners of the Hydro-Electric Commission.

(2) The Commission constituted and appointed under the *Hydro-Electric Commission Act 1929** shall, subject to this Act, continue as, and shall be, the Commission for the purposes of this Act.

(3) Each member of the Commission shall hold office, subject to this Act, for the term for which he was so appointed, and may be re-appointed under the provisions of this Act.

Incorporation of
Commission.
Section 4.

4—(1) The Commission shall be a body corporate having perpetual succession and a common seal and shall be capable of suing and being sued by its corporate name, and of purchasing, taking, holding, selling, leasing, exchanging, and disposing of real and personal property for the purposes of and subject to this Act.

(2) The secretary to the Commission shall be the public officer of the Commission.

Tenure of
office of
Commissioners.
Sections
6, 8, and 9.

5—(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) A Commissioner may be re-appointed for a further term not exceeding five years.

(4) The Governor may at any time accept the resignation of a Commissioner.

(5) A Commissioner shall not, in respect of his office as such, be subject to the provisions of the *Public Service Act 1923*†.

(6) The Commissioner shall devote the whole of his time to the performance of the duties of his office, but shall be entitled to such leave of absence as may be prescribed.

(7) Each of the Associate Commissioners shall devote to the performance of the duties of his office such part of his time as shall be set out in the instrument of his appointment.

* 20 Geo. V. No. 83, as amended by 21 Geo. V. No. 53, 26 Geo. V. No. 73, 1 Geo. VI. No. 4, 1 Geo. VI. No. 67, 2 Geo. VI. No. 21, 3 & 4 Geo. VI. No. 65, 5 Geo. VI. No. 8, 5 Geo. VI. No. 55, 7 & 8 Geo. VI. No. 95, and by Statute Law Revision. (See Reprint of Statutes, Vol. III., page 669.)

† 13 Geo. V. No. 25, as amended by 18 Geo. V. No. 18, 26 Geo. V. No. 61, 2 Geo. VI. No. 29, 4 Geo. VI. No. 18, 5 Geo. VI. No. 6, 5 Geo. VI. No. 64, 6 Geo. VI. No. 9, 6 Geo. VI. No. 54, 7 Geo. VI. No. 18, 7 & 8 Geo. VI. No. 104, and by Statute Law Revision. (See Reprint of Statutes, Vol. VI., page 261.)

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6—(1) The Commissioner shall receive, by way of salary, A.D. 1944. such yearly sum as the Governor may determine, and the salary of the Commissioner shall not, without the Commissioner's consent, be reduced during the period for which he is appointed.

Remuneration of Commissioners.
Section 10.

(2) Each Associate Commissioner shall receive by way of remuneration for his services such fees as the Governor may determine.

7 Every Commissioner shall be entitled to receive such allowances for his travelling expenses as may be prescribed.

Travelling expenses of Commissioners.
Section 11.

8—(1) In the case of a vacancy in the office of the Commissioner, the Governor may appoint one of the Associate Commissioners, or some other person, to act as the Commissioner during such vacancy, or until such appointment is terminated by notice in the *Gazette*.

Appointment of Acting-Commissioner.
Section 13.

(2) Every person so appointed shall, while so acting—

- (a) be termed the Acting-Commissioner;
- (b) have all the powers and perform all the duties of the Commissioner; and
- (c) devote to the performance of those duties the whole or such portion of his time, and receive such remuneration for his services, as shall be set out in the instrument of his appointment.

(3) If an Associate Commissioner is appointed to act as the Commissioner, the Governor may appoint some person to act as the deputy of the Associate Commissioner until the appointment of the deputy is terminated by notice in the *Gazette*, and, while so acting, the deputy shall have all the powers and perform all the duties of an Associate Commissioner, and shall receive such remuneration for his services as the Governor determines.

9—(1) A Commissioner may be suspended from his office by the Governor—

Suspension and removal of Commissioners.
Section 14.

- (a) for misbehaviour, negligence, or incompetence;
- (b) if he becomes bankrupt or applies to take or takes the benefit of any Act relating to bankrupt or insolvent debtors, or compounds with his creditors, or makes an assignment of his salary for their benefit;
- (c) if he becomes incapable of performing his duties;
- (d) if he in any wise participates or claims to be entitled to participate in the profit of, or in any benefit or emolument arising from, any contract or agreement made by or on behalf of the Commission (other than a contract or agreement for the supply of electricity or goods ordinarily supplied by the Commission, on the same terms as electricity or goods is or are supplied by the Commission to its employees);

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- (e) if he votes at any meeting of the Commission in respect of any matter in which he is (otherwise than as a member of the general public or as a shareholder in any incorporated company in which there are more than twenty members and of which he is not a director or officer) directly or indirectly interested, or if he remains at any meeting whilst the matter is under discussion; or
- (f) if, being the Commissioner, he engages, without the consent of the Minister, during his term of office, in any employment outside the duties of his office.
- (2) Within fourteen days after the suspension of a Commissioner the Minister shall cause a full statement of the grounds of suspension to be prepared, and a copy thereof delivered to the Commissioner concerned.
- (3) The Minister shall also cause the statement to be laid before each House of Parliament—
- (a) if Parliament is sitting at the time of the delivery of the statement—forthwith; or
- (b) if Parliament is not then sitting—within the first seven sitting days of each House occurring after such delivery.
- (4) If each House of Parliament, within fourteen days after the time when the statement has been laid before it, declares by resolution that the Commissioner ought to be restored to office, he shall be so restored; but, if each House does not within that time so declare, the Minister shall refer the statement to a judge, who shall, after enquiry into the matter, determine whether the Commissioner shall be restored to, or removed from, office, and the Commissioner shall thereupon be so restored or removed forthwith.
- (5) The provisions of sections fourteen to twenty-one of the *Evidence Act 1910**, shall apply in respect of the enquiry in the same manner as if the judge were a sole commissioner appointed by the Governor by letters patent under the seal of the State to make the enquiry.
- (6) A Commissioner shall not be removed from office except as provided by this section.
- (7) The determination of a judge under this section shall be final and conclusive, and, notwithstanding anything in this Act to the contrary, no Commissioner who has been removed from office in consequence of any such determination shall have any right of action against the Minister or the Crown in respect of his removal or suspension.

Vacation of
office by a
Commissioner.
Section 15.

- 10**—(1) The office of a Commissioner shall be vacated if he—
- (a) dies, becomes insane, or is convicted upon indictment of any crime under the *Criminal Code*†;

* 1 Geo. V. No. 20, as amended by 2 Geo. V. No. 17, 11 Geo. V. No. 34, 12 Geo. V. No. 3, 15 Geo. V. No. 35, 23 Geo. V. No. 58, 25 Geo. V. No. 21, 6 Geo. VI. No. 64, 7 Geo. VI. No. 40. and by Statute Law Revision. (See Reprint of Statutes, Vol. III., page 748.)

† 14 Geo. V. No. 69, 15 Geo. V. No. 34, 25 Geo. V. No. 43, 7 Geo. VI. No. 44, and by Statute Law Revision. (See Reprint of Statutes, Vol. III., page 328.)

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(b) retires or resigns from office by notice in writing delivered to the Governor, and accepted by him; or A.D. 1944.

(c) is removed from office in accordance with section nine.

(2) The Governor may declare the office of a Commissioner to be vacant if he is absent, without leave of absence, from all meetings of the Commission during a period of three months, or is absent from the State without such leave for a period of six months.

11 All courts and all persons acting judicially shall take judicial notice of the common seal of the Commission, and of the signatures of the Commissioner, the Associate Commissioners, and the Acting-Commissioner, and of the fact of their respective appointments. Judicial notice of seal, &c., of Commissioners. Section 16.

12 No Commissioner shall incur any personal liability for or by reason of any act legally performed by him as a Commissioner. No personal liability to be incurred by Commissioners.

13—(1) The Commissioner, when present, shall be the chairman of the Commission. Section 17. Procedure of Commission.

(2) In the absence of the Commissioner from any meeting of the Commission, the members present shall elect a chairman, who shall preside at that meeting. Section 20.

(3) At all meetings of the Commission any two members shall form a quorum, and when a quorum is present the Commission may act and transact business notwithstanding a vacancy in its membership.

(4) The chairman shall have a deliberate vote only.

(5) Where the voting upon any question is equal the question shall pass in the negative.

(6) Subject to this Act, the Commission may regulate its own procedure.

14—(1) The Minister shall be entitled to summon a special meeting of the Commission, and to attend all special and ordinary meetings of, and to confer with, the Commission, and shall have the right at all meetings at which he is present to obtain any information which he requires upon any matter relating to the operations, business, and affairs of the Commission. Power of Minister to summon and attend meetings. Section 18.

(2) The Minister shall be entitled at any time to require the Commission to supply to him any information which the Minister thinks necessary in relation to the operations, business, and affairs of the Commission in the exercise of the powers conferred on it by this Act; and the Commission shall supply such information accordingly.

(3) The Minister may report to the Governor, or to Parliament, any information supplied to him by the Commission in accordance with subsection (2) of this section.

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(4) In any case where either House of Parliament orders any return to be made relating to the operations, business, and affairs of the Commission, the Minister shall comply with the order of the House.

PART III.

GENERAL POWERS OF COMMISSION.

General
powers of
Commission.
Sections
26 and 27.

15—(1) Subject to this Act, the Commission shall have the management and control of the hydro-electric works, and shall have and may exercise the rights, powers, and authorities, and discharge the duties conferred or imposed on it by this Act.

- (2) The Commission may, for and on behalf of the State—
- (a) construct any works, and may operate, manage, control, and generally carry on and conduct any business whatsoever, relating to or connected with the generation, transmission, distribution, and sale of electrical energy, and carry out any purpose in relation thereto which the Commission may deem desirable in the interests of the State;
 - (b) for the purposes of this Act, with the approval of the Minister, purchase from any person electrical energy on such terms as the Commission may think fit;
 - (c) provide, sell, let for hire, fix, repair, maintain, and remove electric lines, fittings, apparatus, or appliances for lighting, heating, and motive-power, and for all other purposes for which electrical energy can or may be used, upon such terms and conditions in all respects as the Commission shall think fit;
 - (d) generally, in so far as is not elsewhere in this Act sufficiently provided for, do anything that the owner of similar works might lawfully do in respect thereof, or that is authorised by by-laws under this Act;
 - (e) appoint, discharge, and determine the salaries, remuneration, and allowances of all officers, clerks, workmen, and servants whom the Commission may deem necessary to carry on the hydro-electric works, or otherwise for carrying out the purposes of this Act; and
 - (f) with the approval of the Governor, in relation to any particular matter, or class of matters, by writing under its common seal, delegate all or any of the powers of the Commission

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under this Act (excepting the power of delegation) to a Commissioner so that the delegated powers may be exercised by him with respect to the matters, or class of matters, specified in the instrument of delegation. A.D. 1944.

(3) Any delegation by the Commission under paragraph (f) of subsection (2) shall be revocable at will either by the Governor or the Commission, and shall not affect the exercise of any power by the Commission.

16—(1) No new power development shall be undertaken or constructed by the Commission unless and until it has been authorised by Parliament, whether before or after the commencement of this Act. New power development.
Sections 28 and 29.

(2) The *Public Works Committee Act* 1914* shall not apply to any works of the Commission, but before any proposals for any new power development are submitted to Parliament in accordance with this section the Commission shall furnish the Minister with a report on the new power development, setting out, so far as is practicable—

- (a) the opinion of the Commission as to the necessity or desirability of the new power development, together with its recommendations with respect thereto, and the reasons on which those recommendations are based;
- (b) the nature of the new power development;
- (c) the estimated cost of the new power development;
- (d) the Commission's proposals for the financing of the new power development, showing separately—
 - (i) the amount required as additional loans from the Treasurer as provided by this Act;
 - (ii) the amount (if any) to be borrowed by the Commission under section thirty-four; and
 - (iii) the amount to be contributed by the Commission from its depreciation account or its reserve fund as provided by this Act;
- (e) the annual amount proposed to be set aside by way of sinking fund for the redemption of loans to be raised for the proposed works;
- (f) the estimated annual cost of working, maintenance, depreciation, and interest; and
- (g) the annual revenue likely to be derived from the new power development.

17 The Commission, with the approval of the Minister, may make rules, not inconsistent with this Act or the by-laws made thereunder, for regulating the good government of the business and affairs of the Commission. Power of Commission to make rules for certain purposes.
Section 30.

* 5 Geo. V. No. 32, as amended by 6 Geo. V. No. 3, 8 Geo. V. No. 2, 10 Geo. V. No. 51, 14 Geo. V. No. 69, and by Statute Law Revision. (See Reprint of Statutes, Vol. I., page 921.)

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Power to
Commission
to appoint
an attorney.
Section 31.

18 The Commission, with the consent in writing of the Minister, by instrument under its common seal, may appoint any person to act as its attorney outside the State, for the purpose of doing anything which the Commission might itself lawfully do, and any person so appointed may do any act, or execute any power or function, which he is authorised by such instrument to do or execute.

Annual
report.
Section 32.

19 The Commission shall furnish an annual report to the Minister of its operations, business, and affairs.

Manner of
executing
contracts, &c.
Section 33.

20—(1) Any contract may be executed or any power exercised by the Commission—

- (a) by writing under the common seal of the Commission;
- (b) by writing, signed by any person acting under the express or implied authority of the Commission; or
- (c) orally by any person acting under the express or implied authority of the Commission,

according as the transactions, if between private persons, would require to be in writing under seal, or in writing, or could be effected orally, respectively.

(2) All contracts made according to the provisions contained in this section shall be effectual in law, and shall be binding upon the Commission, and on all other parties thereto, their heirs, executors, or administrators, as the case may be.

(3) Nothing in this section shall affect the validity of any contract executed on behalf of the Commission by its attorney.

Municipal
councils to
supply infor-
mation.
Section 19.

21—(1) The Commission may require any council to supply to it any information with respect to any matter relating to the city or municipality of the council, which it requires for carrying out the provisions of this Act, and it shall be the duty of the council to supply the information when required so to do.

(2) The Commission shall pay to the council any expenses incurred by it in obtaining or supplying any information required under this section.

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PART IV.

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FINANCE AND ACCOUNTS.

22 The following amounts shall be deemed to be loans from the State to the Commission—

The Commission's loans.
Sections 35 and 36 (2).

- (a) the sum debited to the Commission in the Treasury books on the first day of July, 1930 (in the Act referred to as "the principal loan"); and
- (b) all payments made by the Treasurer to the Commission since the first day of July, 1930, out of moneys voted by Parliament for hydro-electric works (in this Act referred to as "the additional loans").

23—(1) Subject to this Act, the Commission may requisition the Treasurer for any moneys required by the Commission for capital expenditure in connection with any works for which moneys have been voted by Parliament, and the Treasurer shall pay to the Commission forthwith the amounts so requisitioned out of moneys available to him for that purpose.

Advances to Commission by Treasurer.
Section 36.

(2) The amount of all charges and expenses incurred by the Treasurer in borrowing and raising any sum of money voted by Parliament for hydro-electric works shall, as at the date when the amount thereof has been ascertained, be deemed to constitute a payment by the Treasurer to the Commission under this section, and to form part of the moneys voted by Parliament for those works.

24—(1) The Commission shall, subject to this section, pay to the Treasurer on account of the Consolidated Revenue quarterly, on the last days of March, June, September, and December respectively in each financial year, interest in respect of the principal and additional loans, or so much thereof as for the time being remains owing to the State, at the rates provided by this section.

Commission to pay interest on loans at the State rate.
Section 38.

(2) The interest payable under this section shall be paid—

- (a) in respect of the principal loan, from the first day of July, 1930; and
- (b) in respect of the additional loans, from the respective dates of the payments by the Treasurer to the Commission of the moneys comprising the additional loans.

(3) The interest to be paid by the Commission on each quarterly day on the moneys comprising or forming part of the principal loan or the additional loans shall be at a rate equivalent to the average rate of interest payable by the Treasurer, as at the thirtieth day of June immediately preceding the financial year in which that quarterly day occurs, upon the public debt of the State existing on that day.

(4) The average rate of interest upon the public debt of the State for the purposes of this section shall be ascertained, as nearly as practicable, by the Under-Treasurer and certified to by the Auditor-General.

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(5) For the purposes of subsection (4), there shall be taken into account any exchange payable by the Treasurer for the transfer to any country outside the Commonwealth of any interest payable in that country in respect of the relevant financial year on any portion of the public debt of the State.

(6) The expression "the State rate", used in this or any other Act in relation to interest payable by any person to the Treasurer in respect of any financial year, means such rate as is payable under this section by the Commission to the Treasurer in respect of that year.

(7) The interest payable by the Commission to the Treasurer as provided by subsection (1), upon any portion of the principal loan or the additional loans during the construction of the works upon which the moneys comprising the loans have been, or are being, expended, may at the discretion of the Commission and until the Commission certifies that the works have been put into operation, be charged to, and be defrayed out of, the capital moneys of the loan by the expenditure of which the works have been constructed.

(8) Except as provided by subsection (7), all interest payable by the Commission to the Treasurer shall be debited to the profit and loss account of the Commission.

Depreciation
account.
Section 39A.

25—(1) The Commission shall debit to its profit and loss account, and place to the credit of a separate account to be called "the depreciation account", such sums as the Commission may consider necessary for the purposes of renewing or replacing any works.

(2) The balance to the credit of the depreciation account, after payment thereof of all amounts required for the purposes thereof during the financial year, shall be paid by the Commission to the State Sinking Fund Commissioners at the expiration of each financial year.

(3) All money received by the State Sinking Fund Commissioners, as provided by this section, shall be invested by them, and the moneys so received and all accumulations thereof shall be available to the Commission for the purposes of—

- (a) any new power development or works;
- (b) the replacement or renewal of any works; or
- (c) the redemption of any loan owing by the Commission to the Treasurer,

and the State Sinking Fund Commissioners shall pay to the Commission out of those moneys such sums as the Commission may require for any of those purposes.

(4) For the purpose of providing any sum required by the Commission as provided by this section, the State Sinking Fund Commissioners may sell and dispose of any securities in their hands in respect of the moneys received by them on account of the Commission, or any of them, or may transfer to the Commission securities of which the face value is equal to the amount so required by the Commission.

Hydro-Electric Commission.

26—(1) In respect of all loans from the State to the Commission, the Commission shall pay to the Treasurer half-yearly, on the thirty-first day of December and the thirtieth day of June in each year, by way of sinking fund, for the purpose of redeeming the loans, an amount calculated at a rate of not less than five shillings per centum per annum of the amount thereof. A.D. 1944.
Redemption
of loans
owing by
Commission
to the State.
Section 40.

(2) The amount to be paid by the Commission to the Treasurer under this section shall be debited to its profit and loss account and credited to its loan account in the books of the Treasury.

27—(1) The Commission shall keep with the Commonwealth Bank of Australia such accounts in the name of the Commission as it thinks necessary for the purposes of this Act and all moneys received on account of the Commission shall be deposited therein, and all expenditure of, or in connection with, the Commission shall be drawn therefrom. Bank account.
Section 41.

(2) No moneys shall be withdrawn from any of the accounts kept by the Commission except by cheque signed by a Commissioner, or an officer to be appointed by a Commissioner.

28—(1) The Commission may, with the consent of the Treasurer, borrow by overdraft on its bank accounts for the purposes of its works, any sums not exceeding ten thousand pounds. Power to
borrow
temporarily
on overdraft
or from
Treasurer.
Section 42.

(2) The Commission may at any time—

- (a) in lieu of borrowing money by overdraft on its bank account; or
- (b) for the purpose of paying off any overdraft, either in the whole or in part,

apply to the Treasurer for a temporary advance, and, subject to this section, the Treasurer may, out of any moneys at his disposal, advance to the Commission such amount as he thinks fit, upon such terms as to repayment thereof, payment of interest thereon, and otherwise, as the Treasurer determines.

(3) The amount owing by the Commission to the Treasurer in respect of any advance under subsection (2) shall not at any time, together with the amount, if any, then owing by the Commission on overdraft, exceed ten thousand pounds.

29 The Commission may invest any moneys held by it in such securities as the Governor may approve. Investment
of moneys.
Section 43.

30—(1) The Commission shall cause true accounts to be kept containing particulars of all— Accounts to
be kept by
Commission.
Section 44.

- (a) sums of money received and expended by the Commission; and
- (b) assets and liabilities of the Commission.

Hydro-Electric Commission.

A.D. 1944.

(2) Within three months after the first day of July in every year the Commission shall cause to be prepared—

- (a) a trading account for the previous financial year;
- (b) a profit and loss account for the previous financial year;
- (c) an appropriation account; and
- (d) a balance sheet containing particulars of all the assets and liabilities of the Commission as at the end of the previous financial year.

(3) The Commission may set aside and apply, out of the balance at any time standing to the credit of the appropriation account, such amounts as it thinks necessary to create a reserve fund or reserve funds for all or any of the following purposes:—

- (a) to meet any deficiency at any time arising or likely to arise in the income of, or to meet any extraordinary claim or demand arising or likely to arise against, the Commission;
- (b) to defray the cost of any improvements, alterations, or additions to the works of the Commission;
- (c) to write down any special costs incurred in the construction of capital works;
- (d) to make provision for rural extensions and to constitute a special rural extension reserve fund for that purpose; and
- (e) to make provision for such matters as may be necessary, in the opinion of the Commission, for giving effect to the provisions of this Act.

(4) Whenever the appropriation account prepared in accordance with subsection (2)—

- (a) shows a credit balance, after making provision for all or any of the purposes specified in subsection (3), the amount of the credit balance shall be paid to the Treasurer on account of the Consolidated Revenue; or
- (b) shows a debit balance, the whole or any part of which has not been charged to the reserve fund created under paragraph (a) of subsection (3), the Treasurer shall pay to the Commission out of the Consolidated Revenue (which to the necessary extent is hereby appropriated accordingly) the amount of the debit balance, or so much thereof as has not been charged to the reserve fund.

Payment for
services
rendered to
Commission
by Stat
departments.

31 The Commission shall, on the thirtieth day of June in each financial year, debit to its profit and loss account, and pay to the Treasurer such amount, not exceeding five thousand pounds, as the Minister may approve by way of payment for services rendered to the Commission by Departments of the State.

Hydro-Electric Commission.

32—(1) Whenever the Commission has made an investigation into proposals for the extension of its distribution system to any area or part of the State, and is of opinion that the revenue likely to be obtained from the supply of electricity to consumers in that area or part of the State would be insufficient to meet the capital and maintenance charges in respect of the extension and the cost of supplying electricity thereto, the Commission may make a report to the Governor thereon. A.D. 1944.
—
Extensions of
distribution
system.

(2) In a report under subsection (1) the Commission shall set out—

- (a) the opinion of the Commission as to the desirability of the extension, and its recommendations thereon;
- (b) the estimated capital cost of the extension;
- (c) the estimated annual cost of working and maintenance and the annual capital charges in connection with the extension;
- (d) the annual revenue likely to be derived from the extension;
- (e) the proportion of the capital cost of the extension which the Commission recommends should be—
 - (i) contributed by the State as provided by this section; and
 - (ii) paid out of the rural extension reserve fund; and
- (f) the proportion of the annual capital charges and costs of working and maintenance in respect of the extension which the Commission recommends should be paid by the State as provided by this section.

(3) Upon receipt of a report by the Commission under this section, the Governor may direct that a contribution, consisting of—

- (a) an amount not exceeding seventy-five per centum of the capital cost of the extension; or
- (b) an annual payment of an amount not exceeding thirty per centum of the annual capital charges and costs of working and maintenance in respect of the extension,

or both, shall be made by the State towards the costs of the extension, and the Treasurer may pay to the Commission any amounts required for the purposes of this subsection out of moneys provided by Parliament for that purpose.

(4) No direction shall be given by the Governor under this section for the payment to the Commission of any part of the costs of an extension unless the Commission has recommended the payment thereof.

(5) Any amount which the Commission recommends shall be paid out of the rural extension reserve fund under subsection (2) may be paid thereout as a further contribution to the capital cost of the extension.

Hydro-Electric Commission.

A.D. 1944. (6) Notwithstanding anything contained in this section, any payments authorised under section twenty-nine A of the *Hydro-Electric Commission Act 1929** shall be continued in accordance with the provisions of that section.

(7) All guarantees given by prospective consumers for the purposes of section twenty-nine A of the *Hydro-Electric Commission Act 1929* in respect of an extension into an area which has not been undertaken before the fifteenth day of December, 1944, shall cease to have effect, unless all such consumers in such area shall within three months after the commencement of this Act give notice in writing to the Commission that they wish the guarantees given by them to be continued.

Audit of
accounts.
Section 47.

33—(1) The balance-sheet and accounts of the Commission shall be submitted to the Auditor-General not later than the first day of October in each year for audit by him, and, when so audited, shall be forthwith forwarded by the Commission to the Minister, together with the Auditor-General's certificate as to the correctness thereof and the annual report of the Commission.

(2) The balance-sheet and accounts and annual report of the Commission shall be laid before each House of Parliament within the first ten sitting days of such House, after the receipt thereof by the Minister.

(3) The Auditor-General shall have, in respect of the accounts of the Commission, all the powers conferred upon him by the *Audit Act 1918*†, in relation to the audit of public accounts.

Borrowing
powers of
Commission.
2 Geo. VI.
No. 21.
Section 48A.

34—(1) The Commission, at any time, with the consent of the Governor, and on such terms as the Governor approves, may borrow money for the purposes of this Act on the security of its revenues.

(2) The Governor may guarantee the payment of the principal moneys and interest (or either of them) payable in respect of any loan raised by the Commission under this section.

(3) The procedure in respect of any borrowing by the Commission under this section and the forms of security to be given shall be as prescribed, or as the Governor may approve.

(4) The Commission shall not borrow under this section any moneys in excess of a total of one million pounds.

* See 5 Geo. VI. No. 8, s. 3, 1.

† 9 Geo. V. No. 3, as amended by 12 Geo. V. No. 75, 14 Geo. V. No. 52, 14 Geo. V. No. 69, 18 Geo. V. No. 62, 1 Geo. VI. No. 63, 3 Geo. VI. No. 34, and by Statute Law Revision. (See Reprint of Statutes, Vol. I., page 237.)

Hydro-Electric Commission.

PART V.

A.D. 1944.

VESTING AND ACQUISITION OF LAND.

35—(1) The Governor, on the recommendation of the Commissioner of Crown Lands, and on the certificate of the Commission that any Crown land specified in the certificate is required for the purposes of this Act, may declare, by proclamation, that the land so specified shall vest in the Commission for the purposes of this Act.

Power to Governor to vest Crown lands in the Commission. Section 54.

(2) On the making of a proclamation under this section, the Crown land specified therein shall be vested in the Commission for the purposes of this Act, and all the estate and interest, if any, therein of any person, other than the Commission, whether as lessee, licensee, or otherwise howsoever, shall cease and determine.

(3) Where any Crown land which has been vested in the Commission under this section was, at the time of such vesting, held or occupied by any person for pastoral, mining, or other purposes under any lease, licence, or other statutory authority, compensation shall be paid by the Commission to that person in the same manner as if the estate or interest of that person as lessee, licensee, or otherwise had been in respect of land other than Crown land and had been acquired or taken under the authority of this Part.

36—(1) The Commission may, with the approval of the Minister—

Power of Commission to purchase, lease, &c., land. Section 55.

- (a) purchase, acquire, take, or lease any land, other than Crown land, which it may deem necessary for the purposes of this Act, and may acquire an easement over any such land;
- (b) exchange any land vested in or purchased, acquired, or taken by the Commission for any other land, and pay or receive money for equality of exchange;
- (c) sell any land vested in or purchased, acquired, or taken by the Commission and not required for the purposes of hydro-electric works; or
- (d) let any land vested in or purchased, acquired, taken, or leased by the Commission, the use of which is not for the time being required by the Commission.

(2) All moneys received by the Commission under paragraphs (b) or (c) of subsection (1) of this section shall be used by the Commission for capital expenditure, or paid by it to the Treasurer towards redemption of loans, as the Commission shall determine.

37 Any land which the Commission is empowered by this Act to purchase, acquire, or take may, subject to this Act, be purchased, acquired, or taken under the provisions of the *Lands Resumption Act 1910**.

Acquisition of land. Section 56.

* 1 Geo. V. No. 11, as amended by 10 Geo. V. No. 24, 22 Geo. V. No. 22, 26 Geo. V. No. 40, 4 Geo. VI. No. 11, and by Statute Law Revision. (See Reprint of Statutes, Vol. VI., page 3.)

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Incorporation of *Lands Resumption Act 1910*.
Section 57.

38—(1) The *Lands Resumption Act 1910**, as modified by this section, is incorporated with this Act.

(2) The powers vested in the Minister under the *Lands Resumption Act 1910* shall be vested, for the purposes of this Act, in the Commission, and in the construction of that Act as incorporated with this Act the word "Commission" shall be deemed to be substituted for the word "Minister" wherever occurring therein.

(3) A claim for compensation in respect of any land acquired under the *Lands Resumption Act 1910* as incorporated with this Act may be made at any time within five years after the publication of the notification of acquisition referred to in that Act.

(4) All works as defined by this Act shall, for the purposes of the *Lands Resumption Act 1910* as incorporated with this Act, be deemed to be public works, and every purpose which the Commission carries out, or proposes to carry out under this Act, shall be deemed to be a public purpose within the meaning of that Act.

Sale of land.

39 Upon the sale of any land surrendered to the Crown before the commencement of this Act for the purposes of hydro-electric works, or of any land acquired by the Commission under the provisions of the *Lands Resumption Act 1910*, the Governor may, in the name and on behalf of His Majesty, convey and alienate the land to the purchaser in fee simple by way of deed of grant in accordance with sections seventy and seventy-one of the *Crown Lands Act 1935*.†

PART VI.

POWER TO ENTER UPON AND TEMPORARILY OCCUPY AND TAKE MATERIAL FROM CROWN AND OTHER LANDS.

Power to take timber, &c., from Crown land.
Section 59.

40—(1) The Commission, or any person authorised by it, may enter upon any Crown land, and occupy it temporarily for all or any of the purposes specified in section forty-one, and may exercise thereon, or in relation thereto, all or any of the powers specified in that section, and may fell and remove therefrom any timber which, in the opinion of the Commission, or the person so authorised, it is desirable to remove for the safety of any of the Commission's works.

(2) Compensation shall be paid by the Commission to any person lawfully occupying Crown land in respect of any damage to property caused by it in the exercise of the powers conferred by this section.

* 1 Geo. V. No. 11, as amended by 10 Geo. V. No. 24, 22 Geo. V. No. 22, 26 Geo. V. No. 40, 4 Geo. VI. No. 11, and by Statute Law Revision. (See Reprint of Statutes, Vol. VI., page 3.)

† 26 Geo. V. No. 35, as amended by 3 Geo. VI. No. 8, 4 Geo. VI. No. 47, and by Statute Law Revision. (See Reprint of Statutes, Vol. IV., pag 1000.)

Hydro-Electric Commission.

41—(1) The Commission, or any person authorised by it, may, after giving seven days' notice in writing to the occupiers thereof, enter upon any land other than Crown land (not being a garden, orchard, or plantation attached or belonging to a house, or a park, walk, avenue, or ground ornamentally planted, and not being distant less than one hundred yards from any residence erected on such land) and may occupy such land for so long as may be necessary for the construction or repair of any works, and may exercise on, or in relation to, any land so occupied all or any of the following powers, namely—

A.D. 1944.
Power to enter upon land.
Section 60.

- (a) to construct, build, or place any machinery thereon;
- (b) to take therefrom clay, stone, earth, gravel, timber, wood, or material, or things required for construction or repair of any of the works;
- (c) to make cuttings or excavations therein;
- (d) to deposit clay, stone, gravel, earth, timber, wood, or material thereon;
- (e) to erect workshops, sheds, and buildings of a temporary character thereon;
- (f) to make roads thereon; and
- (g) to manufacture and work materials of any kind thereon.

(2) Compensation shall be paid to any person for the value of timber or other material taken, or for any damage to any property done by the use and occupation of any land by the Commission under this section, or by the exercise by the Commission of the powers conferred by this section.

(3) The powers conferred by this section shall not be exercised in respect of any material or stone or of any slate-quarry or brickfield, which, at the time of the proposed exercise, is used or worked for purposes of business or profit.

42 In the application of the *Lands Resumption Act 1910** to this Part—

Application of *Lands Resumption Act 1910* to this Part.
Section 61.

- (a) a claim for compensation in respect of the exercise by the Commission of any of its powers under this Part may be made at any time within twelve months after the completion of the acts in respect of which the compensation is claimed;
- (b) the powers and authorities vested in the Commission under section forty-one shall be in addition to, and not in substitution for, the powers and authorities under that Act which are vested in the Commission by virtue of its incorporation with this Act; and
- (c) the provisions of that Act shall be construed as subject to the provisions of this Part.

¹ Geo. V. No. 11, as amended by 10 Geo. V. No. 24, 22 Geo. V. No. 22, 26 Geo. V. No. 40, 4 Geo. VI. No. 11, and by Statute Law Revision. (See Reprint of Statutes, Vol. VI., page 3.)

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A.D. 1944.

Power to
enter land
and take
levels, &c.
Section 62.

43 Any person acting under the authority of the Commission may, without any previous notice, enter upon any land for any of the purposes of this Act, and may survey, and take levels of, the land.

PART VII.

POWER TO CONSTRUCT WORKS FOR THE GENERATION, TRANSMISSION, AND SUPPLY OF ELECTRICAL ENERGY.

Power to
erect build-
ings, &c., on
land.
Section 63.

44 The Commission may construct, erect, maintain, repair, enlarge, and use any works for the purpose of generating, transmitting, or distributing electrical energy, upon or in respect of any land vested in the Commission, or over which it has acquired any right or authority for that purpose.

Powers of
Commission
in relation
to works for
transmission
and distri-
bution of
electricity.
Section 64.

45—(1) The Commission may—

- (a) for the purpose of transmitting electrical energy from any part of the State to any other part, construct, erect, maintain, and use any lines of standards which may be necessary for the purpose of suspending cables, or any other apparatus, and may suspend thereon, or attach thereto, any such cables or apparatus upon, across, or along—
 - (i) any Crown land or any railways belonging to the State;
 - (ii) any other land; or
 - (iii) any road or street;
- (b) for the purpose of distributing electrical energy, place, maintain, and use electric lines, leads, wires, cables, and conductors necessary for conveying electrical energy to be supplied by the Commission under, over, across, or along any railway, road or street, or other land, and, where necessary, may place and maintain standards in or upon any such railway, road or street, or other land;
- (c) for any of the purposes mentioned in paragraphs (a) and (b) break up, excavate, and open up the surface of—
 - (i) any part of a railway not actually occupied by rails or sleepers or railway buildings; or
 - (ii) the soil and pavement of any road or street or other land; and
- (d) for the purposes of paragraph (b) break up, excavate, and open up any sewers, drains, or tunnels within and under any railway, road or

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street, and may in, upon, or under any such rail- A.D. 1944.
way, road or street construct, erect, lay down,
and, where necessary, maintain, repair, alter, and
discontinue all such machinery, lamps, standards,
wires, conductors, communicators, distributors,
electric lines, apparatus, and works as may be
necessary or convenient for any of those pur-
poses.

(2) Where any work is done by the Commission under the authority of this section upon, in, or under any railway, the work and all reinstatement and filling up required in consequence thereof shall be executed under the supervision of the Transport Commission, and the Commission shall comply with all reasonable requests and directions of the Transport Commission in relation thereto.

(3) For the purposes of this Part and Part VIII., where any land is subject to the provisions of the *Closer Settlement Act 1929**, the Closer Settlement Board shall be deemed to be the owner of the land.

46 It shall be the duty of the Commission in relation to any works authorised by section forty-five—

- (a) to interfere as little as possible with any traffic on any road or street;
- (b) to complete the work as speedily as is reasonably possible;
- (c) forthwith after the completion of the work, to fill up and reinstate the surface of the ground disturbed by the work, and make good the surface, and replace, reinstate, and make good all sewers, drains, and tunnels opened or broken up by it; and
- (d) at all times when the surface of any railway, road or street is broken up, to maintain proper and sufficient guards to ensure the safety of persons using the same, and proper and sufficient lights for that purpose during hours of darkness,

to the reasonable satisfaction of the Transport Commission or the local authority having the control thereof, as the case may be.

47—(1) For the purposes of this Act, the Commission may acquire wayleave easements and enter into wayleave contracts.

(2) Every wayleave contract shall be binding on the land affected thereby without the necessity of registration in the office of the Registrar of Deeds or the Recorder of Titles.

(3) A register shall be kept by the Commission, at its office in Hobart, of all wayleave contracts.

Duties of Commission in relation to works in certain cases. Section 65.

Wayleave contracts and wayleave easements.

Sections 24 and 25.

* 20 Geo. V. No. 77, as amended by 21 Geo. V. No. 54, 22 Geo. V. No. 57, 24 Geo. V. No. 54, 1 Edw. VIII. No. 8, 1 Edw. VIII. No. 27, 1 Geo. VI. No. 71, 2 Geo. VI. No. 52, 3 & 4 Geo. VI. No. 64, 4 Geo. VI. No. 35, 4 Geo. VI. No. 60, and by Statute Law Revision. (See Reprint of Statutes, Vol. I., page 435.)

Hydro-Electric Commission.

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(4) The register to be kept in accordance with this section shall be available for inspection by any person having an interest in the land affected by any wayleave contract, or by any legal practitioner.

(5) No stamp duty shall be payable upon or in respect of any wayleave contract made by or on behalf of the Commission.

(6) Every purchaser, lessee, mortgagee, or encumbrancee of land, over or in respect of which the Commission at the time of the purchase, lease, mortgage, or encumbrance shall have any easement by virtue of any wayleave contract, which is entered in the register referred to in this section, shall be deemed to have had notice of such easement at the date of the purchase, lease, mortgage, or encumbrance, as the case may be.

(7) All claims against the Commission for the recovery of rental or compensation under or in respect of any wayleave contract or wayleave easement, whether entered into or acquired before or after the commencement of this Act, shall be made within one year after the rental became payable or the claim arose, and not otherwise.

(8) Except in accordance with a wayleave contract entered into pursuant to subsection (1), no compensation shall be payable by the Commission, after the commencement of this Act, in respect of any wayleave easement which shall thereafter come into existence unless the value of the land affected is, in the opinion of the Chief Valuer under the *Land Valuation Act 1909** (in this section referred to as "the Chief Valuer"), depreciated by reason of the existence of the wayleave easement.

(9) Where any land is, in the opinion of the Chief Valuer, depreciated in value by reason of the existence of a wayleave easement, compensation as determined by the Chief Valuer shall, subject to this section, be paid by the Commission to the owner of the land.

(10) The Commission, or any owner who is dissatisfied with any determination of the Chief Valuer under this section, may appeal against any determination, in the prescribed manner, to a judge, who may determine the amount of compensation which shall be payable, and may make such order as to costs as he thinks fit.

Prohibition
of establish-
ment of new
electrical
stations
except with
consent of
Commission.

48—(1) Except as provided by or under the authority of the *Hydro-Electric Commission Act 1929*,[†] or some other Act not being this Act, it shall not be lawful for any person, after the commencement of this Act, to establish or to add to, alter, or extend any plant, machinery, or works for the generation of electrical energy, or to erect or extend any electric line for the transmission of electrical energy, except energy purchased from the Commission, without the consent of the Commission.

* 9 Edw. VII. No. 7, as amended by 3 Geo. V. No. 38, 4 Geo. VI. No. 2, 6 Geo. VI. No. 60, 7 Geo. VI. No. 10, 7 Geo. VI. No. 58, and by Statute Law Revision. (See Reprint of Statutes, Vol. I., page 204.)

† 20 Geo. V. No. 83, as amended by 21 Geo. V. No. 53, 26 Geo. V. No. 73, 1 Geo. VI. No. 4, 1 Geo. VI. No. 67, 2 Geo. VI. No. 21, 3 & 4 Geo. VI. No. 65, 5 Geo. VI. No. 8, 5 Geo. VI. No. 55, 7 & 8 Geo. VI. No. 95, and by Statute Law Revision. (See Reprint of Statutes, Vol. III., page 669.)

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(2) Except as provided by subsection (3), this section shall not apply to any such plant, machinery, or works, or to any such electric line, in any case where the electrical energy generated or transmitted— A.D. 1944.

- (a) does not exceed ten horsepower;
- (b) is generated by power other than water power and is used solely for industrial purposes in the undertaking of the person by whom it is so generated, and is not sold or supplied to any other person; or
- (c) is generated and used for mining purposes in accordance with the provisions of the *Mining Act 1929*, and used solely for the mining and domestic purposes of the person by whom it is generated and not sold or supplied to any other person not engaged in the mining undertaking.

(3) No plant, machinery, or works to which paragraph (b) or (c) of subsection (2) applies shall be established or added to, altered, or extended, unless the plant, machinery, or works, or the addition, alteration, or extension (as the case may be) is—

- (a) capable, in the opinion of the Commission, of being safely operated; and
- (b) of a voltage and frequency approved by the Commission.

PART VIII.

COMPENSATION AND DAMAGES.

49 The provisions of this Part shall not apply to any claim for compensation arising under Parts V. and VI.

50—(1) In the exercise of its powers in relation to the execution of works under this Act, the Commission shall cause as little detriment and inconvenience and do as little damage as possible, and compensation shall be paid by the Commission for damage caused to any property in the course of the execution of such works.

(2) Compensation payable as provided by this section shall be determined in the manner prescribed by the *Lands Resumption Act 1910* in the case of a disputed claim for compensation.

51—(1) Any person claiming under this Act any compensation for any damage to property against the Commission shall prefer his claim by notice in writing addressed to the Commission at its office at Hobart, and served on or posted by registered letter to the Commission.

(2) The notice shall specify the place of abode of the claimant, the particular act causing the damage for which compensation is claimed, the nature and amount of such damage, and the nature of the title or interest of the claimant in or to the land or other property in respect of which the claim is preferred.

This Part not to apply to compensation under Parts V. and VI. Section 66.

Commission to avoid damage when executing works.

Sections 67 and 68.

Claims for compensation to be in writing, &c. Section 69.

Hydro-Electric Commission.

A.D. 1944.

Claims for
compensation
to be made
within
twelve
months.
Section 70.

52—(1) All notices of claims as provided by section fifty-one shall be sent to the Commission within twelve months after the exercise of the powers in respect of which the claim is preferred.

(2) Any person who fails to send a notice of claim to the Commission as provided by this section shall not be entitled to any compensation for any damage to property under this Part.

Commission
to be answer-
able for cer-
tain accidents,
damages, &c.
Section 71.

53—(1) Except as provided by section fifty, the Commission shall not be answerable for any damage or injury caused by it otherwise than by—

- (a) the negligence or default of the Commission; or
- (b) any nuisance caused or permitted by the Commission which the Commission has failed to take all due and reasonable precautions to prevent.

(2) No action in respect of any damage or injury for which the Commission is answerable as provided by subsection (1) shall be maintainable unless—

- (a) notice in writing that damage or injury has been sustained is given to the Commission within two months, and the action is commenced within four months, from the date on which the damage or injury was sustained, or in case of the death of the person injured, within six months from the date of death;
- (b) in the case of injury to the person, some medical practitioner appointed by the Commission is permitted, on the demand of the Commission, to examine the person injured, and all facilities and information are given to that medical practitioner which may be necessary to enable him to ascertain fully the nature and extent of the injury;
- (c) in the case of injury to property, a person appointed by the Commission is permitted, on demand of the Commission, to inspect the property injured, and the owner of the property or other person affected gives all facilities and information necessary to enable the person so appointed by the Commission to ascertain the value of the property injured, the nature and extent of the injury, and the amount of money, if any, expended in repairing the property; and
- (d) notice in writing of the intended action has been given to the Commission at least one month before the action is commenced.

(3) A notice in respect of any injury under this section shall give the name and address of the person injured, or of the owner of the property injured, and shall state the cause of the injury, and the date and place at which it was sustained, and shall not be deemed invalid by reason of any

Hydro-Electric Commission.

defect or inaccuracy therein, unless the court or judge who tries the action is of opinion that the Commission is prejudiced in the defence by the defect or inaccuracy, and that the defect or inaccuracy was intentional and for the purpose of misleading. A.D. 1944.

PART IX.

POWER TO SUPPLY ELECTRICAL ENERGY.

54—(1) The Commission may sell and supply electrical energy for any purpose approved by the Commission, at such charges as may be fixed by by-law, and such charges may be fixed with reference to the particular purpose for which the electrical energy is to be used by the consumer thereof: Provided that the by-laws shall provide for the same general rates of charges for electricity sold or supplied by the Commission to consumers outside the City of Hobart as are charged in like cases to consumers within that city, but this proviso shall not apply to any special contract to which the general charges do not apply.

Power to Commission to supply electrical energy.
Section 72.
Cf. s. 77 (3) and (4), inserted by 5 Geo. VI. No. 8.

(2) Notwithstanding anything contained in this Act, the Commission, in any case in which in its uncontrolled discretion it thinks fit so to do, may enter into a special contract with any person for the sale to him of electrical energy, at such charges and upon such terms and conditions in all respects as the Commission may think fit.

(3) Notwithstanding anything contained in this Act, no person shall, except with the consent in writing of the Commission, sell or supply any electrical energy supplied to him by the Commission to any other person.

55 The Commission may sell, let for hire, or supply, under any conditions the Commission may think fit, to any consumer of electrical energy, any meters or measuring instruments for the purpose of measuring the quantity or quality of energy supplied and consumed, and any mains, apparatus, and appliances for the conveyance, reception, or use thereof.

Power to Commission to sell or let for hire certain appliances.
Section 73.

56 All electric lines, conduits, fittings, apparatus, meters, and appliances let on hire by or belonging to the Commission shall, whether they are or are not fixed or fastened to any part of any premises, in or upon which they may be situate, or to the soil under any such premises, at all times continue to be the property of the Commission.

Electric lines and appliances let on hire to remain the property of the Commission.
Section 74.

57 No electric lines, conduits, fittings, apparatus, meters, and appliances referred to in section fifty-six shall be subject to distress for rent, or be attached or taken in execution, under any process of any court, or under or in pursuance of any proceedings in bankruptcy, or other legal proceedings against or affecting the consumer of the electrical energy, or other person in whose possession any such electric lines, conduits, fittings, apparatus, meters, or appliances may be.

Electric appliances not to be subject to distress or other process.
Section 75.

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Power to
enter pre-
mises and
remove
appliances,
&c.
Section 76.

58 An officer appointed by the Commission may enter, at all reasonable times, and if necessary by force and with such assistance as is necessary, without being responsible for any damage caused thereby, any premises to which electrical energy is or has been supplied by the Commission in order to inspect any works or electric apparatus used in connection therewith; and where the Commission is authorised, by virtue of any by-law made, or agreement entered into, by the Commission under the authority of this Act, to cut off the supply of electrical energy, any such officer may remove any such works, apparatus, or appliances.

PART X.

REGULATION OF ELECTRICAL INSTALLATION.

Licensing
of electrical
contractors,
&c.
Section 83.

59—(1) Except as provided by this Part, no person shall supervise, execute, perform, or be employed upon any electrical work unless he is the holder of a wireman's licence under this Part.

Penalty: Ten pounds.

(2) This section shall not apply to—

- (a) the employment, in accordance with the regulations, of any person to assist the holder of a wireman's licence;
- (b) any electrical work in any case where the electricity used in or upon any premises is generated wholly on those premises;
- (c) any electrical work which is wholly for public purposes; or
- (d) any electrical work in any underground mine.

Licences.
Section 84.

60—(1) The Commission may issue, cancel, suspend, indorse, and reinstate licences under this Part as prescribed.

(2) Licences under this Part shall be in such form and subject to such conditions as may be prescribed.

(3) A wireman's licence, while in force, shall entitle the holder thereof, subject to the prescribed conditions, to execute, perform, or be employed upon electrical work.

Regulations
under this
Part.
Section 85.

61 The Governor, on the recommendation of the Commission, may make regulations for the purposes of this Part, prescribing—

- (a) the issue of licences to contractors and wiremen;
- (b) the forms of licences under this Part, and the conditions under which licences may be issued, cancelled, suspended, indorsed, or reinstated, and the fees payable in respect thereof;
- (c) the conditions under which unlicensed persons may be employed to assist holders of a wireman's licence;

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- (d) the circumstances in which, and the conditions under which, the Commission may grant an exemption from any of the regulations to any person—
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-
- (i) in respect of electricity generated and used wholly for his own purposes and not supplied to or used by any other consumer for private purposes; and
- (ii) in any other case—
- and the cases in which the provisions of section fifty-nine shall not apply if the electric current to be used or applied does not exceed a prescribed voltage;
- (e) the conditions to be observed in the installation of electrical apparatus and appliances;
- (f) the inspection of electric lines and electrical work, and the persons by whom, the times at which, and the manner in which the same shall be carried out; and
- (g) any matters or things required or permitted to be prescribed for the purposes of this Part, or necessary or convenient to be prescribed for carrying this Part into effect.

PART XI.

REGULATION OF ELECTRICAL APPLIANCES.

62—(1) The Governor may, on the recommendation of the Commission, by order-in-council, specify any class, description or type of appliance, cable, conduit, fitting, insulator, wire, or other apparatus or material intended or designed for use in or for the purposes of, or for connection to, any electrical installation which shall not after a date fixed in the order-in-council be sold, hired, or exposed for sale or hire or advertised for sale or hire, unless the appliance, cable, conduit, fitting, insulator, wire, or other apparatus or material has been approved by the Commission.

Regulation of the sale, &c., of electrical appliances.
Cf. N.S.W., No. 41, 1919, s. 512A; Vic., No. 4220, s. 7.

(2) Any person who, after the date so fixed, sells, hires, or exposes for sale or hire, or advertises for sale or hire, or causes to be sold or hired, or exposed or advertised for sale or hire, any appliance, cable, conduit, fitting, insulator, wire, or other apparatus or material of the class, description, or type specified in the order-in-council which has not been approved by the Commission shall be guilty of an offence.

Penalty: Fifty pounds.

(3) For the purposes of this Part, the approval of the Commission may be signified by the approval of samples or

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(4) For the purposes of this Part, the Governor, on the recommendation of the Commission, may make regulations—

- (a) regulating and prescribing the examination, testing, and approval, and the withholding and withdrawal of approval of electrical appliances, cables, conduits, fittings, insulators, wires, apparatus, or materials;
- (b) prescribing the fees to be charged for the examination and testing of, and for reports in respect of, appliances, cables, conduits, fittings, insulators, wires, apparatus, or materials; and
- (c) prescribing any matters or things required or permitted to be prescribed for the purposes of this Part or necessary or convenient to be prescribed for carrying this Part into effect.

PART XII.

BY-LAWS.

By-laws.
Section 77.

63—(1) Subject to this Act, the Commission, with the approval of the Governor, may make by-laws for any purpose whatsoever connected with—

- (a) the safe and economic generation, voltage, frequency, transmission, and distribution of electrical energy, and the methods, appliances, and apparatus to be employed in the utilisation thereof, and the precautions which shall be observed in connection therewith;
- (b) the charges for electrical energy sold or supplied by the Commission;
- (c) the installation and use of electrical apparatus in relation to electrical energy supplied by the Commission;
- (d) the protection of the interests of consumers of electrical energy supplied by the Commission;
- (e) the protection of the Commission's works;
- (f) the removal of trees and vegetation in proximity to any electric wires or apparatus of the Commission and requiring or empowering prescribed persons to give effect thereto; and
- (g) prohibiting and penalising any damage to, or interference with, any installation, wiring, or apparatus belonging to the Commission, and providing

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that the occupier of any premises where any installation, wiring, or apparatus belonging to the Commission is placed shall be held responsible for any damage or interference thereto. A.D. 1944.

(2) Any by-law under this section may impose a penalty of twenty pounds for any breach thereof, and a further daily penalty of five pounds for a continuing breach.

PART XIII.

ACQUISITION OF LAND UNDER THE *LANDS CLAUSES ACT* 1857 FOR INDUSTRIAL UNDERTAKINGS.

64—(1) In any case in which the Governor is satisfied, on the report of the Commission, that—

(a) a person (in this Part referred to as “the promoter”) has established, or is about to establish, in Tasmania an industry in connection with the carrying on of which at least one hundred persons will be employed by the promoter;

(b) the promoter has entered into a contract, or a provisional contract, with the Commission, for a term of not less than seven years, for the purchase from the Commission of a supply of electrical energy of or exceeding five hundred horsepower; and

(c) the promoter is desirous of acquiring some particular area or piece of land for the purposes of such industry and either—

(i) it is specially desirable, in the interests of the State or of the Commission that the promoter should be enabled to carry on the industry on that land; or

(ii) there are circumstances in connection with its location or otherwise which render the land specially suitable or convenient for the purposes of the industry and that the promoter is unable to acquire other similarly suitable or convenient land for those purposes,

the Governor may, by proclamation, declare that the land described in the proclamation may be purchased or acquired by the promoter under the provisions of the *Lands Clauses Act 1857**, and thereupon the promoter shall be entitled to

Acquisition of lands under the *Lands Clauses Act 1857* for certain purposes. Section 86.

21 Vict. No. 11, as amended by Statute Law Revision. (See Reprint of Statutes, Vol. VI., page 32.)

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A.D. 1944. purchase or acquire the same thereunder, and all the provisions of that Act, except sections eight and nine thereof, shall be incorporated with this Part, and for the purposes of such incorporation this Part shall be deemed to be the special Act, and the promoter shall be deemed to be the promoters of the undertaking.

(2) In any case to which the provisions of subsection (1) apply, the Governor may, by proclamation, withdraw from the operation of the *Crown Lands Act 1935**, such area of Crown land specified in the proclamation as the Governor may approve and as the promoter may consider necessary for the purpose of any industry to which this Part applies.

(3) The Commissioner of Crown Lands, with the consent of the Governor, may grant to the promoter a lease of the area comprised in any proclamation under subsection (2) or any part thereof for such term, upon such conditions and subject to such reservations and restrictions as the Governor may approve.

(4) At any time after the expiration of five years after the granting of any lease under subsection (3) the Commissioner of Crown Lands may sell to the promoter, by private contract, the land comprised therein or any part thereof at such price, not being less than five pounds per acre, as may be agreed, and the purchase money therefor shall be payable in cash upon completion of the purchase.

(5) Upon the payment by the promoter of the purchase money, the Governor may, in the name and on behalf of His Majesty, convey and alienate the land so sold to the promoter in fee simple in accordance with the provisions of the *Crown Lands Act 1935**.

(6) For the purposes of this section, a provisional contract means a contract to have effect contingently upon the making of a proclamation under subsection (1) in respect of the land to be acquired.

(7) The powers of acquisition set out in this Part shall not be exercised with reference to lands acquired for industrial purposes by any person who has entered into a contract with the Commission for a term of not less than seven years for the purchase from the Commission of a supply of electrical energy of or exceeding 500 h.p.

* 26 Geo. V. No. 35, as amended by 3 Geo. VI. No. 8, 4 Geo. VI. No. 47, 7 Geo. VI. No. 57, and by Statute Law Revision. (See Reprint of Statutes, Vol. IV., page 996.)

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PART XIV.

A.D. 1944.

POWERS OF COMMISSION WITH RESPECT TO THE
WATERS OF THE STATE.

65—(1) Subject to rights lawfully held on the eighteenth day of January, 1930, the sole right to use waters in lakes, falls, rivers, or streams vested in the Commission by section forty-nine of the *Hydro-Electric Commission Act 1929** shall be held by the Commission for the purposes of this Act.

Use of waters vested in Commission.
Section 49.

(2) The Commission may, with the consent of the Minister, purchase rights to the use of water in lakes, falls, rivers, or streams existing on the eighteenth day of January, 1930.

(3) The Commission may, with the consent of the Governor, acquire compulsorily, in the prescribed manner, rights to the use of water in lakes, falls, rivers, or streams existing on the eighteenth day of January, 1930.

(4) Compensation shall be paid by the Commission in respect of the acquisition of rights to use water in accordance with the provisions of the *Lands Resumption Act 1910*†.

(5) The provisions of this section shall not apply to or in respect of any rights directly granted by any Act.

66 No right to the use of water in lakes, falls, rivers, or streams shall be capable of coming into existence after the eighteenth day of January, 1930, by reason only of the enjoyment of such use for any period, or of any presumption of a lost grant based upon such enjoyment.

Presumptive rights to water to cease.
Section 50.

67 To the extent to which the right to the use of water in any lakes, falls, rivers, or streams is vested in the Commission, the Commission shall, if the Governor so directs, and subject to such conditions as the Governor may determine, permit any person to be designated by the Governor to use such water for any purpose other than the generation of electrical energy.

Commission to permit use of water.
Section 51.

68 Nothing in this Part shall affect the right of any person to the supply of water for stock or domestic purposes, or under the *Mining Act 1929*‡.

Use of water for domestic and mining purposes.
Section 52.

69—(1) The Commission, in the exercise of its powers under this or any other Act, may raise or lower the level of any lake, river, or stream, and may impound, divert, take, and use the waters thereof, and may construct, on or through any Crown land or other land, any works which the Commission deems necessary for the purposes of this Act.

Power to Commission to raise levels, &c.
Section 53.

* 20 Geo. V. No. 83. For this Act as amended to 1936 see Reprint of Statutes, Vol. III., page 669. Subsequently amended by 1 Geo. VI. No. 4, 1 Geo. VI. No. 67, 2 Geo. VI. No. 21, 3 & 4 Geo. VI. No. 65, 5 Geo. VI. No. 8, 5 Geo. VI. No. 55, 7 & 8 Geo. VI. No. 95.

† 1 Geo. V. No. 11. For this Act as amended to 1936 see Reprint of Statutes, Vol. VI., page 3. Subsequently amended by 4 Geo. VI. No. 11.

‡ 20 Geo. V. No. 71. For this Act as amended to 1936 see Reprint of Statutes, Vol. V., page 494. Subsequently amended by 4 Geo. VI. No. 20.

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A.D. 1944. (2) In the exercise of its powers under this section, the Commission shall take steps, so far as possible, to preserve and protect the natural beauty of lakes, falls, rivers, and streams, and shall consult with, and take into consideration the views of, the Scenery Preservation Board in respect of any proposed works which may appear to be likely to affect the natural beauty thereof.

Power of Commission in respect of lakes, &c.

70—(1) The Commission, by any officer or employee or other person thereto empowered by it, may enter upon any land and inspect the same and take such measures as may be thought fit, or as may be prescribed, for—

- (a) the measurement of the flow or levels of water in, or the quantity of water taken or diverted by any person from, any lake, fall, river, or stream, and the conservation and regulation of such water, and its purification and preservation from pollution;
- (b) the protection of the bed and banks over or within which such water flows or is contained;
- (c) removing any obstruction from such bed or banks; and
- (d) clearing and deepening the channel of any such river or stream.

(2) This section shall not affect the rights of any person under the provisions of the *Mining Act 1929**.

Notification of us of water.

71—(1) Every person who takes or diverts any water at any time in any lake, fall, river, or stream, for any purpose other than domestic purposes, shall give notice to the Commission, in the prescribed manner, that the water is so taken or diverted, and shall, in the notice, specify the purpose for which the water is used.

(2) A person who has given notice to the Commission as provided by this section shall forthwith give notice to the Commission as prescribed of any variation in the purpose for which the water is used.

Cf. S.A. No. 1359, 1919, s. 2.

(3) In this section, “domestic purposes” means household and sanitary purposes and all purposes connected with the watering of stock and the irrigation of a garden not exceeding three acres in extent used in connection with a dwelling, but does not include the sale or barter of water for any of those purposes.

Failure to give notice.

72 Any person who fails to comply, within the prescribed time, with any of the provisions of section seventy-one which applies to him shall be guilty of an offence.

Penalty: Fifty pounds.

* 20 Geo. V. No. 71. For this Act as amended to 1936 see Reprint of Statutes, Vol. V., page 494. Subsequently amended by 4 Geo. VI. No. 20.

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PART XV.

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MISCELLANEOUS.

73 The Commission may cause a systematic hydro-metric and water-power survey to be carried out in respect of all waters of the State from which it may be reasonably anticipated that power may be obtained economically, and the cost thereof shall be met out of the revenues of the Commission.

Hydro-metric and water power survey. Section 78. Cf. 5 Geo. VI. No. 55.

74 No person shall—

- (a) obstruct, intimidate, or assault any person in the exercise of his powers, or in the discharge of his duties under this Act or any Act incorporated with this Act; or
- (b) interfere with, move, injure, or damage any of the Commission's works.

Penalty for obstructing officers. &c. Section 79.

Penalty: Twenty pounds.

75 The Commission shall have the same rights, privileges, and priorities in all respects with regard to any sum of money owing to it by any person, as the Crown would have in the like case, but any action by the Commission against any person for the recovery at law of any sum of money shall be instituted and carried on by the Commission in its own name as plaintiff in the same manner as an ordinary action between subject and subject.

Recovery of debts owing to the Commission. Section 80.

76 No person shall, without the approval of the Commission—

- (a) use the word "hydro-electric" as part of the name under which he carries on business; or
- (b) carry on business under any name resembling the name of the Commission.

Use of certain terms prohibited. Section 82.

Daily penalty: Five pounds.

77 Any person who is guilty of any offence against this Act, or contravenes any provision of this Act, for which no penalty is specially provided, shall be liable to a penalty of fifty pounds.

General penalty.

78 The Governor may make regulations not inconsistent with this Act prescribing all matters which are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out and giving effect to this Act.

Regulations. Section 83.

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THE SCHEDULE.

Section 1 (2).

Regnal Year and Number of Act.	Title.
20 Geo. V. No. 83	<i>The Hydro-Electric Commission Act 1929</i>
1 Geo. VI. No. 4	<i>The Hydro-Electric Commission Act 1937</i>
1 Geo. VI. No. 67	<i>The Hydro-Electric Commission Act (No. 2) 1937</i>
2 Geo. VI. No. 21	<i>The Hydro-Electric Commission Act 1938</i>
3 & 4 Geo. VI. No. 65	<i>The Hydro-Electric Commission Act 1939</i>
5 Geo. VI. No. 8	<i>The Hydro-Electric Commission Act 1941</i>
5 Geo. VI. No. 55	<i>The Hydro-Electric Commission Act (No. 2) 1941</i>
7 & 8 Geo. VI. No. 95	<i>The Hydro-Electric Commission Act 1944</i>