



### ANALYSIS

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1967, No. 160

**An Act to establish an Electricity Distribution Commission and to prescribe its functions and powers**

[24 November 1967

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

**1. Short Title and commencement—**(1) This Act may be cited as the Electricity Distribution Commission Act 1967.

(2) This Act shall come into force on the first day of April, nineteen hundred and sixty-eight.

**2. Interpretation—**In this Act, unless the context otherwise requires,—

“Area electricity authority” means an area electricity authority constituted pursuant to section 28 of this Act:

“Commission” means the Electricity Distribution Commission established under this Act:

“Constituent local authority” means a local authority the whole or any part of whose territorial district is included in the supply district of an area electricity authority:

“Local authority” means any Borough Council, County Council, or Town Council of an independent town district:

“Minister” means the Minister of Electricity:

“Supply authority” means an Electrical Supply Authority within the meaning of the Electricity Act 1945.

“Supply district” means the district in which a supply authority is authorised to supply electricity:

“Territorial district” means the district of a local authority:

## PART I

### ELECTRICITY DISTRIBUTION COMMISSION

**3. Electricity Distribution Commission—**For the purposes of this Act there is hereby established a Commission to be called the Electricity Distribution Commission.

**4. Membership of Commission—**(1) The Commission shall consist of five members, appointed by the Governor-General on the recommendation of the Minister, of whom—

- (a) One member, who shall be Chairman, and who shall be recommended for appointment by the Minister after consultation with the Electrical Supply Authorities' Association of New Zealand:

- (b) One member shall be appointed from a panel of two names submitted to the Minister by the Executive Committee of the Electrical Supply Authorities' Association of New Zealand on the recommendation of the Municipal Electricity Supply Authorities' Association of New Zealand:
- (c) One member shall be appointed from a panel of two names submitted to the Minister by the Executive Committee of the Electrical Supply Authorities' Association of New Zealand on the recommendation of the Electric Power Boards of New Zealand Incorporated:
- (d) One member shall be nominated by the Executive Committee of the Electrical Supply Authorities' Association of New Zealand:
- (e) One member who, at the date of his appointment, shall be an officer of the New Zealand Electricity Department.

(2) If the Executive Committee of the Electricity Supply Authorities' Association of New Zealand fails within one month after being required to do so by the Minister to submit names in accordance with paragraph (b), paragraph (c), or paragraph (d) of subsection (1) of this section, the Minister may recommend to the Governor-General a suitable person for appointment, having regard to the provisions of those paragraphs.

(3) No member appointed under paragraph (d) of subsection (1) of this section shall be an officer of the Public Service or a member or an officer of a supply authority nor shall he have been such an officer or member at any time during the period of ten years immediately preceding his appointment.

(4) No member of the Commission shall be deemed to be employed in the service of Her Majesty for the purposes of the State Services Act 1962 or the Superannuation Act 1956 by reason only of his being a member of the Commission.

**5. Term of office of members—**(1) The Chairman of the Commission shall be appointed for a term of three years and may from time to time be reappointed.

(2) Other members shall be appointed for a term of three years:

Provided that of the first members appointed under paragraph (b) or paragraph (c) of subsection (1) of section 4 of this Act, one, to be decided by lot, shall be

appointed for a term of one year and the other for a term of two years and that the first member appointed under paragraph (d) of that subsection shall be appointed for a term of two years.

(3) All members may be reappointed for a term of three years.

(4) Notwithstanding anything to the contrary in this Act, every member, unless he sooner vacates his office under section 6 of this Act, shall continue in office until his successor comes into office.

**6. Extraordinary vacancies**—(1) Any member may at any time be removed from office by the Governor-General for disability, bankruptcy, neglect of duty, or misconduct, proved to the satisfaction of the Governor-General, or may at any time resign his office by writing addressed to the Minister.

(2) If any member dies, or resigns, or is removed from office, his office shall become vacant and the vacancy shall be deemed an extraordinary vacancy.

(3) An extraordinary vacancy shall be filled in the manner in which the appointment to the vacant office was made.

(4) Every person appointed to fill an extraordinary vacancy shall be appointed for the residue of the term for which the vacating member was appointed.

(5) The powers of the Commission shall not be affected by any vacancy in the membership thereof.

**7. Deputies of members**—(1) If any member other than the member appointed under paragraph (e) of subsection (1) of section 4 of this Act is incapacitated by illness, absence, or other sufficient cause from performing the duties of his office, the Minister, after consultation with the Executive Committee of the Electrical Supply Authorities' Association, may appoint a deputy to act for that member during his incapacity.

(2) In the case of the incapacity of the Chairman, his deputy shall be the person holding office as Deputy Chairman under section 8 of this Act and the Minister may appoint a deputy under this section to act for the Deputy Chairman.

(3) In the case of the incapacity of the member appointed under paragraph (e) of subsection (1) of section 4 of this Act, any officer of the Electricity Department authorised in that behalf may attend a meeting in his stead, or, during intervals between meetings, do any act which the member may do, and while so attending or acting shall be deemed to be a member of the Commission.

(4) The Minister may at any time appoint a deputy for any member, other than the Chairman, notwithstanding that at the date of the appointment the necessity for the appointment had not arisen.

(5) Any deputy appointed under this section shall, while he acts as such, be deemed to be a member of the Commission.

(6) No appointment of a deputy and no act done by him as such, and no act done by the Commission while any deputy is acting as such, shall in any proceedings be questioned on the ground that the occasion for his appointment had not arisen or had ceased.

**8. Deputy Chairman—**(1) The Commission shall from time to time elect one of its members to be Deputy Chairman to hold office as such for the term of his appointment as a member.

(2) During any vacancy in the office of Chairman, or in the absence of the Chairman from any meeting of the Council, or in the event of the Chairman being incapacitated by illness or other cause from performing the duties of his office, the Deputy Chairman shall have and may exercise all the powers of the Chairman.

**9. Meetings of Commission—**(1) The first meeting of the Commission shall be held on a day to be appointed in that behalf by the Minister.

(2) Subsequent meetings of the Commission shall be held at such times and places as the Commission or the Chairman from time to time appoints.

(3) The Chairman may at any time call a special meeting of the Commission and the Chairman shall call a special meeting whenever required to do so in writing by any three members.

(4) At all meetings of the Commission the quorum necessary for the transaction of business shall be three members of whom one shall have been appointed as a member under paragraph (b) of subsection (1) of section 4 of this Act and one under paragraph (c) of that subsection, or shall be the deputy of any such member.

(5) The Chairman shall preside at all meetings of the Commission at which he is present. In the absence from any meeting of the Chairman and the Deputy Chairman, the members present shall appoint one of their number to be chairman at that meeting.

(6) At any meeting of the Commission the Chairman or other person presiding shall have a deliberative vote, and, in the case of an equality of votes, shall also have a casting vote.

(7) All questions arising at any meeting of the Commission shall be decided by a majority of the valid votes recorded thereon.

(8) Subject to the provisions of this Act and of the rules of the Commission, the Commission may regulate its procedure in such manner as it thinks fit.

**10. Committees—**(1) The Commission may from time to time, by resolution, appoint, discharge, alter, continue, or reconstitute—

(a) An executive committee of not less than three members:

(b) Special committees for particular purposes.

(2) Every member of the executive committee shall be a member of the Commission, but any person may be appointed to a special committee notwithstanding that he is not a member of the Commission.

(3) The Chairman of the Commission shall be the Chairman of the executive committee.

(4) The functions of special committees shall be to advise the Commission on such matters as are referred to them by the Commission.

(5) The Commission may delegate to the executive committee such of its powers and functions as it thinks fit except the power to approve any scheme under this Act or to delegate under this section.

(6) Subject to any general or special directions given or conditions attached by the Commission, any powers or functions so delegated may be performed and exercised by the executive committee with the same effect as if those powers or functions had been directly conferred by this Act and not by delegation.

(7) Every executive committee purporting to act under any delegation under this section shall be presumed to be acting in accordance with the terms of the delegation, in the absence of proof to the contrary.

(8) Every such delegation shall be revocable at will, and no such delegation shall prevent the performance or exercise of any power or function by the Commission.

(9) Until any such delegation is revoked, it shall continue in force according to its tenor, notwithstanding any change in the membership of the Commission or of the committee.

(10) Subject to the rules of the Commission, each committee appointed under this section may regulate its own proceedings in such manner as it thinks fit.

**11. Officers of Commission**—(1) There may from time to time be appointed under the provisions of the State Services Act 1962 a Secretary of the Commission and such other officers as may be required for the purposes of this Act.

(2) Any person may hold any office under this Act in conjunction with any other office in the Public Service.

**12. Fees and travelling allowances**—(1) The Commission is hereby declared to be a statutory Board within the meaning of the Fees and Travelling Allowances Act 1951.

(2) There may be paid to members of the Commission and of any committee appointed by the Commission remuneration by way of fees, salary, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly.

**13. Commission to be Commission of Inquiry**—(1) The Commission shall be deemed to be a Commission of Inquiry under the Commissions of Inquiry Act 1908, and subject to the provisions of this Act, all the provisions of that Act except sections 2 and 4A and sections 11 to 15 shall apply accordingly.

(2) The Chairman of the Commission, or any other member or the Secretary of the Commission purporting to act by direction or within the authority of the Chairman, may issue summonses requiring the attendance of witnesses before the Commission, and the production of documents, or may do any other act preliminary or incidental to the hearing of any matter by the Commission.

**14. Proceedings subject to review**—Proceedings before the Commission shall not be held bad for want of form, and no appeal other than an appeal under section 29 of this Act, shall lie from any determination or decision of the Commission:

Provided that nothing in this section shall be construed—

(a) To prohibit or restrict the Supreme Court from exercising a supervisory jurisdiction over the Commission on questions of law; or

(b) To restrict the power of the Commission to refer any disputed point of law to the Supreme Court for decision pursuant to section 10 of the Commissions of Inquiry Act 1908.

## PART II

### FUNCTIONS AND POWERS OF COMMISSION

**15. Functions of Commission—**(1) The functions of the Commission shall be to carry out all such investigations, prepare all such schemes, and make all such recommendations and reports as are required or authorised by this Act for the purposes of ensuring that —

- (a) The system of electricity distribution in any locality shall be such as best provides or will best provide for the needs and continued development of that locality;
- (b) Supply authorities have such district boundaries and such functions and powers as are necessary or expedient to enable them to provide most effectively and economically essential services in respect of the distribution of electricity;
- (c) The purposes and provisions of this Act are effectively implemented.

(2) In performing its functions, the Commission may exercise all or any of the following powers in accordance with the provisions of this Act, namely:

- (a) To undertake surveys in localities where boundary adjustments of the supply districts of supply authorities are contemplated or considered desirable;
- (b) To encourage negotiations between supply authorities relating to boundary adjustments;
- (c) To inquire into proposals and prepare schemes in accordance with the provisions of this Act for the adjustment of boundaries and the reorganisation of the functions of supply authorities in respect of the supply and distribution of electricity;
- (d) Of its own motion, or at the request of the Minister or of any supply authority, to carry out investigations in respect of the constitution of an area electricity authority in any locality;
- (e) Act as the final authority for the determination of matters in dispute between two or more supply authorities;
- (f) Exercise such other powers as may be conferred on it by this or any other Act.

(3) In carrying out any investigation under this section, the Commission may in its discretion hold a public inquiry, and in every such case the provisions of section 21 of this Act, as far as they are applicable, shall apply as if that inquiry were a public inquiry to which that section applies.

(4) The Commission of its own motion or at the request of the Minister or of any supply authority concerned may take such steps as it considers necessary or desirable for the purpose of settling any dispute between two or more supply authorities in respect of which those supply authorities have no right of application to any Court of competent jurisdiction.

(5) Where the supply authorities concerned request any action to be taken by the Commission under subsection (4) of this section, the determination of the Commission in respect of any dispute shall be final and binding on the parties thereto.

**16. Commission may direct investigations—**(1) The Secretary of the Commission or any other person authorised by the Secretary may from time to time investigate and report to the Commission on such matters as the Commission directs.

(2) Every person commits an offence and shall be liable on summary conviction to a fine not exceeding one hundred dollars who, having custody or possession of any books, papers, accounts, or documents, refuses or fails to give access thereto to any person investigating any matter under this section, or who obstructs any such person in the making of the investigation.

**17. Reorganisation schemes—**(1) A reorganisation scheme under this Act may provide for one or more of the following matters:

- (a) The union into one supply district of two or more adjoining districts:
- (b) The merger of any supply district in any other supply district:
- (c) The constitution of a new supply district or districts:
- (d) The abolition of any supply district or districts:
- (e) Any alteration of the boundaries of adjoining supply districts:
- (f) The constitution of an area electricity authority:
- (g) The inclusion in any supply district of an area adjoining that district:
- (h) The exclusion of any area from any supply district:
- (i) The dissolution of any supply authority:
- (j) The rights and obligations of supply authorities in respect of the payment for electricity supplied by one supply authority to another.

(2) A scheme providing for any of the matters referred to in subsection (1) of this section may also provide for any other matters that may be declared by the Governor-General,

by Order in Council, to be appropriate to such a scheme, and may also provide for any matters considered by the Commission to be incidental to the scheme, including any supplementary provisions referred to in section 27 of this Act.

(3) In preparing any scheme under this Act, the Commission shall have regard to the desirability for supply districts of supply authorities to conform with effective planning in respect of the distribution of electricity and for supply districts to be so defined as to achieve the following results, that is to say:

- (a) The supply authority for the district to administer such an area and to have such resources as will enable it to engage adequate services and to obtain and operate adequate technical facilities, plant, and equipment:
  - (b) The boundaries of the supply district to avoid proximity to heavily populated areas and not, where practicable, to consist of roadlines:
  - (c) Supply districts to be of such size and nature and have such geographical characteristics as to promote the efficient and economic distribution of electricity, avoid the necessity of uneconomic capital expenditure, and enable, as far as possible, the equalisation of tariffs:
  - (d) Having regard to the foregoing provisions of this subsection, the boundaries of the supply district to coincide with the boundaries of territorial local authorities.
- (4) In preparing any such scheme the Commission shall have regard to—
- (a) The extent to which the scheme is necessary or desirable in the public interest.
  - (b) The extent to which the scheme will promote the efficient organisation of the electricity supply industry:
  - (c) The effect of the scheme upon local authorities or Electric Power Boards having jurisdiction in any district affected by the scheme:
  - (d) Such technical, financial, and administrative considerations, including considerations relating to the investment by the Crown in the generation or provision of electricity or in electricity undertakings as the Commission considers relevant:
  - (e) The effect of the scheme upon ratepayers and consumers of electricity in the area concerned and in adjacent areas:

- (f) Such other matters as the Commission considers relevant.

**18. Commission may investigate proposals—**(1) The Commission may from time to time of its own motion initiate, or at the request of the Minister or of any supply authority consider, a proposal that a scheme be prepared in respect of any matters referred to in subsection (1) of section 17 of this Act:

Provided that, unless all supply authorities concerned agree, no such proposal shall be initiated by the Commission of its own motion or at the request of any other person before the first day of October, nineteen hundred and sixty-nine.

(2) Either before or immediately after any such request is made to the Commission, the Minister or, as the case may be, the supply authority shall serve a copy of the proposal on every supply authority to which the proposal relates.

(3) Where a request or recommendation is made under any enactment other than this Act to the Governor-General or to any supply authority or other person, whether by petition or in such other manner as may be prescribed or permissible, asking for or recommending any action to be taken for the purpose of or with a view to giving effect to any proposal which could be provided for in a scheme under this Act, the request or recommendation shall be referred to the Commission, and no such action shall be taken under the enactment unless the Commission so recommends.

(4) Where the Commission does not make any such recommendation in respect of any such proposal, the Commission shall deal with the request or recommendation as if it were a request under subsection (1) of this section.

**19. Limitation of time within which schemes may be initiated—**Except with the consent of the Minister, no proposal that a scheme be prepared under this Act shall be considered by the Commission unless the proposal has been initiated, whether on the motion of the Commission or otherwise, before the first day of October, nineteen hundred and seventy-three:

Provided that nothing in this section shall be construed to prevent the Commission from exercising any function or power under this Act in respect of any proposals initiated before that date.

**20. Commission to endeavour to negotiate agreements—**

(1) Where the Commission initiates or decides to consider any proposal under section 18 of this Act it shall, in accordance with this section, ascertain whether or not all supply authorities likely in the opinion of the Commission to be affected are in agreement on the proposal.

(2) The Commission shall, as a first step, appoint a conciliator (who may or may not be a member of the Commission) who shall make such inquiries, conduct such negotiations, and obtain such information as he thinks necessary or desirable, or as the Commission directs, for the purpose of inducing the supply authorities concerned to come to a fair and reasonable agreement in respect of the proposal.

(3) Before appointing a conciliator under this section, the Commission shall consult with the supply authorities concerned and shall endeavour, as far as practicable, to appoint a conciliator acceptable to those supply authorities.

(4) Before commencing conciliation proceedings the conciliator, after consultation with the Commission and the supply authorities concerned, shall prepare a statement setting out those matters in respect of which conciliation is proposed and shall forward copies of the statement to the Commission and the supply authorities.

(5) After the conciliator has concluded his investigations and negotiations under this section, he shall report to the Commission, in such form and within such time after commencing conciliation proceedings as the Commission directs, the results of his activities.

(6) Where, after considering the report of the conciliator, the Commission considers that further negotiations should take place between the conciliator and the supply authorities, it shall direct the conciliator accordingly, and the conciliator shall take such steps as may be necessary to give effect to the directions of the Commission.

(7) After considering the final report of the conciliator, the Commission, if it considers that the proposal warrants further consideration, may in its discretion convene a meeting of representatives of all the supply authorities likely in the opinion of the Commission to be affected by the proposal, for the purpose of discussing the proposal.

(8) The Commission may undertake, in such manner as it thinks fit, any other investigations and negotiations in relation to the proposal, separately or jointly with supply authorities or other interested persons.

(9) After the Commission has completed its investigations and negotiations under this section, it may, in its discretion—

- (a) Prepare a provisional scheme providing for all or any matters to which the proposal relates and incorporating all or any matters which have been agreed to by the parties; or
- (b) Hold a public inquiry as to whether or not a scheme should be prepared; or
- (c) Decide not to proceed with the inquiry.

(10) It shall be the duty of any supply authority concerned and of all other persons having custody of any books, papers, accounts, or documents to supply to the conciliator or the Commission such information as may be necessary for the purposes of this section.

**21. Public inquiry—**(1) Not less than one month before it commences any such public inquiry the Commission shall give public notice thereof. Every such notice shall state that representations on the matters to be inquired into may be made by any person either in writing addressed to the Commission before the inquiry or by oral or written submissions at the inquiry.

(2) The Commission shall also give notice of every public inquiry to the Minister, to every supply authority likely in the opinion of the Commission to be affected by the inquiry, to every person or body having statutory authority to make decisions or recommendations in respect of the union, merger, constitution, alteration, or abolition of any supply districts likely in the opinion of the Commission to be affected by the inquiry:

Provided that the failure to give notice to any such person or body shall not affect the validity of any scheme prepared as a result of the inquiry.

(3) After completing any such public inquiry, the Commission may, in its discretion—

- (a) Prepare a provisional scheme providing for all or any of the matters inquired into; or
- (b) Decide not to proceed with the proposal.

**22. Public notice of provisional scheme—**As soon as a provisional scheme has been prepared by the Commission, the Commission shall give public notice of the scheme and of the place or places where it may be inspected and of the right of objection hereinafter provided for, and shall also give notice

thereof to the persons and bodies referred to in subsection (2) of section 21 of this Act.

**23. Objections to provisional scheme—**(1) Any person or body interested shall have a right of objection to any provisional scheme, and may give notice in writing to the Commission of the objection and of the grounds thereof at any time within one month after the first public notification of the scheme, or within such further time as may in any case be allowed by the Commission.

(2) The Commission shall as soon as practicable consider all such objections, and may, if it thinks fit, convene a meeting of the supply authorities affected by the scheme and any person or body who or which has lodged an objection pursuant to subsection (1) of this section, or hold a public inquiry for that purpose.

(3) At any such meeting or public inquiry under the provisions of this section, the Commission shall hear all objections to the provisional scheme and such other evidence submitted as the Commission considers relevant to the matters being inquired into.

(4) In determining any objection the Commission may uphold that objection wholly or partly, and may abandon or modify the scheme accordingly, or may dismiss the objection:

Provided that the Commission may, if it thinks fit, prepare a further provisional scheme in substitution for that to which objection has been made. All the provisions of this Act with respect to provisional schemes shall apply with respect to every substituted scheme so prepared.

**24. Final scheme—**After all objections to any provisional scheme have been disposed of, the Commission may approve the scheme as originally prepared or as modified as a result of such objections, and the scheme shall then subject to the provisions of section 34 of this Act, become a final scheme.

**25. Public notice of final scheme—**As soon as may be after a final scheme has been approved by the Commission, the Commission shall give public notice of the scheme and of the place or places where it may be inspected, and shall also give notice thereof to the persons and bodies referred to in subsection (2) of section 21 of this Act.

**26. Effect to be given to final scheme—**(1) Effect shall be given to every final scheme either—

- (a) By Order in Council; or
- (b) If the Minister so decides, in such other manner as may be prescribed by any Act for the time being in force making appropriate provision in that behalf.

(2) No final scheme shall be given effect to under this section until all modifications of the scheme as the result of any appeal under section 29 of this Act have been incorporated in the scheme.

**27. Supplementary provisions for giving effect to scheme—**

(1) For the purpose of giving full effect to any provisions of a final scheme, the Commission in the final scheme may, subject to the provisions of this Act, make such provisions as it deems necessary for the purposes of any supply district thereby created or altered or for the discharge of the functions of the supply authority of the district, or for any other matter rendered necessary through the carrying into effect of the provisions. In particular the Commission may—

- (a) Determine the nature or constitution of any new supply district or any new supply authority;
- (b) Declare that the union, merger, constitution, abolition, or alteration of boundaries of any supply district or districts or the dissolution of any supply authority shall be deemed to have been effected under any existing Act that it specifies in that behalf;
- (c) Make such provisions as are necessary with respect to the first or any election of members of any supply authority affected by the scheme;
- (d) Make provision for the apportionment or disposition of assets and liabilities of all or any of the supply authorities affected by the scheme;
- (e) Make provision with respect to the disposition or future operation of any gas undertaking owned or operated by any supply authority concerned;
- (f) Make provision for the payment of compensation to supply authorities the supply districts of which are diminished, abolished, or altered by the scheme;
- (g) Make such provision as it considers just and equitable in respect of the payment for electricity supplied by a supply authority to a local authority which is also a supply authority:

- (h) Where a supply district is merged or is abolished and the whole or any part thereof is included in the supply district of any other supply authority, make such provision as it considers necessary for the representation of that first mentioned district or part thereof on that other supply authority until the next general election of members of that other supply authority:
  - (i) Prescribe the date or dates on which the provisions or any of them shall come into force.
- (2) In exercising the powers conferred by subsection (1) of this section, the Commission may apply for the purpose, with such modifications as may be necessary or desirable, any provisions of any Act for the time being in force which in its opinion are appropriate to the particular matter.

**28. Area electricity authorities—**(1) Where a final scheme provides for the whole or any part of the areas comprised in the territorial districts of several local authorities, one or more of which is a supply authority, to be combined in one supply district, the final scheme may provide for the constitution of an area electricity authority to administer the supply of electricity in that supply district.

(2) A final scheme may provide for the constitution of an area electricity authority notwithstanding that the whole of the area to be included in the supply district of the area electricity authority was, before the commencement of the scheme, included in the supply district of a local authority which is a supply authority.

(3) A final scheme including a provision for the constitution of an area electricity authority may contain such provisions as may be necessary to give effect to the scheme, and in particular any such scheme may provide—

- (a) For membership of the area electricity authority:
- (b) For representation on the area electricity authority of local authorities whose territorial districts or any part of whose districts are included in the supply district of the area electricity authority:
- (c) For the definition of the functions, powers, and responsibilities of the area electricity authority which may include—
  - (i) The administration of the supply of electricity in the district of the area electricity authority:

(ii) The distribution of any surplus of revenue over expenditure which may accrue from the supply of electricity by the area electricity authority among constituent local authorities or among such of the constituent local authorities as may be referred to in the scheme:

(iii) The payment to an Electric Power Board of contributions for the purpose of compensating for loss of revenue which may result from any alteration of the boundaries of that Board pursuant to the scheme:

(iv) Such functions, powers, and responsibilities which may be exercised by or imposed on supply authorities under any enactment for the time being in force as the Commission thinks fit to confer or impose on the area electricity authority:

(v) Such powers, functions, and responsibilities as may be conferred or imposed on a supply authority under section 27 of this Act.

(4) In providing for the distribution of any surplus of revenue over expenditure under subparagraph (ii) of paragraph (c) of subsection (3) of this section, the following provisions shall apply:

(a) The amount to be distributed in any year shall not exceed an amount equal to two and a half percent of the capital value of the electricity undertaking of the area electricity authority:

(b) The amount (if any) to which any constituent local authority shall be entitled by way of distribution of surplus shall be such amount as may be considered by the Commission as just and equitable in the circumstances:

(c) In calculating its surplus for any year for the purposes of this section the Authority shall take into account as expenditure—

(i) Operating deficiencies from previous years; and

(ii) All charges and expenses in connection with the operation, management, and maintenance of the electricity undertaking of the Authority; and

(iii) All payments for interest, loan repayment, or depreciation; and

(iv) Any amount appropriated for capital expenditure, being not less than twenty-five percent of the estimated capital expenditure for that year; and

(v) Such amount as may be set aside to provide for any deficiency which may occur in the next following year.

(5) Membership of an area electricity authority shall consist of—

- (a) Persons elected by the electors qualified to vote under the Local Elections and Polls Act 1966 in the supply district of the area electricity authority; or
- (b) Persons, who shall be electors of the constituent local authority, nominated in that behalf by the Councils of each constituent local authority; or
- (c) Persons elected under paragraph (a) of this subsection in respect of prescribed constituent districts and persons nominated under paragraph (b) of this subsection in respect of the remainder of the constituent districts—

as may be determined by the Commission in the final scheme.

(6) In determining the representation of constituent local authorities the Commission shall have regard, in such manner as it thinks fit, to the relative populations of the constituent districts, to the relative values of the rateable property therein, to the amount of rates levied or proposed to be levied therein, and to all other relevant considerations.

(7) In any case where by reason of the smallness of the population of any such constituent district, or of the value of the rateable property in that district, it is, in the opinion of the Commission impracticable or inexpedient to have a person representing the constituent local authority for the district, the Commission may in the final scheme combine into one or more constituent districts any number of constituent districts (whether of the same or of different kinds) for the purpose of the representation of the local authorities of those districts.

(8) Every area electricity authority shall be a body corporate with perpetual succession and a common seal, and shall be capable of holding real and personal property, of suing and being sued, and of doing and suffering all such other things as bodies corporate may lawfully do and suffer.

(9) Nothing in this section shall prevent a final scheme providing for the inclusion in an Electric Power Board supply district the whole or any part of the territorial district of a local authority which is a supply authority.

(10) For the purposes of this section the term "local authority" includes the Crown in any case in which the Crown is the supply authority for any area included in the territorial district of a local authority.

**29. Appeals**—(1) Where under a final scheme the supply district of a supply authority is diminished, abolished, or altered, there shall be a right of appeal under this section against any determination of the Commission contained in the final scheme.

(2) Only a supply authority affected by the scheme, whether in respect of its district or in respect of any of its functions as a supply authority, may appeal as aforesaid.

(3) Notice of any appeal under this section shall be given to the Minister within twenty-one days after notice of the final scheme has been given to the appellant under section 25 of this Act.

(4) The Minister, on receipt of the notice of appeal, shall appoint a person as an Appeal Authority who shall be a barrister or solicitor of the Supreme Court of not less than seven years' practice, whether or not he holds or has held any judicial office.

(5) The person appointed as Appeal Authority may hold that office concurrently with any other office held by him.

(6) There shall be payable to the Appeal Authority out of the Works and Trading Account such remuneration by way of fees, salary, and allowances as is fixed from time to time by the Minister of Finance:

Provided that nothing in this subsection shall apply with respect to any person appointed as Appeal Authority who for the time being receives out of public money a salary in respect of any office that he holds concurrently with his office as Appeal Authority.

(7) Before entering upon the duties of his office, the person appointed as Appeal Authority (not being a person who has already taken the judicial oath in respect of any other judicial office for the time being held by him) shall take and subscribe an oath before a Judge of the Supreme Court that he will faithfully and impartially perform the duties of his office.

(8) The functions of the Appeal Authority shall be to sit as a judicial authority to determine appeals from decisions of the Commission.

(9) The Appeal Authority may receive as evidence any statement, document, information, or matter that may in his opinion assist him to deal effectively with any appeal, whether or not the same would be otherwise admissible in a Court of Law.

(10) Subject to subsection (9) of this section, the Evidence Act 1908 shall apply to the Appeal Authority and to all

proceedings before him in the same manner as if the Appeal Authority were a Court within the meaning of that Act.

(11) The Appeal Authority shall be deemed to be a Commission of Inquiry under the Commissions of Inquiry Act 1908, and, subject to the provisions of this Act, all the provisions of that Act, except sections 2 and 4A and sections 11 to 15 shall apply accordingly.

(12) The Appeal Authority shall determine his own procedure.

**30. Hearing of Appeals—**(1) The Appeal Authority shall as soon as practicable hear the appeal and may—

- (a) Confirm the determination of the Commission; or
- (b) Amend the scheme or any provision of the scheme in such manner as he considers just and equitable having regard to the provisions of this Act; or
- (c) Refer the scheme to the Commission for further consideration in respect of such matters as may be indicated by the Appeal Authority.

(2) There shall be no appeal from any determination of the Commission made after further consideration pursuant to a reference under paragraph (c) of subsection (1) of this section.

(3) Every appeal shall be in the form of a case agreed upon by the Commission and the appellant or, if they cannot agree, the Appeal Authority may hear the appeal without an agreed case.

(4) The Appeal Authority shall not be bound to rehear any evidence given before the Commission but may have regard to any record of evidence supplied by the Commission and to any documents presented to the Commission during the course of the preparation of the scheme.

(5) The Commission and every supply authority affected by the scheme may be represented at the hearing of any appeal by its solicitor or counsel or agent.

(6) Every decision of the Appeal Authority shall be final and binding on the persons affected thereby.

(7) If the appellant does not prosecute his appeal with due diligence, the Appeal Authority may on the application of any person affected by the appeal dismiss the appeal.

**31. Amendment of final schemes—**Where the Commission is of the opinion that it is necessary or expedient to amend a final scheme which provides for the constitution of an area electricity authority, and the constituent local authorities

agree with the proposed amendment, the Governor-General may, by Order in Council, make such provisions as may be necessary to give effect to any such amendment.

**32. No alteration of supply districts without approval of Commission**—Notwithstanding the provisions of the Electric Power Boards Act 1925 or of any other enactment, no alteration in the boundaries of a supply district, whether by way of extension of the district, or of amalgamation of supply districts, or otherwise howsoever, shall take place otherwise than in accordance with this Act or with the approval of the Commission.

**33. Exercise of powers under this Act not affected by other Acts**—(1) An Order in Council or other instrument giving effect to any proposal contained in a final scheme, may be issued under the authority of this Act, or of any Act applied for the purpose, notwithstanding that the requirements of any Act, other than this Act, as to the particular matter in relation to which the instrument is issued may not have been complied with.

(2) Any such instrument shall, for all purposes not inconsistent with the provisions of this Act, be deemed to have been issued under the authority of such other Act as is named therein as fully and effectually as if the provisions of that Act precedent to the issue of the instrument had been fully complied with.

**34. Rights and obligations of supply authority on which jurisdiction is conferred**—In any case where, pursuant to a final scheme,—

(a) Two or more supply districts are altered; or

(b) The functions of any supply authority in respect of any area are transferred to another supply authority,—

the supply authority that, pursuant to the scheme, assumes jurisdiction over an area formerly comprised in another district, shall have and may exercise, subject to any provisions which the Governor-General may, by Order in Council, make to the contrary, all the powers which were previously exercised by the controlling supply authority, and shall be subject to the same duties, obligations, and liabilities as were imposed on that controlling supply authority.

### PART III

#### MISCELLANEOUS PROVISIONS

**35. Minister may request Commission to review scheme—**

(1) Where the Minister considers that any proposal contained in a final scheme should be reviewed, he may request the Commission to give further consideration to that scheme or to any related scheme.

(2) In any such case the Commission, in its discretion, may recommend to the Minister that the scheme be proceeded with, with or without amendment, or not proceeded with.

**36. Commission may co-opt specialist advice—**The Commission may invite any person or any officer of the Public Service or a representative of any body who or which, in the opinion of the Commission, has expert knowledge concerning any aspect of electricity distribution which is likely to be of assistance to the Commission to attend any meeting or public inquiry held under this Act and to take part in the proceedings.

**37. Notices—**(1) Any notice required by this Act to be given to a supply authority may be given by leaving it at the office of the supply authority or by sending it by post addressed to the supply authority at its office.

(2) Any notice required by this Act to be given to any other person may be given by delivering it to that person or by posting it in a letter addressed to that person at his usual or last known place of abode or business.

(3) Every notice sent by post shall be deemed to have been delivered in the ordinary course of post, and in proving the delivery it shall be sufficient to prove that the letter was properly addressed and posted.

**38. Annual report—**(1) The Commission shall furnish to the Minister a report of its proceedings and operations during each year ending with the thirty-first day of March as soon as practicable after the end of that year.

(2) A copy of the report shall be laid before Parliament.

**39. Costs of administration—**The costs of the administration of this Act shall be paid out of the Works and Trading Account out of money appropriated by Parliament for the purpose.

**40. Act to be administered by Electricity Department—**

(1) This Act shall be administered by the New Zealand Electricity Department established under the Electricity Act 1945.

(2) Section 3 of the Electricity Act 1945 shall apply in all respects as if this Act were one of the Acts specified in the Schedule to that Act.

**41. Regulations—**The Governor-General may from time to time, by Order in Council, make regulations providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for the due administration thereof.

**42. Act to bind Crown—**This Act shall bind the Crown.

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This Act is administered by the New Zealand Electricity Department.

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