
HYDRO-ELECTRIC COMMISSION AMENDMENT

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HYDRO-ELECTRIC COMMISSION AMENDMENT

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No. 63 of 1979
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AN ACT to amend the Hydro-Electric Commission Act 1944 for the purpose of conferring additional powers on the Minister in relation to the Hydro-Electric Commission, and of making further provision with respect to other matters relating to the Commission.

[Royal Assent 14 December 1979]

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:—

1—This Act may be cited as the *Hydro-Electric Commission* Short title. *Amendment Act 1979*.

2—In this Act, the *Hydro-Electric Commission Act 1944** is Principal Act. referred to as the Principal Act.

* 8 and 9 Geo. VI No. 22. For this Act, as amended to 15th December 1978, see the continuing Reprint of Statutes.

Amendment
of section
2 of Principal
Act (Inter-
pretation).

3—(1) Section 2 of the Principal Act is amended as follows:—

(a) by inserting the following definition after the definition of “ Commission ”:—

“ construct ” includes build, erect, and place in position;

(b) by inserting the following definitions after the definition of “ electrical work ”:—

“ energy ”, when not qualified by the word “ electrical ”, includes every form of energy;

“ energy resources ” includes fuel and any other kind of resource from which energy can be derived;

(c) by omitting the definition of “ works ” and substituting the following definition:—

“ works ” includes—

(a) 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 whatever which is used, or capable of being used, for the purposes of or in connection with the generation, reception, transmission, distribution, supply, sale, or conservation of electrical energy, or for any other purpose under this Act, or which is required for or incidental to those purposes; and

(b) any natural features of the country used, or capable of being used, in connection with the generation, reception, transmission, or distribution of electrical energy for the purposes of this Act.

4—Section 14 (2) of the Principal Act is amended by omitting “ in the exercise of the powers conferred on it by this Act ”.

Amendment of section 14 of Principal Act (Power of Minister to summon and attend meetings).

5—The heading to Part III of the Principal Act is amended by inserting “ FUNCTIONS, DUTIES, AND ” after “ GENERAL ”.

Amendment of heading to Part III of Principal Act.

6—(1) Section 15 of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:—

Amendment of section 15 of Principal Act (General functions, duties, and powers of Commission).

(1) Subject to this Act, the Commission has and shall perform the functions and duties imposed, and has and may exercise the powers conferred, on it by this Act, including the management and control of the hydro-electric works.

(2) Section 15 (2) (a) of the Principal Act is amended by omitting “ transmission, distribution ” and substituting “ reception, transmission, distribution, supply ”.

(3) Section 15 of the Principal Act is further amended by inserting the following subsection after subsection (2C):—

(2D) The Commission may enter into and carry out agreements with a Minister, acting on behalf of the State, under which the Commission undertakes to do any one or more of the following things:—

(a) to carry out investigations or research for or in connection with—

- (i) locating energy resources;
- (ii) the feasibility of developing or using any energy resource, or of generating or converting energy from, or transmitting, distributing, supplying, selling, or using energy derived from, any such resource; and

(iii) conserving energy resources;

(b) to assist and advise the Minister with respect to the matters referred to in paragraph (a);

(c) to prepare reports for, or make recommendations to, the Minister with respect to any of the matters so referred to.

Insertion in
Principal Act
of new sections
15A, 15B.

7—After section 15 of the Principal Act, the following sections are inserted:—

Commission to
have regard to
Government's
policy
objectives.

15A—The Minister may from time to time, by instrument in writing, notify the Commission of the policy objectives of the Government of this State with respect to any matter relating to the generation, reception, transmission, distribution, supply, sale, use, or conservation of electrical energy within, or for the purposes of, this State.

Power of
Minister to
give directions
to Commission.

15B—(1) Subject to subsection (2), the Minister may, after consultation with the Commission, give to the Commission in writing any direction that he considers to be in the public interest with respect to the performance or exercise by the Commission of its functions, duties, or powers under this or any other Act.

(2) The power conferred on the Minister by subsection (1)—

(a) shall not be exercised so as—

- (i) to require the Commission to do anything that it is not empowered to do by this or any other Act;
- (ii) to prevent the Commission from performing any duty that it is expressly required by this or any other Act to perform, either conditionally or unconditionally;
- (iii) to require the Commission to include in any report that the Commission is required or empowered to make under this or any other Act any recommendation, finding, or comment with which it does not agree or to exclude from any such report any recommendation, finding, or comment which it wishes to make; or
- (iv) to interfere with the formation by the Commission of any opinion or belief in relation to any matter that has to be determined as a prerequisite to the perform-

ance or exercise by the Commission of any of its functions, duties, or powers; and

- (b) does not extend to any matter concerning—
- (i) a loan negotiated by or on behalf of the Commission; or
 - (ii) a contract or agreement to which the Commission is a party and which is in force at the commencement of the *Hydro-Electric Commission Amendment Act 1979*.

(3) Where the Commission receives a direction given under subsection (1), it may, if it is of the opinion that compliance with the direction would have a detrimental or prejudicial effect on the proper performance or exercise by the Commission of any of its functions, duties, or powers under this or any other Act, lodge with the Minister, within 14 days after receipt of the direction, a statement in writing setting out its objections to the direction, including—

- (a) the reasons for those objections; and
- (b) any modifications to the direction that it wishes to propose with a view to obviating or minimising that effect.

(4) Where a statement of objections to a direction given under subsection (1) is lodged with the Minister in accordance with subsection (3) and the Minister does not agree to withdraw the direction or to modify it in a manner and form acceptable to the Commission, the Minister shall thereupon submit to the Governor a copy of the direction, together with a copy of the statement of the Commission's objections.

(5) Where a submission is made to the Governor in accordance with subsection (4), the following provisions apply:—

- (a) if the Governor agrees with the Commission's objections, he may require the Minister to withdraw the direction or to modify the direction in a manner and form which will be acceptable to the Commission;
- (b) if the Governor does not agree with the Commission's objections, he shall require the Minister to notify the Commission forthwith that he does not agree with those objections and shall also require

the Minister to lay a copy of the direction, together with a copy of those objections, before each House of Parliament within the first 10 sitting days of the House after the requirement is notified to the Minister.

(6) On being notified of a requirement of the Governor made under subsection (5) (a) or (b), it is the duty of the Minister to comply with the requirement.

(7) Where a direction has been given under subsection (1), it is the duty of the Commission—

(a) in a case where no statement of objections to the direction is lodged with the Minister in accordance with subsection (3) or where any such statement is so lodged but the Commission is notified in accordance with subsection (5) (b) that the Governor does not agree with the Commission's objections—to comply with the direction; or

(b) in a case where objections to the direction are lodged with the Minister in accordance with subsection (3) and the Minister agrees to modify the direction, or the Governor in accordance with subsection (5) (a) requires the Minister to modify the direction, in a manner and form acceptable to the Commission—to comply with the direction as so modified.

(8) The Minister may, at any time, by notice in writing given to the Commission, revoke a direction given under this section.

(9) The fact that the Minister has power to give a direction under this section or gives such a direction does not have the effect of—

(a) making the Commission the servant or agent of the Crown for the purposes of this or any other Act; or

(b) conferring on the Commission any status, privilege, or immunity of the Crown.

8—Section 41 (1) of the Principal Act is amended as follows:—

(a) by omitting from paragraph (a) “, build, or place”;

Amendment of section 41 of Principal Act (Power to enter land).

(b) by omitting from paragraph (e) “erect” and substituting “construct”.

9—Section 44 of the Principal Act is amended by omitting “, erect”.

Amendment of section 44 of Principal Act (Power to construct buildings, &c., on land).

10—Section 45 of the Principal Act is amended by omitting “, erect” wherever occurring.

Amendment of section 45 of Principal Act (Powers of Commission in relation to works for transmission and distribution of electricity).

11—Section 54 (2) of the Principal Act is amended by omitting “Notwithstanding anything contained in this Act,” and substituting “Subject to any direction given by the Minister under section 15B but otherwise notwithstanding anything to the contrary in this Act,”.

Amendment of section 54 of Principal Act (Power of Commission to supply electrical energy).

12—The Principal Act is further amended in the manner specified in Schedule 1.

Statute law revision.

Section 13

SCHEDULE 1
AMENDMENTS TO PRINCIPAL ACT BY WAY OF STATUTE LAW
REVISION

Column 1 Provision of Principal Act amended	Column 2 Amendment
(1) Section 2, definition of "public authority"	After the definition of "private purposes", insert the following:— "public authority" means— (a) a commission, board, authority, or other body that is constituted or established for any public purpose; or (b) a local authority;
(2) Section 2, definition of "public purposes" or 'public works'"	Omit the definition and substitute the following:— "public purposes" includes the purposes of a public authority as well as the purposes of the Government of the State;
(3) Section 10 (1)	(a) From paragraph (a) omit ", becomes insane,"; (b) After paragraph (a), insert the following:— (aa) becomes liable to be detained under the <i>Mental Health Act 1963</i> in a hospital within the meaning of section 3 (1) of that Act;
(4) Section 39 (3)	Omit "1935" and substitute "1976".
(5) Section 39A (2)	Omit "Subsection (3) of section 173 of the <i>Local Government Act 1906</i> " and substitute "Section 246 (3) of the <i>Local Government Act 1962</i> ".
(6) Section 41 (1)	(a) After "giving", insert "not less than"; (b) Omit "100 yards" and substitute "90 metres".
(7) Section 45 (1) (a) (i)	Omit "belonging to the State".
(8) Section 45	Omit subsection (5) and substitute the following:— (5) Except as may be prescribed, the <i>Industrial Safety, Health, and Welfare Act 1977</i> does not apply to or in relation to machinery or pressure vessels within the meaning of that Act that are owned or controlled by the Commission.

Column 1 Provision of Principal Act amended	Column 2 Amendment
(9) Section 46 (2) (a)	Omit "100 cusecs" and substitute "2 832 litres per second".
(10) Section 46 (2) (d)	(a) Omit "1 012 feet" and substitute "308.46 metres"; (b) Omit "1 007 feet" and substitute "306.93 metres".
(11) Section 46 (3)	Omit "1 002 feet" and substitute "305.41 metres".
(12) Section 47 (8)	Omit "Chief Valuer under the <i>Land Valuation Act 1950</i> " and substitute "Valuer-General under the <i>Land Valuation Act 1971</i> ".
(13) Section 48 (2) (a)	Omit "ten horsepower" and substitute "7.46 kilowatts".
(14) Section 54 (3)	At the end of the subsection, insert the following:— Penalty: \$100.
(15) Section 64	Omit "the <i>Crown Lands Act 1935</i> or" wherever occurring.
(16) Section 64 (1) (b)	Omit "500 horsepower" and substitute "373 kilowatts".
(17) Section 64 (4)	Omit "\$10 per acre" and substitute "\$25 per hectare".
(18) Section 64 (7)	Omit "500 h.p." and substitute "373 kilowatts".
(19) Section 72A (2) (e)	Omit "25 shillings" and substitute "\$2.50".
(20) Section 77	Omit the section.

