

## Electricity Industry Act (Chapter 78)

[Electricity Industry Act (Chapter 78) consolidated to No 10 of 2002] INDEPENDENT STATE OF PAPUA NEW GUINEA. CHAPTER No. 78.

Electricity Industry Act.

Being an Act to provide for the establishment of an Electricity Commission and to regulate the generation, supply and sale of electricity, and for related purposes. Being an Act to regulate the generation, supply and sale of electricity, and for related purposes. PART I.—PRELIMINARY.

### 1. Interpretation.

In this Act, unless the contrary intention appears—

"Authorized Officer" means an Authorized Officer appointed under Section 31A;

"the by-laws" . . . [Repealed]

"the Chairman" means the Chairman of the Commission appointed under Section 5(3); "the Chairman" . . . [Repealed] "the Commission" means the Papua New Guinea Electricity Commission established by Section 3; "the Commission" . . . [Repealed] "electrical contractor" includes— (a) a company, association or body of persons trading as an electrical contractor; and (b) the holder of an electrical contractor's licence; "customer" includes (where the context requires) a person seeking the supply or sale of electricity to that person;

"electrical contractor's licence" means an electrical contractor's licence issued under Section 38;

"electrical installation" means any appliances, wires, fittings or other apparatus placed in, on, under or over any premises and used for, or for purposes incidental to, the conveyance, control or use of electricity supplied or intended to be supplied by the State, or an electricity undertaker, whether or not the appliances, wires, fittings or apparatus are supplied by the person contracting or undertaking to supply them or it, and includes additions, alterations and repairs to any such appliances, wires, fittings or apparatus, but does not include—

(a) an electricity supply main or service line of the State, or an electricity undertaker; or

(b) any appliance, wire, fitting or apparatus—

(i) that is connected to and beyond any electrical outlet socket installed for the purpose of connecting portable electrical appliances, fittings and apparatus; and

(ii) at which fixed wiring terminates; or

(c) any appliance, wire, fitting or apparatus that is placed in, on, under or over any premises owned or occupied by the State, or an electricity undertaker and that—

(i) is not used for the consumption of electricity on those premises; or

(ii) is not used solely for purposes incidental to the conveyance or control of electricity so consumed; or

(d) any electrical installation about a mine;

"electrical wiring work" means the actual physical work of installing an electrical installation;

"electrician" means a person, other than an electrical contractor, engaged in electrical wiring work;

"electrician's licence" means an electrician's licence issued under Section 38;

"electricity" includes electric current, electrical energy or any like agency;

"electricity supply industry" means the industry involved in the generation, transmission, distribution, supply and sale of electricity or other operations of a prescribed kind; "electricity undertaker" means a person, firm or company who or which is licensed under Part IIIB to carry on operations in the electricity supply industry and includes (where the context requires) a person, firm or company who or which

has been licensed to carry on operations in the electricity supply industry under that Part whose licence has been suspended or cancelled or has expired;

"electric line" means a wire, conductor or other means used for the purpose of conveying, transmitting or distributing electricity, including—

(a) any casing, coating, covering, tube, pipe, pole, post, frame, bracket or insulator enclosing, surrounding or supporting such a line, or any part of such a line; and

(b) any apparatus connected with such a line for the purpose of conveying, transmitting or distributing electricity; "the General Manager" means the General Manager of the Commission appointed under Section 9A;

"the General Manager" . . . [Repealed]

"Inspector" means an Electricity Inspector appointed under Section 32; "member" means a member of the Commission; "member" . . . [Repealed]

"officer of the Regulator" means any person engaged by the Regulator pursuant to Division II.7 of the Independent Consumer and Competition Commission Act 2002; "Order" . . . [Repealed];

"the Appeals Panel" means the Appeals Panel constituted under Section 42 of the Independent Consumer and Competition Commission Act 2002;

"the Registrar of Titles" means the Registrar of Titles appointed under the Land Registration Act (Chapter 191); "registered company auditor" means a registered company auditor as defined in Section 2 of the Accountants Act 1996; "registered company auditor" . . . [Repealed];

"the regulations" means any regulations made under this Act; "Regulator" means the Independent Consumer and Competition Commission established under the Independent Consumer and Competition Commission Act 2002;

"retail", in relation to electricity, means the sale of electricity;

"this Act" includes the regulations;

"works" includes electric lines and any buildings, machinery, equipment (including substations and transformers), engines, works, matters and things used for, or in connection with, the generation or supply of electricity.

## 2. Saving of other laws.

(1) This Act does not affect the exercise of any right, power or authority under any law relating to Posts and Telegraphs.

(2) This Act shall be read subject to the Electricity Supply (Government Power Stations) Act. PART II.—THE PAPUA NEW GUINEA ELECTRICITY COMMISSION. Division 1.—Establishment and Constitution of the Commission.

3. Establishment of the Commission. A Papua New Guinea Electricity Commission is hereby established.

3. Establishment of the Commission. [Repealed]

## 4. Incorporation of the Commission.

(1) The Commission—

(a) is a corporation; and

(b) has perpetual succession; and

(c) shall have a seal; and

(d) may acquire, hold and dispose of property; and

(e) is capable of suing and being sued in its corporate name.

(2) All courts, Judges and persons acting judicially shall take judicial notice of the seal of the Commission affixed to a document, and shall presume that it was duly affixed.

4. Incorporation of the Commission. [Repealed]

5. Constitution of the Commission.

(1) The Commission shall consist of three Commissioners appointed by the Minister and who shall hold office during the pleasure of the Minister. (1A) . . . [Repealed]

(2) A person shall not, at the same time, be a member of the Commission and the General Manager.  
(2) . . . [Repealed]

(3) The Minister shall appoint one of the members to be the Chairman of the Commission and who shall hold office during the pleasure of the Minister.

(4) Subject to this Act, the terms and conditions of the members of the Commission are as determined by the Minister responsible for Public Service matters. (4) . . . [Repealed]

(5) Where a member is—

(a) on leave of absence; or

(b) absent from the country; or

(c) out of speedy and effective communication or otherwise unable to perform or is not readily available to perform the duties of his office, his alternate has and may exercise all his powers and perform all his functions and duties under this Act.

(5) . . . [Repealed]

(6) [See Note] (6) . . . [Repealed]

6. Dismissal of members of the Commission. [Repealed]

7. Vacation of office. The office of a member of the Commission becomes vacant—

(a) if he becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit; or

(b) if he resigns his office by writing under his hand addressed to the Minister, and the resignation is accepted; or

(c) if he is absent, except on leave granted by the Minister, from all meetings of the Commission held during a period of three months; or

(d) if in any way, otherwise than with the approval of the Minister or as a member, and in common with the other members, of an incorporated company consisting of not less than 25 persons, he—

(i) is concerned or interested in a contract or agreement entered into by or on behalf of the Commission; or

(ii) participates or claims to participate in the profit of any such contract or agreement or in a benefit or emolument arising from any such contract or agreement.

7. Vacation of office. [Repealed]

8. Leave of absence. The Minister may grant leave of absence to a member of the Commission on such terms and conditions as the Minister responsible for Public Service matters determines.

8. Leave of absence. [Repealed]

9. Meetings of the Commission.

(1) The Commission shall meet at such times and places as the Chairman determines.

(1) . . . [Repealed]

(2) The Minister may at any time convene a meeting of the Commission. (2) . . . [Repealed]

(3) At a meeting of the Commission—

(a) two members are a quorum; and

(b) the Chairman, or, in his absence, a member elected by the members present from their own number, shall preside; and

(c) all matters shall be decided by a majority of votes of the members present; and

(d) the member presiding has a deliberative and, in the event of an equality of votes on a matter, also a casting vote. Division 1A.—The General Manager. 9A. Appointment, etc.

(1) There shall be a General Manager for the Commission who— (a) shall be appointed by the Minister on the recommendation of the Commission; and

(b) shall be appointed for such period as the Minister determines; and

(c) shall be the Chief Executive Officer; and

(d) shall be the head of the Service of the Commission.

(2) The terms and conditions of appointment and service of the General Manager are as determined by the Minister responsible for Public Service matters. (3) A member of the Commission is not eligible for appointment as the General Manager. 9A. Appointment, etc. [Repealed] 9B. Termination of appointment. If the General Manager—

(a) becomes permanently incapable of performing his duties; or

(b) resigns his office by writing under his hand to the Minister; or

(c) engages, without the consent of the Commission, in any paid employment outside the duties of his office; or

(d) becomes bankrupt or applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit; or

(e) is convicted of an offence punishable under a law by death or by imprisonment for one year or longer, and as a result of the conviction, is sentenced to death or imprisonment, the Minister shall terminate his appointment.

(2) Subject to Subsection

(3), the Minister may, at any time terminate the appointment of the General Manager for inability, inefficiency, incapacity or misbehaviour.

(3) The Minister shall not terminate the appointment of the General Manager, unless he has given, in writing, one month's prior notice of his intention to do so. 9B. Termination of appointment. [Repealed] 9C. Public Service rights. Where an officer of the Public Service is appointed to be General Manager, his service as General Manager shall be counted as service in the Public Service for the purpose of determining his rights (if any) in respect of—

(a) leave of absence on the grounds of illness; and

(b) furlough or pay instead of furlough (including pay to dependants on the death of the officer). 9C. Public Service rights. [Repealed] 9D. Functions.

(1) The General Manager shall—

(a) manage the Service of the Commission and, in relation to the management of that Service, act in accordance with the policy and directions of the Commission; and

(b) advise the Commission on any matter concerning the Service of the Commission referred to him by the Commission.

(2) The General Manager has such other functions as the Commission from time to time determines. 9D. Functions. [Repealed] Division 2.—The Service of the Commission. 10. Appointment of officers.

- (1) The Commission may appoint to be officers of the Commission such persons as it thinks proper and necessary for the purposes of the Commission.
- (2) The General Manager and the officers of the Commission constitute the Service of the Commission.
- (3) A person shall not be admitted to the Service of the Commission unless he makes and subscribes an oath or affirmation of office in the prescribed form.
- (4) An officer of the Commission holds office for such period and on such terms and conditions as are determined under Section 12.
- (5) If a person appointed under this section was, immediately before his appointment, an officer of the Public Service, his service as an officer of the Commission shall be counted as service in the Public Service for the purpose of determining his existing and accruing rights under the Public Services (Management) Act 1995.
- (6) An office in the service of the Commission is an office to which apply the provisions of the Public Services (Management) Act 1995 relating to leave to serve under another Act.

10. Appointment of officers. [Repealed]

11. Temporary and contract appointments.

- (1) The Commission may employ—
  - (a) for a fixed period of service under a formal written contract; or
  - (b) for a short or indefinite period of service not under a formal written contract, such persons as it thinks proper and necessary for the purposes of the Commission.
- (2) The tenure of office, and the terms and conditions of service of a person employed under this section are as determined under Section 12. 11. Temporary and contract appointments. [Repealed]

12. Conditions of appointment.

- (1) The Commission shall, in accordance with this section, determine—
  - (a) the tenure of office and the terms and conditions of service of officers and other employees under this Division; and
  - (b) other matters relating to the Service of the Commission or other employment with the Commission.
- (2) A determination under this section—
  - (a) shall be in writing under the seal of the Commission; and
  - (b) shall not be expressed to take effect commencing on a day before the date of the making of the determination where, if it so took effect—
    - (i) the rights of a person or authority (other than the Commission) existing at the date of the making of the determination would be affected in a manner prejudicial to him or it; or (
    - ii) liabilities would be imposed on a person or authority (other than the Commission) in respect of anything done or omitted to be done before the date of the making of the determination, and where in such a determination a provision is made in contravention of this subsection the provision has no effect.
- (3) . . . [Repealed]
- (4) The Commission shall cause a determination made under this section to be brought as soon as possible to the notice of all officers and other employees of the Commission.
- (5) The General Manager may, at the direction of, and on behalf of, the Commission, execute contracts of employment in accordance with a determination under this section.
- (6) Every non-citizen employed or to be employed under this Division shall have attached to his contract of employment, and forming part of that contract, a detailed training experience document

and a detailed training and localization program for the purpose of training a citizen to replace him, such training program to be supplied by the Commission.

(7) Failure by a non-citizen to comply with the training and localization program referred to in Subsection

(6) or any direction that may be issued from time to time by the Commission on training of a citizen shall be sufficient cause for the termination of the contract of employment of that non-citizen.

12. Conditions of appointment. [Repealed]

13. Retirement benefits funds.

(1) In this section, "approved retirement benefits fund" means a fund or scheme approved by the Minister responsible for finance matters— (a) from or under which individual personal benefits, pensions or retiring allowances for, or for dependants of, officers or employees of the Commission are paid; or

(b) in respect of which the rights of the officers and employees, or of the dependants, to receive the benefits, pensions and allowances specified in Paragraph

(a) are, to the satisfaction of the Minister responsible for finance matters, fully secured.

(2) The Commission may—

(a) accept contributions from officers and employees for payment to an approved retirement benefits fund; and

(b) advance moneys, on such terms as are agreed on, to an approved retirement benefits fund; and

(c) set apart or pay by way of contributions sums as or to an approved retirement benefits fund, and may establish, administer and meet the costs of administering an approved retirement benefits fund or funds.

(3) For the purposes of this section, a member of the Commission shall be deemed to be an officer of the Commission. 13. Retirement benefits funds. [Repealed] Division 3.—Finance, etc.

14. Capital and profits of the Commission.

(1) In this section— "the Agreement" means the agreement made on June 1965 between the Administrator of Papua New Guinea and the Commission relating to the acquisition or taking over by the Commission of certain undertakings of the Commonwealth of Australia in its then administration of Papua New Guinea; "any other agreement" means an agreement entered into between the State and the Commission for the purpose of the consolidation of certain loan moneys and conversion into capital.

(2) The capital of the Commission is, at any time, an amount equal to the sum of—

(a) the amount of K5,764,822.00; and

(b) where before 30 June 1965 the former Administration had transferred or granted to the Commission any interest in land, buildings, plant or equipment (including transmission lines) under or in accordance with any other agreement entered into between that Administration and the Commission after 19 March 1962 (being the date of commencement of the Papua and New Guinea Electricity Commission Act 1961 (Adopted)) such amount as is specified in that agreement for the purposes of this subsection; and

(c) such amount as is specified in any other agreement.

. (3) Interest is not payable to the State on the capital of the Commission.

14. Capital and profits of the Commission. [Repealed] 14A. Payment of dividends.

(1) Subject to this section, the Commission shall pay to the State out of the profits of the Commission for a financial year, such amount in relation to that financial year as the Secretary for Finance, with the approval of the Head of State, acting on advice, determines.

(2) In making a determination under Subsection

(1), regard shall be had to any advice furnished by the Commission to the Secretary for Finance, in relation to the financial affairs of the Commission.

(3) The Secretary for Finance shall not make a determination under Subsection

(1) in respect of a financial year earlier than the financial year commencing on 1 January 1977. 14A. Payment of dividends. [Repealed] 14B. Ex-Gratia payments.

(1) Where, in respect of any land acquired from any person by the State or by a pre-Independence Administration in Papua New Guinea—

(a) the Commission, for the purposes of this Act, carries out any works; and

(b) the Minister, pursuant to Section 14C, declares such works to be a major civil-engineering project; and

(c) the person, or another person lawfully claiming through the person, makes application to the Commission, the Commission may, subject to the provisions of this section, make an ex-gratia payment to that person or to that other person lawfully claiming, as the case may be.

(2) The Commission shall not make an ex-gratia payment under Subsection

(1) unless the Commission obtains the prior written approval of the National Executive Council.

(3) The National Executive Council shall not approve an ex-gratia payment under Subsection

(2) unless the National Executive Council is satisfied that in the interest of national development it is necessary or expedient so to do.

(4) An ex-gratia payment under this section shall be such amount and shall be paid in such manner as the Commission, with the written approval of the National Executive Council, determines.

(5) For the purposes only of the Rouna 4 Hydro Electric Project this Act is deemed to have come into operation on the first day of January, nineteen hundred and eighty-four.

(6) In this Section— "major civil-engineering project" means any works declared as such under Section 14C; "pre-Independence Administration in Papua New Guinea" means—

(a) the Administration or Government of a former Territory or the Government of Australia acting in relation to any such Territory; or

(b) the British Military Administration of the former colony of German New Guinea (also known as the Territory of New Guinea); or

(c) the Administration or Government of the former possession of British New Guinea; or

(d) in relation to the former Colony of German New Guinea, the German Imperial Government or the German Government or the Fiscus of that Colony. 14B. Ex-Gratia payments. [Repealed] 14C. Minister may declare works to be major civil-engineering project. For the purposes of Section 14B the Minister may, after consultation with the Commission, by notice in the National Gazette, declare any works referred to in Section 14B(1)

(a) to be a major civil-engineering project. 14C. Minister may declare works to be major civil-engineering project. [Repealed] 15. Moneys of the Commission generally.

(1) The Commission shall open and maintain such bank accounts as are necessary for the exercise and performance of its powers and functions, and shall pay into them—

(a) all moneys received from the Government for the purposes of this Act; and

(b) all moneys appropriated by Act for the purpose of carrying out or giving effect to this Act; and

(c) all moneys received by the Commission for the sale, leasing or hire of property; and

(d) all moneys received by the Commission for the sale or supply of electricity; and (e) all other moneys received by the Commission in the exercise and performance of its powers, functions and duties. (2) Out of the moneys standing to the credit of the accounts referred to in Subsection (1), the Commission shall pay— (a) all moneys payable by it in repayment of advances under this Act, and as interest on such advances; and

(b) the costs, charges and expenses incurred by the Commission in the performance of its functions under this Act; and

(c) the remuneration and allowances of the members of the Commission and of officers and employees of the Commission; and

(d) any other payments that the Commission is authorized or required to make under this Act. (2) Out of the moneys standing to the credit of the accounts referred to in Subsection

(1), the Commission—

(a) shall pay—

(i) all moneys payable by it in repayment of advances under this Act, and as interest on such advances; and

(ii) the costs, charges and expenses incurred by the Commission in the performance of its functions under this Act; and

(iii) the remuneration and allowances of the members of the Commission and of officers and employees of the Commission; and (iv) any other payments that the Commission is authorized or required to make under this Act; and

(b) may— (i) make loans to officers and employees of the Commission to assist with home ownership; and

(ii) pay the cost of developing as serviced lots land for sale for housing purposes to citizen officers and employees of the Commission; and

(iii) pay the cost of redeveloping or purchasing residential properties initially for the accommodation of non-citizen officers and employees of the Commission and later for sale to citizen officers and employees of the Commission.

(3) In respect of moneys advanced or borrowed under this Act for the purposes of the Commission, the Commission shall maintain a separate account in respect of the moneys that are related to each such purpose, and shall cause proper entries of—

(a) all moneys so advanced or borrowed for a particular purpose of the Commission; and

(b) the purposes to which the moneys have been applied, to be made in the account maintained in respect of the purpose. 15. Moneys of the Commission generally. [Repealed] 16. Investment.

(1) In this section, "authorized short-term money market" means the group of dealer companies that are authorized by the Central Bank to be approved dealers in short-term loans and towards which that Bank acts as lender of last resort. (2) The Commission may invest any moneys standing to the credit of the bank accounts referred to in Section 15—

(a) in any securities of, or guaranteed by—

(i) the State; or (ii) Australia, or a State or Territory of Australia; or

(b) in any manner allowed by a law of— (i) Papua New Guinea; or

(ii) Australia, or a State or Territory of Australia, for the investment of trust funds; or

(c) on fixed deposit with the Papua New Guinea Banking Corporation or any other prescribed bank; or

(d) in the securities of any authorized short-term money market; or

(e) in any other manner approved by the Minister, and in such proportions, as between investments or classes of investments, as are approved by the Minister responsible for finance matters.

(3) Moneys held uninvested by the Commission shall be lodged on fixed deposit or at call with the Papua New Guinea Banking Corporation or with any other prescribed bank.

16. Investment. [Repealed]

17. Borrowing from approved banks, etc.

(1) In this section— "approved bank" means the Central Bank or any other bank approved by the Minister for the purposes of this section; "approved institution" means an institution or corporation approved by the Minister for the purposes of this section.

(2) Subject to this Act, the Commission may borrow money at interest from an approved bank or an approved institution, by way of mortgage, bank overdraft or otherwise, for—

(a) the purposes of the Commission under this Act; or

(b) the repayment or partial repayment of an amount previously borrowed, within such limits and on such conditions as the Minister approves.

(3) The Minister may, for and on behalf of the State, guarantee to any person from whom the Commission borrows money under Subsection

(2) the repayment, out of moneys lawfully available for the purpose, of any loan under that subsection, with interest.

17. Borrowing from approved banks, etc. [Repealed] 18. Application of Part VIII of Public Finances (Management) Act 1995. [Repealed] 18A. Audit.

(1) For the purposes of this section, "subsidiary company of the Commission" shall, in relation to the Commission, have the meaning given to a subsidiary corporation of a public body in Section 49 of the Public Finances (Management) Act 1995.

(2) Subject to this section, the Auditor-General shall—

(a) inspect and audit the accounts and records of the Commission and any subsidiary company of the Commission and records relating to its assets or assets in its custody; and (b) immediately draw the attention of the Minister to any irregularity disclosed by the inspection and audit that is, in the opinion of the Auditor-General, of sufficient importance to justify his doing so.

(3) The Auditor-General may, in his discretion, dispense with the whole or any part of the detailed inspection and audit of any accounts referred to in Subsection

(2). (4) The Auditor-General may, at his discretion for the purpose of assisting him in an inspection and audit under Subsection (2), employ a registered company auditor who shall act under the direction of the Auditor-General and under the terms and conditions determined by the Auditor-General.

(5) Where— (a) by 1 April in each year, the Auditor-General or a registered company auditor employed by him under Subsection (4), has not commenced the inspection and audit in respect of the previous financial year; or

(b) by 1 July in each year, in relation to the continuous inspection of the accounts of the Commission, the Auditor-General or a registered company auditor employed by him under Subsection

(4), has not commenced the inspection of the books and records of the Commission, the Commission may employ a registered company auditor specified by the Auditor-General to carry out the inspection and audit.

(6) A person carrying out an inspection or audit under this section or a person authorized by him—

(a) is entitled at all reasonable times to full and free access to all accounts, records, documents and papers of the Commission and of any subsidiary company of the Commission relating directly or indirectly to the receipt, or payment of moneys by it, or to the acquisition, receipt, custody or disposal of assets by it; and

(b) may make copies of, or take extracts from, any such accounts, records, documents or papers; and

(c) may require any person to furnish him with such information in his possession or to which he has access as the person carrying out the inspection or audit, or the person authorized by him, thinks necessary for the purposes of the functions of the Auditor-General under—

(i) the Constitution; and

(ii) this Act; and

(iii) the Public Finances (Management) Act 1995.

(7) A person who contravenes Subsection 6(c) is guilty of an offence. Penalty: A fine not exceeding K200.00. 18A. Audit. [Repealed] 19. (Repealed.) PART III.—POWERS AND FUNCTIONS OF THE COMMISSION. Division 1.—General.

20. Policy directions by N.E.C. The Commission shall give effect to any direction given to it by the Minister on any matter relating to the performance or exercise of its functions, duties or powers.

20. Policy directions by N.E.C. [Repealed] 20A. Role of the Commission. [Repealed]

21. General functions of the Commission.

(1) Subject to this Act, the functions of the Commission are—

(a) to plan and to co-ordinate the supply of electricity throughout the country; and (b) to generate, transmit, distribute, reticulate and sell electricity; and (c) to provide to the public, to public bodies and to the State, services related to the sale, consumption and use of electricity; and

(d) to provide to the State services for the operation or maintenance of plant for the generation, distribution and consumption of electricity; and

(e) to promote the sale and use of electricity; and

(f) to sell or hire, and to promote the sale or hiring of, electrical appliances and apparatus and motors and other devices utilizing electrical power; and

(g) to determine standards for and control the registration and licensing of electricians and electrical contractors; and

(h) to control the testing and approval of appliances, apparatus, motors, fittings and things used in connexion with the use or consumption of electricity; and

(i) to determine standards for, and to inspect and control the application of the standards to, wiring, fittings, apparatus, appliances and things used in connexion with the supply of electricity to, or the use of electricity in, consumers' premises connected to the public supply of electricity; and

(j) to determine standards for, and to inspect and control the application of the standards to, electrical machinery, lines and apparatus used in the generation, distribution and use of electricity by persons other than electricity undertakers; and

(k) to determine standards and methods of procedure to be adopted by workers within the electrical industry in order to ensure the safety of such workers, and to control and implement the operation of the standards; and

(l) to require the adoption of such standards of plant, apparatus and equipment and system frequencies as permit the efficient interconnexion of any electrical undertakings in the country as and when required; and

(m) to prescribe the terms of Orders and to issue, control and terminate Orders to electricity undertakers for the supply of electricity to the public; and

(n) generally to do such supplementary, incidental or consequential acts and things as are, in the opinion of the Commission, necessary or convenient for carrying out the functions referred to in the preceding paragraphs of this subsection. (1A) The Minister may, by direction to the Commission, relieve it of functions, add to its functions or otherwise vary its functions as the Minister considers necessary or expedient.

(2) The Commission may act as the agent of the State or the Government in relation to any matter within the functions of the Commission.

(3) The Commission may make recommendations to the Minister on any matter in connexion with the generation, supply or use of electricity in the country.

21. General functions of the Commission. [Repealed]

22. Special reports to the Government. Where the Minister requests the Commission to furnish a report or information on the activities or operations, or proposed activities or operations, of the Commission,

or on any matter relating to the generation, supply or use of electricity in the country, the Commission shall, to the best of its ability, furnish the report or information requested.

22. Special reports to the Government. [Repealed]

23. General powers of the Commission.

(1) The Commission may do all things that are necessary or convenient to be done for or in connexion with the performance of its functions or the discharge of its duties under this Act.

(2) Without limiting the generality of Subsection

(1), the Commission has power, subject to this Act—

(a) to receive moneys advanced by the Minister for the purpose of the performance of its functions or the discharge of its duties under this Act; and

(b) for the purpose of securing any moneys borrowed by the Commission—

(i) to give security over the property of the Commission, or to charge the revenues of the Commission; and

(ii) to execute all mortgages and other instruments of assurance or charge; and

(c) to purchase land, and to purchase or construct buildings, for use in carrying on the operations of the Commission, and to dispose of land or buildings owned by the Commission; and

(d) to take on lease land or buildings for use in carrying on the operations of the Commission, and to dispose of any such lease; and

(e) to negotiate with the Government or any other person for the acquisition by the Commission of any electrical works or undertaking or for the transfer to the Commission of the benefit of or liability under any contract connected with the electrical works or undertaking, on such conditions as are agreed on by the Commission and the State or the other person; and

(f) to purchase, take on hire or otherwise acquire plant, machinery, equipment or other goods necessary for carrying on the operations of the Commission, and to dispose of any plant, machinery, equipment or other goods owned by the Commission; and

(g) to maintain and operate and, where necessary, improve and extend any works for or in connexion with the generation and supply of electricity vested in the Commission, and to construct new, additional or supplementary works or acquire works or property for or in relation to the generation or supply of electricity; and

(h) to supply electricity and other goods and services to any person in the country at such price and on such terms as are agreed between the Commission and that person; and

(i) with the approval of the Minister—

(i) to conduct any business arising out of or ancillary to the generation and supply of electricity; and

(ii) to construct works or acquire works or property; and (iii) to maintain and operate the works or property for the purposes of conducting any such business; and

(j) to purchase electricity from any person in the country; and

(k) to devise and operate a Home Ownership Scheme for officers and employees of the Commission; and

(l) to request the Minister to declare under Section 23A Special Categories of houses for sale under the Home Ownership Scheme to which the provisions of Paragraph

(c) do not apply; and

(m) to make a loan to, or guarantee a mortgage on behalf of an officer or employee of the Commission for the purpose of house purchase or construction where such officer or employee of the Commission has been accepted to take part in a Home Ownership Scheme devised and operated by the Commission; and

(n) to do such other things as are required or permitted to be done by the Commission under this Act or any other law; and

(o) to do anything incidental to its powers or functions. 23. General powers of the Commission. [Repealed] 23A. Sale of Special Categories of houses.

(1) The Minister may, on the request of the Commission after receiving the approval of the National Executive Council, declare Special Categories of houses.

(2) A declaration under Subsection (1) shall—

(a) specify the terms and conditions under which the Special Categories of houses are to be sold; and

(b) be published in the National Gazette. 23A. Sale of Special Categories of houses. [Repealed] 23B. Report on Home Ownership Scheme. The Commission shall, at least once in each fiscal year, furnish to the Minister for presentation to the National Executive Council, a report on any Home Ownership Scheme devised and operated by the Commission. 23B. Report on Home Ownership Scheme. [Repealed]

24. Delegation. The Commission may delegate to a person all or any of its powers and functions under this Act (except the power to accept tenders and this power of delegation).

24. Delegation. [Repealed] PART IIIA.—ADMINISTRATION. 24A. Functions and Powers of Regulator.

(1) The Regulator has, in addition to its functions under the Independent Consumer and Competition Commission Act 2002, the following functions:—

(a) any function that a regulatory contract issued under the Independent Consumer and Competition Commission Act 2002, being a regulatory contract which relates to the electricity supply industry, contemplates will be performed by the Regulator for the purposes of that regulatory contract; and

(b) the licensing functions conferred by this Act; and

(c) the monitoring and regulation of safety and technical standards in the electricity supply industry; and

(d) the monitoring and regulation of safety and technical standards with respect to works, electrical installations, electrical appliances and apparatus and associated equipment; and

(e) any other function or power conferred by this Act or by regulation under this Act; and (f) any other function or power conferred by a prescribed contract.

(2) The Regulator has, in addition to its powers under the Independent Consumer and Competition Commission Act 2002, the power to do all things necessary or convenient to be done for or in connection with or otherwise incidental to the performance of its functions under this Act.

(3) The Regulator shall perform its functions in a manner consistent with the terms of any regulatory contract issued under the Independent Consumer and Competition Commission Act 2002 which relates to the electricity supply industry. 24B. Delegation.

(1) Subject to Subsection

(2), the Regulator may, by unanimous decision of all members of the Regulator and subject to any regulation made under this section, delegate to any member, officer or committee of the Regulator or to any other person any of its functions and powers (other than this power of delegation).

(2) The Regulator shall not delegate any of its functions or powers under—

(a) a regulatory contract issued under the Independent Consumer and Competition Commission Act 2002; or

(b) Part IIIB, to a person other than a member or officer of the Regulator.

(3) A delegation under Subsection (1)—

(a) shall be in writing; and (b) may be subject to such conditions or restrictions as are specified in the instrument of delegation; and

(c) is revocable at will by resolution of the Regulator in writing; and (d) does not affect or prevent the performance of a function or the exercise of a power by the Regulator. PART IIIB.—ELECTRICITY SUPPLY INDUSTRY. Division 1.—Declaration. 24C. Declaration. The electricity supply industry is declared to be a regulated industry for the purposes of the Independent Consumer and Competition Commission Act 2002. Division 2.—Licensing of Electricity Undertakers. 24D. Requirement for licence.

(1) A person, firm or company shall not carry on operations in the electricity supply industry for which a licence is required unless the person holds a licence under this Part authorizing the relevant operations. Penalty: A fine not exceeding K10,000,000.00. Default penalty: A fine not exceeding K1,000,000.00.

(2) The operations in the electricity supply industry for which a licence is required are:—

(a) the generation of electricity; and (b) the operation of a transmission or distribution network; and (c) the retailing of electricity; and (d) other operations for which a licence is required by the regulations. 24E. Application for licence.

(1) An application for the issue of a licence shall—

(a) be made to the Regulator in a form approved by the Regulator; and

(b) contain the information specified in the form.

(2) The applicant shall pay to the Regulator an application fee fixed by the Minister responsible for treasury matters of an amount that he considers appropriate to meet the reasonable costs of determining the application.

(3) The applicant shall give the Regulator further relevant information requested by the Regulator. 24F. Consideration of application.

(1) The Regulator shall consider an application for the issue of a licence and may, subject to this Division, issue, or refuse to issue, the licence.

(2) In considering an application for a licence, the Regulator shall have regard to the general factors specified in Part II of the Independent Consumer and Competition Commission Act 2002 and, subject to this section, may only issue a licence if it is satisfied that—

(a) the applicant is a suitable person to hold the licence; and

(b) the grant of the licence would be consistent with the criteria (if any) as are prescribed for a licence of that kind.

(3) In deciding whether an applicant is a suitable person to hold a licence, the Regulator may consider—

(a) the applicant's previous commercial and other dealings and the standard of honesty and integrity shown in those dealings; and

(b) the financial, technical and human resources available to the applicant; and

(c) the officers and, if applicable, major shareholders of the applicant and their previous commercial and other dealings and the standard of honesty and integrity shown in those dealings (including breaches of statutory and other legal obligations); and (d) such other matters as are prescribed. 24G. Licences may be held jointly.

(1) A licence may be held jointly by two or more persons.

(2) If a licence is held jointly by two or more persons, those persons are jointly and severally liable to meet the requirements imposed under this Act or the Independent Consumer and Competition Commission Act 2002. 24H. Authority conferred by licence.

(1) A licence authorizes the person named in the licence to carry on operations in the electricity supply industry in accordance with the terms and conditions of the licence.

(2) The operations authorized by a licence need not be all of the same character or at the same location but may consist of a number of different operations or operations at different locations. 24I.

Term of Licence. A licence may be issued for an indefinite period or for a term specified in the licence.  
24J. Licence Fees and Returns.

(1) Notwithstanding Section 24I, a person is not entitled to the issue of a licence unless he first pays to the Regulator the annual licence fee, or the first installment of the annual licence fee, as the case may require.

(2) The holder of a licence issued for a term of more than one year shall—

(a) in each year lodge with the Regulator, before the date prescribed for that purpose, an annual return containing information required by the Regulator by condition of the licence or by written notice; and  
(b) in each year pay to the Regulator, before the date prescribed for that purpose, the annual licence fee, or the first installment of the annual licence fee, as the case may require.

(3) The annual licence fee for a licence is the fee fixed, from time to time, by the Minister responsible for treasury matters in respect of that licence as an amount that he considers to be a reasonable contribution towards administrative costs.

(4) An annual licence fee may, if the Regulator so determines, be paid in equal installments at intervals fixed by the Regulator.

(5) If the holder of a licence fails to lodge the annual return or to pay the annual licence fee or an installment of the annual licence fee, as the case may be, in accordance with this section, the Regulator may, by written notice, require the holder to make good the default and, in addition, to pay to the Regulator the amount prescribed as a penalty for default.

(6) An annual licence fee (including any installment of an annual licence fee or any penalty for default) payable under this section is recoverable as a debt due to the Regulator.

(7) In this section— "administrative costs" means—

(a) the costs of administration of this Act; and

(b) any costs of administration of the Independent Consumer and Competition Commission Act 2002 relating to the electricity supply industry; and

(c) such other costs as are prescribed; "holder" of a licence includes the holder of a licence that has been suspended. 24K. Specially Issued Licences.

(1) The Minister may, by order in writing, require that one or more licences authorizing specified operations be issued under this Division to PNG Power, or to PNG Power's purchaser, in accordance with specified requirements as to the term and conditions of such licence or licences and the rights conferred by such licence or licences.

(2) The requirements of the Minister as to the conditions of a licence shall be consistent with the provisions of this Act as to such conditions.

(3) The Minister may, by order in writing, require that a licence issued to PNG Power in accordance with an order under Subsection (1) be transferred to PNG Power's purchaser.

(4) An order under this section shall be given effect without the need for PNG Power or PNG Power's purchaser to apply for the licence or agreement to the transfer of the licence and notwithstanding the provisions of this Act and Section 23 of the Independent Consumer and Competition Commission Act 2002.

(5) A licence issued to PNG Power in accordance with an order under this section may not be suspended or cancelled under this Act on the ground of any change that has occurred in the officers or shareholders of PNG Power associated with the shares in PNG Power being transferred from a Minister or Ministers to PNG Power's purchaser.

(6) In this section— "PNG Power" means the company incorporated pursuant to Section 3(1) of the Electricity Commission (Privatization) Act 2002; "PNG Power's purchaser" means the purchaser to whom the shares in PNG Power are transferred in accordance with the Electricity Commission (Privatization) Act 2002. 24L. Licence Conditions.

- (1) On the issue of a licence, the Regulator shall make the licence subject to such conditions as it determines—
- (a) requiring compliance with applicable codes or rules made under the Independent Consumer and Competition Commission Act 2002 as in force from time to time; and
  - (b) requiring compliance with applicable technical or safety requirements or standards; and
  - (c) requiring compliance with any regulatory contract issued under Section 34 or Section 35 of the Independent Consumer and Competition Commission Act 2002 that applies to the electricity undertaker; and
  - (d) requiring the electricity undertaker to have all or part of the operations authorized by the licence audited and to report the results of the audit to the Regulator; and
  - (e) requiring the electricity undertaker to notify the Regulator about changes to officers and, if applicable, major shareholders of the electricity undertaker; and
  - (f) requiring the electricity undertaker to provide, in the manner and form determined by the Regulator, such other information as the Regulator may from time to time require; and
  - (g) requiring the electricity undertaker to maintain specified accounting records and to prepare accounts according to specified principles; and (h) requiring the business the operation of which is authorized under the licence or any part of that business to be kept separate from any other business of the electricity undertaker or any other person in the manner and to the extent specified in the conditions; and
  - (i) requiring the electricity undertaker to inform persons seeking or in receipt of specified services supplied by the electricity undertaker under the licence of the terms on which those services are provided (including the charges for these services) and of any changes in those terms; and
  - (j) in the case of a licence authorizing the generation of electricity or the operation of a transmission or distribution network, requiring the electricity undertaker—
    - (i) to prepare and periodically revise a safety and technical management plan dealing with such matters as are prescribed; and (ii) to obtain the approval of the Regulator to the plan and any revision; and
    - (iii) to comply with the plan as approved from time to time; and
    - (iv) to audit from time to time the electricity undertaker's compliance with the plan and report the results of those audits to the Regulator; and
  - (k) in the case of a licence authorizing the generation of electricity, requiring the electricity undertaker not to do anything affecting the compatibility of the electricity undertaker's electricity generating plant with any transmission or distribution network so as to prejudice public safety or the security of the power system of which the generating plant forms a part; and
  - (l) in the case of a licence authorizing the operation of a transmission or distribution network, requiring the electricity undertaker not to do anything affecting the compatibility of the electricity undertaker's transmission or distribution network with any electricity generating plant or transmission or distribution network so as to prejudice public safety or the security of the power system of which the transmission or distribution network forms a part; and
  - (m) in the case of a licence authorizing the operation of a transmission or distribution network, requiring the electricity undertaker to comply with—
    - (i) specified provisions for or relating to the granting to other electricity undertakers of rights to use or have access to the electricity undertaker's transmission or distribution network for the transmission or distribution of electricity by the other electricity undertakers; and
    - (ii) any scheme that the Regulator may establish by a code made under the Independent Consumer and Competition Commission Act 2002 for the resolution of disputes in relation to such rights; and
  - (n) in the case of a licence authorizing the operation of a transmission or distribution network, requiring the electricity undertaker to comply with—

(i) specified provisions for or relating to the granting to all electricity undertakers and customers of a class specified in the condition of rights to use or have access to the electricity undertaker's transmission or distribution network to obtain electricity from the network; and

(ii) any scheme that the Regulator may establish by a code made under the Independent Consumer and Competition Commission Act 2002 for the resolution of disputes in relation to such rights; and

(o) in the case of a licence authorizing the operation of a transmission or distribution network, requiring the electricity undertaker to comply with code provisions in force from time to time under the Independent Consumer and Competition Commission Act 2002 establishing a method for sharing of the costs of an augmentation of the network, being an augmentation of a kind specified in the code provisions, between customers who benefit from that augmentation; and

(p) in the case of a licence authorizing the operation of a transmission or distribution network or the retailing of electricity, requiring a specified process to be followed to resolve any dispute between the electricity undertaker and a customer as to the supply or sale of electricity; and

(q) in the case of a licence authorizing the operation of a transmission or distribution network or the retailing of electricity, requiring or relating to standard contractual terms and conditions to apply to the supply or sale of electricity to customers of a prescribed class; and

(r) in the case of a licence authorizing the operation of a transmission or distribution network or the retailing of electricity, requiring the electricity undertaker to comply with code provisions in force from time to time under the Independent Consumer and Competition Commission Act 2002 imposing minimum standards of service for customers and requiring the electricity undertaker to monitor and report on levels of compliance with those minimum standards; and

(s) in the case of a licence authorizing the operation of a transmission or distribution network or the retailing of electricity, requiring the electricity undertaker to comply with code provisions in force from time to time under the Independent Consumer and Competition Commission Act 2002 limiting the grounds on which the supply or sale of electricity to customers may be disconnected or discontinued and prescribing the process to be followed before the supply or sale of electricity is disconnected or discontinued; and

(t) in the case of a licence authorizing the retailing of electricity which confers an exclusive right to sell electricity pursuant to Section 24M, requiring the electricity undertaker to sell electricity to the relevant customers within the specified area.

(2) On the issue of a licence, the Regulator shall make the licence subject to further conditions that the Regulator is required by regulation to impose on the issue of such a licence. (3) On the issue of a licence, the Regulator may make the licence subject to further conditions considered appropriate by the Regulator. (4) A condition of an electricity undertaker's licence imposed under Subsection

(1)(m) is not to take effect until the date prescribed for that purpose. (5) Nothing in this section permits a condition to be included in a licence where that condition would be inconsistent with the terms of a regulatory contract issued under Section 34 or Section 35 of the Independent Consumer and Competition Commission Act 2002 which applies to the electricity undertaker. 24M. Exclusive retail licences. A licence authorizing the retailing of electricity may, if the Regulator so determines, confer on the electricity undertaker an exclusive right to sell electricity to customers or classes of customers within a specified area. 24N. Regulatory duplication. Notwithstanding the preceding provisions of this Division, the Regulator is not to impose a condition on a licence if the Regulator is satisfied that the condition would unnecessarily duplicate, or be inconsistent with, regulatory requirements under any other Act that are binding on the electricity undertaker. 24O. Offence to contravene licence conditions.

(1) An electricity undertaker shall not contravene a condition of its licence. Penalty: A fine not exceeding K10,000,000.00. Default penalty: a fine not exceeding K1,000,000.00.

(2) If an electricity undertaker profits from contravention of a condition of its licence, the Regulator may recover an amount equal to the profit from the electricity undertaker—

(a) on application to a court convicting the electricity undertaker of an offence against this section; or

(b) by action in a court of competent jurisdiction.

(3) An amount recovered under Subsection

(2) shall be paid into the Consolidated Revenue Fund. 24P. Variation of licence.

(1) The Regulator may vary the terms or conditions of an electricity undertaker's licence by written notice to the electricity undertaker as the Regulator considers appropriate, but not so as to—

(a) remove a condition that the Regulator is required by this Act to impose on such a licence; or

(b) vary or remove a term or condition contained in a licence issued under Section 24K to the extent that, as at the date of issue of the licence, the licence provided that such term or condition is not be varied or removed.

(2) A variation may only be made—

(a) on application by the electricity undertaker or with the electricity undertaker's agreement; or (b) after giving the electricity undertaker reasonable notice of the proposed variation and allowing the electricity undertaker a reasonable opportunity to make submissions about the proposed variation. 24Q. Transfer of licence.

(1) A licence may only be transferred with the Regulator's agreement. (2) The Regulator shall not agree to the transfer of a licence if the transferee would not be entitled to the issue of the licence.

(3) An application for agreement to the transfer of a licence shall—

(a) be made by the transferor with the consent of the transferee to the Regulator in a form approved by the Regulator; and (b) contain the information specified in the form.

(4) The applicant shall pay to the Regulator an application fee fixed by the Minister responsible for treasury matters of an amount that he considers appropriate to meet the reasonable costs of determining the application.

(5) The applicant shall give the Regulator further relevant information requested by the Regulator. 24R. Notice of licence decisions. (1) The Regulator shall give an applicant for a licence, or for agreement to the transfer of a licence, written notice of the Regulator's decision on the application.

(2) The Regulator shall give the holder of a licence written notice of any decision by the Regulator affecting the terms or conditions of the licence. 24S. Surrender of licence.

(1) An electricity undertaker may, by written notice given to the Regulator, surrender its licence.

(2) A notice given under Subsection

(1) shall be given to the Regulator at least six months before the surrender is to take effect or, if the licence requires a longer period of notice, as required by the licence.

(3) The Regulator may, by agreement with the electricity undertaker, shorten the required period of notice. 24T. Register of licences.

(1) The Regulator shall keep a register of the licences issued to electricity undertakers under this Act.

(2) The register shall include— (a) the terms and conditions of each licence; and

(b) such other information as is required under the regulations.

(3) A person may, without payment of a fee, inspect the register. Division 3.—Standard Terms and Conditions for Sale or Supply. 24U. Standard terms and conditions for sale or supply.

(1) An electricity undertaker may, from time to time, fix standard terms and conditions governing the sale or supply of electricity (including the service of making connections to a transmission or distribution network) by the electricity undertaker to customers of a prescribed class. (2) An electricity undertaker shall publish in the National Gazette and in a daily newspaper circulating nationally a notice setting out any standard terms and conditions fixed by the electricity undertaker.

(3) Standard terms and conditions fixed under this section—

(a) shall comply with the conditions of the electricity undertaker's licence; and (b) shall come into force on the day specified by the electricity undertaker in the notice of the standard terms and conditions published under this section, being a day not earlier than the day on which the notice is published; and

(c) when in force, are contractually binding on the electricity undertaker and the class of customers to which the terms and conditions are expressed to apply.

(4) Subject to the conditions of an electricity undertaker's licence, a standard term or condition fixed under this section may be modified or excluded by express agreement between the electricity undertaker and a customer of the electricity undertaker. Division 4.—Suspension or Cancellation of Licences. 24V. Suspension or cancellation of licences.

(1) Upon being satisfied that—

(a) the holder of a licence obtained the licence improperly; or

(b) the holder of a licence has been guilty of a material contravention of a condition of a licence or any other requirement imposed by or under this Act or any other Act in connection with the operations authorized by the licence; or

(c) the holder of a licence has ceased to carry on operations authorized by the licence; or

Electricity Industry Act (Chapter 78)

[Electricity Industry Act (Chapter 78) consolidated to No 10 of 2002] INDEPENDENT STATE OF PAPUA NEW GUINEA. CHAPTER No. 78.

Electricity Industry Act.

Being an Act to provide for the establishment of an Electricity Commission and to regulate the generation, supply and sale of electricity, and for related purposes. Being an Act to regulate the generation, supply and sale of electricity, and for related purposes. PART I.—PRELIMINARY.

1. Interpretation.

In this Act, unless the contrary intention appears—

"Authorized Officer" means an Authorized Officer appointed under Section 31A;

"the by-laws" . . . [Repealed]

"the Chairman" means the Chairman of the Commission appointed under Section 5(3); "the Chairman" . . . [Repealed] "the Commission" means the Papua New Guinea Electricity Commission established by Section 3; "the Commission" . . . [Repealed] "electrical contractor" includes— (a) a company, association or body of persons trading as an electrical contractor; and (b) the holder of an electrical contractor's licence; "customer" includes (where the context requires) a person seeking the supply or sale of electricity to that person;

"electrical contractor's licence" means an electrical contractor's licence issued under Section 38;

"electrical installation" means any appliances, wires, fittings or other apparatus placed in, on, under or over any premises and used for, or for purposes incidental to, the conveyance, control or use of electricity supplied or intended to be supplied by the State, or an electricity undertaker, whether or not the appliances, wires, fittings or apparatus are supplied by the person contracting or undertaking to supply them or it, and includes additions, alterations and repairs to any such appliances, wires, fittings or apparatus, but does not include—

(a) an electricity supply main or service line of the State, or an electricity undertaker; or

(b) any appliance, wire, fitting or apparatus—

(i) that is connected to and beyond any electrical outlet socket installed for the purpose of connecting portable electrical appliances, fittings and apparatus; and

(ii) at which fixed wiring terminates; or

(c) any appliance, wire, fitting or apparatus that is placed in, on, under or over any premises owned or occupied by the State, or an electricity undertaker and that—

(i) is not used for the consumption of electricity on those premises; or

(ii) is not used solely for purposes incidental to the conveyance or control of electricity so consumed; or

(d) any electrical installation about a mine;

"electrical wiring work" means the actual physical work of installing an electrical installation;  
"electrician" means a person, other than an electrical contractor, engaged in electrical wiring work;

"electrician's licence" means an electrician's licence issued under Section 38;

"electricity" includes electric current, electrical energy or any like agency;

"electricity supply industry" means the industry involved in the generation, transmission, distribution, supply and sale of electricity or other operations of a prescribed kind; "electricity undertaker" means a person, firm or company who or which is licensed under Part IIIB to carry on operations in the electricity supply industry and includes (where the context requires) a person, firm or company who or which has been licensed to carry on operations in the electricity supply industry under that Part whose licence has been suspended or cancelled or has expired;

"electric line" means a wire, conductor or other means used for the purpose of conveying, transmitting or distributing electricity, including—

(a) any casing, coating, covering, tube, pipe, pole, post, frame, bracket or insulator enclosing, surrounding or supporting such a line, or any part of such a line; and

(b) any apparatus connected with such a line for the purpose of conveying, transmitting or distributing electricity; "the General Manager" means the General Manager of the Commission appointed under Section 9A;

"the General Manager" . . . [Repealed]

"Inspector" means an Electricity Inspector appointed under Section 32; "member" means a member of the Commission; "member" . . . [Repealed]

"officer of the Regulator" means any person engaged by the Regulator pursuant to Division II.7 of the Independent Consumer and Competition Commission Act 2002; "Order" . . . [Repealed];

"the Appeals Panel" means the Appeals Panel constituted under Section 42 of the Independent Consumer and Competition Commission Act 2002;

"the Registrar of Titles" means the Registrar of Titles appointed under the Land Registration Act (Chapter 191); "registered company auditor" means a registered company auditor as defined in Section 2 of the Accountants Act 1996; "registered company auditor" . . . [Repealed];

"the regulations" means any regulations made under this Act; "Regulator" means the Independent Consumer and Competition Commission established under the Independent Consumer and Competition Commission Act 2002;

"retail", in relation to electricity, means the sale of electricity;

"this Act" includes the regulations;

"works" includes electric lines and any buildings, machinery, equipment (including substations and transformers), engines, works, matters and things used for, or in connection with, the generation or supply of electricity.

## 2. Saving of other laws.

(1) This Act does not affect the exercise of any right, power or authority under any law relating to Posts and Telegraphs.

(2) This Act shall be read subject to the Electricity Supply (Government Power Stations) Act. PART II.—THE PAPUA NEW GUINEA ELECTRICITY COMMISSION. Division 1.—Establishment and Constitution of the Commission.

3. Establishment of the Commission. A Papua New Guinea Electricity Commission is hereby established.

3. Establishment of the Commission. [Repealed]

4. Incorporation of the Commission.

(1) The Commission—

- (a) is a corporation; and
- (b) has perpetual succession; and
- (c) shall have a seal; and
- (d) may acquire, hold and dispose of property; and
- (e) is capable of suing and being sued in its corporate name.

(2) All courts, Judges and persons acting judicially shall take judicial notice of the seal of the Commission affixed to a document, and shall presume that it was duly affixed.

4. Incorporation of the Commission. [Repealed]

5. Constitution of the Commission.

(1) The Commission shall consist of three Commissioners appointed by the Minister and who shall hold office during the pleasure of the Minister. (1A) . . . [Repealed]

(2) A person shall not, at the same time, be a member of the Commission and the General Manager.  
(2) . . . [Repealed]

(3) The Minister shall appoint one of the members to be the Chairman of the Commission and who shall hold office during the pleasure of the Minister.

(4) Subject to this Act, the terms and conditions of the members of the Commission are as determined by the Minister responsible for Public Service matters. (4) . . . [Repealed]

(5) Where a member is—

- (a) on leave of absence; or
- (b) absent from the country; or
- (c) out of speedy and effective communication or otherwise unable to perform or is not readily available to perform the duties of his office, his alternate has and may exercise all his powers and perform all his functions and duties under this Act.

(5) . . . [Repealed]

(6) [See Note] (6) . . . [Repealed]

6. Dismissal of members of the Commission. [Repealed]

7. Vacation of office. The office of a member of the Commission becomes vacant—

(a) if he becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit; or

(b) if he resigns his office by writing under his hand addressed to the Minister, and the resignation is accepted; or

(c) if he is absent, except on leave granted by the Minister, from all meetings of the Commission held during a period of three months; or

(d) if in any way, otherwise than with the approval of the Minister or as a member, and in common with the other members, of an incorporated company consisting of not less than 25 persons, he—

(i) is concerned or interested in a contract or agreement entered into by or on behalf of the Commission; or

(ii) participates or claims to participate in the profit of any such contract or agreement or in a benefit or emolument arising from any such contract or agreement.

7. Vacation of office. [Repealed]

8. Leave of absence. The Minister may grant leave of absence to a member of the Commission on such terms and conditions as the Minister responsible for Public Service matters determines.

8. Leave of absence. [Repealed]

9. Meetings of the Commission.

(1) The Commission shall meet at such times and places as the Chairman determines.

(1) . . . [Repealed]

(2) The Minister may at any time convene a meeting of the Commission. (2) . . . [Repealed]

(3) At a meeting of the Commission—

(a) two members are a quorum; and

(b) the Chairman, or, in his absence, a member elected by the members present from their own number, shall preside; and

(c) all matters shall be decided by a majority of votes of the members present; and

(d) the member presiding has a deliberative and, in the event of an equality of votes on a matter, also a casting vote. Division 1A.—The General Manager. 9A. Appointment, etc.

(1) There shall be a General Manager for the Commission who— (a) shall be appointed by the Minister on the recommendation of the Commission; and

(b) shall be appointed for such period as the Minister determines; and

(c) shall be the Chief Executive Officer; and

(d) shall be the head of the Service of the Commission.

(2) The terms and conditions of appointment and service of the General Manager are as determined by the Minister responsible for Public Service matters. (3) A member of the Commission is not eligible for appointment as the General Manager. 9A. Appointment, etc. [Repealed] 9B. Termination of appointment. If the General Manager—

(a) becomes permanently incapable of performing his duties; or

(b) resigns his office by writing under his hand to the Minister; or

(c) engages, without the consent of the Commission, in any paid employment outside the duties of his office; or

(d) becomes bankrupt or applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit; or

(e) is convicted of an offence punishable under a law by death or by imprisonment for one year or longer, and as a result of the conviction, is sentenced to death or imprisonment, the Minister shall terminate his appointment.

(2) Subject to Subsection

(3), the Minister may, at any time terminate the appointment of the General Manager for inability, inefficiency, incapacity or misbehaviour.

(3) The Minister shall not terminate the appointment of the General Manager, unless he has given, in writing, one month's prior notice of his intention to do so. 9B. Termination of appointment. [Repealed] 9C. Public Service rights. Where an officer of the Public Service is appointed to be General Manager, his service as General Manager shall be counted as service in the Public Service for the purpose of determining his rights (if any) in respect of—

(a) leave of absence on the grounds of illness; and

(b) furlough or pay instead of furlough (including pay to dependants on the death of the officer). 9C. Public Service rights. [Repealed] 9D. Functions.

(1) The General Manager shall—

(a) manage the Service of the Commission and, in relation to the management of that Service, act in accordance with the policy and directions of the Commission; and

(b) advise the Commission on any matter concerning the Service of the Commission referred to him by the Commission.

(2) The General Manager has such other functions as the Commission from time to time determines. 9D. Functions. [Repealed] Division 2.—The Service of the Commission. 10. Appointment of officers.

(1) The Commission may appoint to be officers of the Commission such persons as it thinks proper and necessary for the purposes of the Commission.

(2) The General Manager and the officers of the Commission constitute the Service of the Commission.

(3) A person shall not be admitted to the Service of the Commission unless he makes and subscribes an oath or affirmation of office in the prescribed form.

(4) An officer of the Commission holds office for such period and on such terms and conditions as are determined under Section 12.

(5) If a person appointed under this section was, immediately before his appointment, an officer of the Public Service, his service as an officer of the Commission shall be counted as service in the Public Service for the purpose of determining his existing and accruing rights under the Public Services (Management) Act 1995.

(6) An office in the service of the Commission is an office to which apply the provisions of the Public Services (Management) Act 1995 relating to leave to serve under another Act.

10. Appointment of officers. [Repealed]

11. Temporary and contract appointments.

(1) The Commission may employ—

(a) for a fixed period of service under a formal written contract; or

(b) for a short or indefinite period of service not under a formal written contract, such persons as it thinks proper and necessary for the purposes of the Commission.

(2) The tenure of office, and the terms and conditions of service of a person employed under this section are as determined under Section 12. 11. Temporary and contract appointments. [Repealed]

12. Conditions of appointment.

(1) The Commission shall, in accordance with this section, determine—

(a) the tenure of office and the terms and conditions of service of officers and other employees under this Division; and

(b) other matters relating to the Service of the Commission or other employment with the Commission.

(2) A determination under this section—

(a) shall be in writing under the seal of the Commission; and

(b) shall not be expressed to take effect commencing on a day before the date of the making of the determination where, if it so took effect—

(i) the rights of a person or authority (other than the Commission) existing at the date of the making of the determination would be affected in a manner prejudicial to him or it; or (

ii) liabilities would be imposed on a person or authority (other than the Commission) in respect of anything done or omitted to be done before the date of the making of the determination, and where in

such a determination a provision is made in contravention of this subsection the provision has no effect.

(3) . . . [Repealed]

(4) The Commission shall cause a determination made under this section to be brought as soon as possible to the notice of all officers and other employees of the Commission.

(5) The General Manager may, at the direction of, and on behalf of, the Commission, execute contracts of employment in accordance with a determination under this section.

(6) Every non-citizen employed or to be employed under this Division shall have attached to his contract of employment, and forming part of that contract, a detailed training experience document and a detailed training and localization program for the purpose of training a citizen to replace him, such training program to be supplied by the Commission.

(7) Failure by a non-citizen to comply with the training and localization program referred to in Subsection

(6) or any direction that may be issued from time to time by the Commission on training of a citizen shall be sufficient cause for the termination of the contract of employment of that non-citizen.

12. Conditions of appointment. [Repealed]

13. Retirement benefits funds.

(1) In this section, "approved retirement benefits fund" means a fund or scheme approved by the Minister responsible for finance matters— (a) from or under which individual personal benefits, pensions or retiring allowances for, or for dependants of, officers or employees of the Commission are paid; or

(b) in respect of which the rights of the officers and employees, or of the dependants, to receive the benefits, pensions and allowances specified in Paragraph

(a) are, to the satisfaction of the Minister responsible for finance matters, fully secured.

(2) The Commission may—

(a) accept contributions from officers and employees for payment to an approved retirement benefits fund; and

(b) advance moneys, on such terms as are agreed on, to an approved retirement benefits fund; and

(c) set apart or pay by way of contributions sums as or to an approved retirement benefits fund, and may establish, administer and meet the costs of administering an approved retirement benefits fund or funds.

(3) For the purposes of this section, a member of the Commission shall be deemed to be an officer of the Commission. 13. Retirement benefits funds. [Repealed] Division 3.—Finance, etc.

14. Capital and profits of the Commission.

(1) In this section— "the Agreement" means the agreement made on June 1965 between the Administrator of Papua New Guinea and the Commission relating to the acquisition or taking over by the Commission of certain undertakings of the Commonwealth of Australia in its then administration of Papua New Guinea; "any other agreement" means an agreement entered into between the State and the Commission for the purpose of the consolidation of certain loan moneys and conversion into capital.

(2) The capital of the Commission is, at any time, an amount equal to the sum of—

(a) the amount of K5,764,822.00; and

(b) where before 30 June 1965 the former Administration had transferred or granted to the Commission any interest in land, buildings, plant or equipment (including transmission lines) under or in accordance with any other agreement entered into between that Administration and the Commission after 19 March 1962 (being the date of commencement of the Papua and New Guinea Electricity

Commission Act 1961 (Adopted)) such amount as is specified in that agreement for the purposes of this subsection; and

(c) such amount as is specified in any other agreement.

. (3) Interest is not payable to the State on the capital of the Commission.

14. Capital and profits of the Commission. [Repealed] 14A. Payment of dividends.

(1) Subject to this section, the Commission shall pay to the State out of the profits of the Commission for a financial year, such amount in relation to that financial year as the Secretary for Finance, with the approval of the Head of State, acting on advice, determines.

(2) In making a determination under Subsection

(1), regard shall be had to any advice furnished by the Commission to the Secretary for Finance, in relation to the financial affairs of the Commission.

(3) The Secretary for Finance shall not make a determination under Subsection

(1) in respect of a financial year earlier than the financial year commencing on 1 January 1977. 14A. Payment of dividends. [Repealed] 14B. Ex-Gratia payments.

(1) Where, in respect of any land acquired from any person by the State or by a pre-Independence Administration in Papua New Guinea—

(a) the Commission, for the purposes of this Act, carries out any works; and

(b) the Minister, pursuant to Section 14C, declares such works to be a major civil-engineering project; and

(c) the person, or another person lawfully claiming through the person, makes application to the Commission, the Commission may, subject to the provisions of this section, make an ex-gratia payment to that person or to that other person lawfully claiming, as the case may be.

(2) The Commission shall not make an ex-gratia payment under Subsection

(1) unless the Commission obtains the prior written approval of the National Executive Council.

(3) The National Executive Council shall not approve an ex-gratia payment under Subsection

(2) unless the National Executive Council is satisfied that in the interest of national development it is necessary or expedient so to do.

(4) An ex-gratia payment under this section shall be such amount and shall be paid in such manner as the Commission, with the written approval of the National Executive Council, determines.

(5) For the purposes only of the Rouna 4 Hydro Electric Project this Act is deemed to have come into operation on the first day of January, nineteen hundred and eighty-four.

(6) In this Section— "major civil-engineering project" means any works declared as such under Section 14C; "pre-Independence Administration in Papua New Guinea" means—

(a) the Administration or Government of a former Territory or the Government of Australia acting in relation to any such Territory; or

(b) the British Military Administration of the former colony of German New Guinea (also known as the Territory of New Guinea); or

(c) the Administration or Government of the former possession of British New Guinea; or

(d) in relation to the former Colony of German New Guinea, the German Imperial Government or the German Government or the Fiscus of that Colony. 14B. Ex-Gratia payments. [Repealed] 14C. Minister may declare works to be major civil-engineering project. For the purposes of Section 14B the Minister may, after consultation with the Commission, by notice in the National Gazette, declare any works referred to in Section 14B(1)

(a) to be a major civil-engineering project. 14C. Minister may declare works to be major civil-engineering project. [Repealed] 15. Moneys of the Commission generally.

(1) The Commission shall open and maintain such bank accounts as are necessary for the exercise and performance of its powers and functions, and shall pay into them—

(a) all moneys received from the Government for the purposes of this Act; and

(b) all moneys appropriated by Act for the purpose of carrying out or giving effect to this Act; and

(c) all moneys received by the Commission for the sale, leasing or hire of property; and

(d) all moneys received by the Commission for the sale or supply of electricity; and (e) all other moneys received by the Commission in the exercise and performance of its powers, functions and duties. (2) Out of the moneys standing to the credit of the accounts referred to in Subsection (1), the Commission shall pay— (a) all moneys payable by it in repayment of advances under this Act, and as interest on such advances; and

(b) the costs, charges and expenses incurred by the Commission in the performance of its functions under this Act; and

(c) the remuneration and allowances of the members of the Commission and of officers and employees of the Commission; and

(d) any other payments that the Commission is authorized or required to make under this Act. (2) Out of the moneys standing to the credit of the accounts referred to in Subsection

(1), the Commission—

(a) shall pay—

(i) all moneys payable by it in repayment of advances under this Act, and as interest on such advances; and

(ii) the costs, charges and expenses incurred by the Commission in the performance of its functions under this Act; and

(iii) the remuneration and allowances of the members of the Commission and of officers and employees of the Commission; and (iv) any other payments that the Commission is authorized or required to make under this Act; and

(b) may— (i) make loans to officers and employees of the Commission to assist with home ownership; and

(ii) pay the cost of developing as serviced lots land for sale for housing purposes to citizen officers and employees of the Commission; and

(iii) pay the cost of redeveloping or purchasing residential properties initially for the accommodation of non-citizen officers and employees of the Commission and later for sale to citizen officers and employees of the Commission.

(3) In respect of moneys advanced or borrowed under this Act for the purposes of the Commission, the Commission shall maintain a separate account in respect of the moneys that are related to each such purpose, and shall cause proper entries of—

(a) all moneys so advanced or borrowed for a particular purpose of the Commission; and

(b) the purposes to which the moneys have been applied, to be made in the account maintained in respect of the purpose. 15. Moneys of the Commission generally. [Repealed] 16. Investment.

(1) In this section, "authorized short-term money market" means the group of dealer companies that are authorized by the Central Bank to be approved dealers in short-term loans and towards which that Bank acts as lender of last resort. (2) The Commission may invest any moneys standing to the credit of the bank accounts referred to in Section 15—

(a) in any securities of, or guaranteed by—

(i) the State; or (ii) Australia, or a State or Territory of Australia; or

(b) in any manner allowed by a law of— (i) Papua New Guinea; or

(ii) Australia, or a State or Territory of Australia, for the investment of trust funds; or

(c) on fixed deposit with the Papua New Guinea Banking Corporation or any other prescribed bank;  
or

(d) in the securities of any authorized short-term money market; or

(e) in any other manner approved by the Minister, and in such proportions, as between investments or classes of investments, as are approved by the Minister responsible for finance matters.

(3) Moneys held uninvested by the Commission shall be lodged on fixed deposit or at call with the Papua New Guinea Banking Corporation or with any other prescribed bank.

16. Investment. [Repealed]

17. Borrowing from approved banks, etc.

(1) In this section— "approved bank" means the Central Bank or any other bank approved by the Minister for the purposes of this section; "approved institution" means an institution or corporation approved by the Minister for the purposes of this section.

(2) Subject to this Act, the Commission may borrow money at interest from an approved bank or an approved institution, by way of mortgage, bank overdraft or otherwise, for—

(a) the purposes of the Commission under this Act; or

(b) the repayment or partial repayment of an amount previously borrowed, within such limits and on such conditions as the Minister approves.

(3) The Minister may, for and on behalf of the State, guarantee to any person from whom the Commission borrows money under Subsection

(2) the repayment, out of moneys lawfully available for the purpose, of any loan under that subsection, with interest.

17. Borrowing from approved banks, etc. [Repealed] 18. Application of Part VIII of Public Finances (Management) Act 1995. [Repealed] 18A. Audit.

(1) For the purposes of this section, "subsidiary company of the Commission" shall, in relation to the Commission, have the meaning given to a subsidiary corporation of a public body in Section 49 of the Public Finances (Management) Act 1995.

(2) Subject to this section, the Auditor-General shall—

(a) inspect and audit the accounts and records of the Commission and any subsidiary company of the Commission and records relating to its assets or assets in its custody; and (b) immediately draw the attention of the Minister to any irregularity disclosed by the inspection and audit that is, in the opinion of the Auditor-General, of sufficient importance to justify his doing so.

(3) The Auditor-General may, in his discretion, dispense with the whole or any part of the detailed inspection and audit of any accounts referred to in Subsection

(2). (4) The Auditor-General may, at his discretion for the purpose of assisting him in an inspection and audit under Subsection (2), employ a registered company auditor who shall act under the direction of the Auditor-General and under the terms and conditions determined by the Auditor-General.

(5) Where— (a) by 1 April in each year, the Auditor-General or a registered company auditor employed by him under Subsection (4), has not commenced the inspection and audit in respect of the previous financial year; or

(b) by 1 July in each year, in relation to the continuous inspection of the accounts of the Commission, the Auditor-General or a registered company auditor employed by him under Subsection

(4), has not commenced the inspection of the books and records of the Commission, the Commission may employ a registered company auditor specified by the Auditor-General to carry out the inspection and audit.

(6) A person carrying out an inspection or audit under this section or a person authorized by him—

(a) is entitled at all reasonable times to full and free access to all accounts, records, documents and papers of the Commission and of any subsidiary company of the Commission relating directly or indirectly to the receipt, or payment of moneys by it, or to the acquisition, receipt, custody or disposal of assets by it; and

(b) may make copies of, or take extracts from, any such accounts, records, documents or papers; and

(c) may require any person to furnish him with such information in his possession or to which he has access as the person carrying out the inspection or audit, or the person authorized by him, thinks necessary for the purposes of the functions of the Auditor-General under—

(i) the Constitution; and

(ii) this Act; and

(iii) the Public Finances (Management) Act 1995.

(7) A person who contravenes Subsection 6(c) is guilty of an offence. Penalty: A fine not exceeding K200.00. 18A. Audit. [Repealed] 19. (Repealed.) PART III.—POWERS AND FUNCTIONS OF THE COMMISSION. Division 1.—General.

20. Policy directions by N.E.C. The Commission shall give effect to any direction given to it by the Minister on any matter relating to the performance or exercise of its functions, duties or powers.

20. Policy directions by N.E.C. [Repealed] 20A. Role of the Commission. [Repealed]

21. General functions of the Commission.

(1) Subject to this Act, the functions of the Commission are—

(a) to plan and to co-ordinate the supply of electricity throughout the country; and (b) to generate, transmit, distribute, reticulate and sell electricity; and (c) to provide to the public, to public bodies and to the State, services related to the sale, consumption and use of electricity; and

(d) to provide to the State services for the operation or maintenance of plant for the generation, distribution and consumption of electricity; and

(e) to promote the sale and use of electricity; and

(f) to sell or hire, and to promote the sale or hiring of, electrical appliances and apparatus and motors and other devices utilizing electrical power; and

(g) to determine standards for and control the registration and licensing of electricians and electrical contractors; and

(h) to control the testing and approval of appliances, apparatus, motors, fittings and things used in connexion with the use or consumption of electricity; and

(i) to determine standards for, and to inspect and control the application of the standards to, wiring, fittings, apparatus, appliances and things used in connexion with the supply of electricity to, or the use of electricity in, consumers' premises connected to the public supply of electricity; and

(j) to determine standards for, and to inspect and control the application of the standards to, electrical machinery, lines and apparatus used in the generation, distribution and use of electricity by persons other than electricity undertakers; and

(k) to determine standards and methods of procedure to be adopted by workers within the electrical industry in order to ensure the safety of such workers, and to control and implement the operation of the standards; and

(l) to require the adoption of such standards of plant, apparatus and equipment and system frequencies as permit the efficient interconnexion of any electrical undertakings in the country as and when required; and

(m) to prescribe the terms of Orders and to issue, control and terminate Orders to electricity undertakers for the supply of electricity to the public; and

(n) generally to do such supplementary, incidental or consequential acts and things as are, in the opinion of the Commission, necessary or convenient for carrying out the functions referred to in the preceding paragraphs of this subsection. (1A) The Minister may, by direction to the Commission, relieve it of functions, add to its functions or otherwise vary its functions as the Minister considers necessary or expedient.

(2) The Commission may act as the agent of the State or the Government in relation to any matter within the functions of the Commission.

(3) The Commission may make recommendations to the Minister on any matter in connexion with the generation, supply or use of electricity in the country.

21. General functions of the Commission. [Repealed]

22. Special reports to the Government. Where the Minister requests the Commission to furnish a report or information on the activities or operations, or proposed activities or operations, of the Commission, or on any matter relating to the generation, supply or use of electricity in the country, the Commission shall, to the best of its ability, furnish the report or information requested.

22. Special reports to the Government. [Repealed]

23. General powers of the Commission.

(1) The Commission may do all things that are necessary or convenient to be done for or in connexion with the performance of its functions or the discharge of its duties under this Act.

(2) Without limiting the generality of Subsection

(1), the Commission has power, subject to this Act—

(a) to receive moneys advanced by the Minister for the purpose of the performance of its functions or the discharge of its duties under this Act; and

(b) for the purpose of securing any moneys borrowed by the Commission—

(i) to give security over the property of the Commission, or to charge the revenues of the Commission; and

(ii) to execute all mortgages and other instruments of assurance or charge; and

(c) to purchase land, and to purchase or construct buildings, for use in carrying on the operations of the Commission, and to dispose of land or buildings owned by the Commission; and

(d) to take on lease land or buildings for use in carrying on the operations of the Commission, and to dispose of any such lease; and

(e) to negotiate with the Government or any other person for the acquisition by the Commission of any electrical works or undertaking or for the transfer to the Commission of the benefit of or liability under any contract connected with the electrical works or undertaking, on such conditions as are agreed on by the Commission and the State or the other person; and

(f) to purchase, take on hire or otherwise acquire plant, machinery, equipment or other goods necessary for carrying on the operations of the Commission, and to dispose of any plant, machinery, equipment or other goods owned by the Commission; and

(g) to maintain and operate and, where necessary, improve and extend any works for or in connexion with the generation and supply of electricity vested in the Commission, and to construct new, additional or supplementary works or acquire works or property for or in relation to the generation or supply of electricity; and

(h) to supply electricity and other goods and services to any person in the country at such price and on such terms as are agreed between the Commission and that person; and

(i) with the approval of the Minister—

(i) to conduct any business arising out of or ancillary to the generation and supply of electricity; and

- (ii) to construct works or acquire works or property; and (iii) to maintain and operate the works or property for the purposes of conducting any such business; and
  - (j) to purchase electricity from any person in the country; and
  - (k) to devise and operate a Home Ownership Scheme for officers and employees of the Commission; and
  - (l) to request the Minister to declare under Section 23A Special Categories of houses for sale under the Home Ownership Scheme to which the provisions of Paragraph
  - (c) do not apply; and
  - (m) to make a loan to, or guarantee a mortgage on behalf of an officer or employee of the Commission for the purpose of house purchase or construction where such officer or employee of the Commission has been accepted to take part in a Home Ownership Scheme devised and operated by the Commission; and
  - (n) to do such other things as are required or permitted to be done by the Commission under this Act or any other law; and
  - (o) to do anything incidental to its powers or functions.
23. General powers of the Commission. [Repealed] 23A. Sale of Special Categories of houses.
- (1) The Minister may, on the request of the Commission after receiving the approval of the National Executive Council, declare Special Categories of houses.
  - (2) A declaration under Subsection (1) shall—
    - (a) specify the terms and conditions under which the Special Categories of houses are to be sold; and
    - (b) be published in the National Gazette.
- 23A. Sale of Special Categories of houses. [Repealed] 23B. Report on Home Ownership Scheme. The Commission shall, at least once in each fiscal year, furnish to the Minister for presentation to the National Executive Council, a report on any Home Ownership Scheme devised and operated by the Commission. 23B. Report on Home Ownership Scheme. [Repealed]
24. Delegation. The Commission may delegate to a person all or any of its powers and functions under this Act (except the power to accept tenders and this power of delegation).
24. Delegation. [Repealed] PART IIIA.—ADMINISTRATION. 24A. Functions and Powers of Regulator.
- (1) The Regulator has, in addition to its functions under the Independent Consumer and Competition Commission Act 2002, the following functions:—
    - (a) any function that a regulatory contract issued under the Independent Consumer and Competition Commission Act 2002, being a regulatory contract which relates to the electricity supply industry, contemplates will be performed by the Regulator for the purposes of that regulatory contract; and
    - (b) the licensing functions conferred by this Act; and
    - (c) the monitoring and regulation of safety and technical standards in the electricity supply industry; and
    - (d) the monitoring and regulation of safety and technical standards with respect to works, electrical installations, electrical appliances and apparatus and associated equipment; and
    - (e) any other function or power conferred by this Act or by regulation under this Act; and (f) any other function or power conferred by a prescribed contract.
  - (2) The Regulator has, in addition to its powers under the Independent Consumer and Competition Commission Act 2002, the power to do all things necessary or convenient to be done for or in connection with or otherwise incidental to the performance of its functions under this Act.
  - (3) The Regulator shall perform its functions in a manner consistent with the terms of any regulatory contract issued under the Independent Consumer and Competition Commission Act 2002 which relates to the electricity supply industry.
- 24B. Delegation.

(1) Subject to Subsection

(2), the Regulator may, by unanimous decision of all members of the Regulator and subject to any regulation made under this section, delegate to any member, officer or committee of the Regulator or to any other person any of its functions and powers (other than this power of delegation).

(2) The Regulator shall not delegate any of its functions or powers under—

(a) a regulatory contract issued under the Independent Consumer and Competition Commission Act 2002; or

(b) Part IIIB, to a person other than a member or officer of the Regulator.

(3) A delegation under Subsection (1)—

(a) shall be in writing; and (b) may be subject to such conditions or restrictions as are specified in the instrument of delegation; and

(c) is revocable at will by resolution of the Regulator in writing; and (d) does not affect or prevent the performance of a function or the exercise of a power by the Regulator. PART IIIB.—ELECTRICITY SUPPLY INDUSTRY. Division 1.—Declaration. 24C. Declaration. The electricity supply industry is declared to be a regulated industry for the purposes of the Independent Consumer and Competition Commission Act 2002. Division 2.—Licensing of Electricity Undertakers. 24D. Requirement for licence.

(1) A person, firm or company shall not carry on operations in the electricity supply industry for which a licence is required unless the person holds a licence under this Part authorizing the relevant operations. Penalty: A fine not exceeding K10,000,000.00. Default penalty: A fine not exceeding K1,000,000.00.

(2) The operations in the electricity supply industry for which a licence is required are:—

(a) the generation of electricity; and (b) the operation of a transmission or distribution network; and (c) the retailing of electricity; and (d) other operations for which a licence is required by the regulations. 24E. Application for licence.

(1) An application for the issue of a licence shall—

(a) be made to the Regulator in a form approved by the Regulator; and

(b) contain the information specified in the form.

(2) The applicant shall pay to the Regulator an application fee fixed by the Minister responsible for treasury matters of an amount that he considers appropriate to meet the reasonable costs of determining the application.

(3) The applicant shall give the Regulator further relevant information requested by the Regulator. 24F. Consideration of application.

(1) The Regulator shall consider an application for the issue of a licence and may, subject to this Division, issue, or refuse to issue, the licence.

(2) In considering an application for a licence, the Regulator shall have regard to the general factors specified in Part II of the Independent Consumer and Competition Commission Act 2002 and, subject to this section, may only issue a licence if it is satisfied that—

(a) the applicant is a suitable person to hold the licence; and

(b) the grant of the licence would be consistent with the criteria (if any) as are prescribed for a licence of that kind.

(3) In deciding whether an applicant is a suitable person to hold a licence, the Regulator may consider—

(a) the applicant's previous commercial and other dealings and the standard of honesty and integrity shown in those dealings; and

(b) the financial, technical and human resources available to the applicant; and

(c) the officers and, if applicable, major shareholders of the applicant and their previous commercial and other dealings and the standard of honesty and integrity shown in those dealings (including breaches of statutory and other legal obligations); and (d) such other matters as are prescribed. 24G. Licences may be held jointly.

(1) A licence may be held jointly by two or more persons.

(2) If a licence is held jointly by two or more persons, those persons are jointly and severally liable to meet the requirements imposed under this Act or the Independent Consumer and Competition Commission Act 2002. 24H. Authority conferred by licence.

(1) A licence authorizes the person named in the licence to carry on operations in the electricity supply industry in accordance with the terms and conditions of the licence.

(2) The operations authorized by a licence need not be all of the same character or at the same location but may consist of a number of different operations or operations at different locations. 24I. Term of Licence. A licence may be issued for an indefinite period or for a term specified in the licence. 24J. Licence Fees and Returns.

(1) Notwithstanding Section 24I, a person is not entitled to the issue of a licence unless he first pays to the Regulator the annual licence fee, or the first installment of the annual licence fee, as the case may require.

(2) The holder of a licence issued for a term of more than one year shall—

(a) in each year lodge with the Regulator, before the date prescribed for that purpose, an annual return containing information required by the Regulator by condition of the licence or by written notice; and  
(b) in each year pay to the Regulator, before the date prescribed for that purpose, the annual licence fee, or the first installment of the annual licence fee, as the case may require.

(3) The annual licence fee for a licence is the fee fixed, from time to time, by the Minister responsible for treasury matters in respect of that licence as an amount that he considers to be a reasonable contribution towards administrative costs.

(4) An annual licence fee may, if the Regulator so determines, be paid in equal installments at intervals fixed by the Regulator.

(5) If the holder of a licence fails to lodge the annual return or to pay the annual licence fee or an installment of the annual licence fee, as the case may be, in accordance with this section, the Regulator may, by written notice, require the holder to make good the default and, in addition, to pay to the Regulator the amount prescribed as a penalty for default.

(6) An annual licence fee (including any installment of an annual licence fee or any penalty for default) payable under this section is recoverable as a debt due to the Regulator.

(7) In this section— "administrative costs" means—

(a) the costs of administration of this Act; and

(b) any costs of administration of the Independent Consumer and Competition Commission Act 2002 relating to the electricity supply industry; and

(c) such other costs as are prescribed; "holder" of a licence includes the holder of a licence that has been suspended. 24K. Specially Issued Licences.

(1) The Minister may, by order in writing, require that one or more licences authorizing specified operations be issued under this Division to PNG Power, or to PNG Power's purchaser, in accordance with specified requirements as to the term and conditions of such licence or licences and the rights conferred by such licence or licences.

(2) The requirements of the Minister as to the conditions of a licence shall be consistent with the provisions of this Act as to such conditions.

(3) The Minister may, by order in writing, require that a licence issued to PNG Power in accordance with an order under Subsection (1) be transferred to PNG Power's purchaser.

(4) An order under this section shall be given effect without the need for PNG Power or PNG Power's purchaser to apply for the licence or agreement to the transfer of the licence and notwithstanding the provisions of this Act and Section 23 of the Independent Consumer and Competition Commission Act 2002.

(5) A licence issued to PNG Power in accordance with an order under this section may not be suspended or cancelled under this Act on the ground of any change that has occurred in the officers or shareholders of PNG Power associated with the shares in PNG Power being transferred from a Minister or Ministers to PNG Power's purchaser.

(6) In this section— "PNG Power" means the company incorporated pursuant to Section 3(1) of the Electricity Commission (Privatization) Act 2002; "PNG Power's purchaser" means the purchaser to whom the shares in PNG Power are transferred in accordance with the Electricity Commission (Privatization) Act 2002. 24L. Licence Conditions.

(1) On the issue of a licence, the Regulator shall make the licence subject to such conditions as it determines—

(a) requiring compliance with applicable codes or rules made under the Independent Consumer and Competition Commission Act 2002 as in force from time to time; and

(b) requiring compliance with applicable technical or safety requirements or standards; and

(c) requiring compliance with any regulatory contract issued under Section 34 or Section 35 of the Independent Consumer and Competition Commission Act 2002 that applies to the electricity undertaker; and

(d) requiring the electricity undertaker to have all or part of the operations authorized by the licence audited and to report the results of the audit to the Regulator; and

(e) requiring the electricity undertaker to notify the Regulator about changes to officers and, if applicable, major shareholders of the electricity undertaker; and

(f) requiring the electricity undertaker to provide, in the manner and form determined by the Regulator, such other information as the Regulator may from time to time require; and

(g) requiring the electricity undertaker to maintain specified accounting records and to prepare accounts according to specified principles; and (h) requiring the business the operation of which is authorized under the licence or any part of that business to be kept separate from any other business of the electricity undertaker or any other person in the manner and to the extent specified in the conditions; and

(i) requiring the electricity undertaker to inform persons seeking or in receipt of specified services supplied by the electricity undertaker under the licence of the terms on which those services are provided (including the charges for these services) and of any changes in those terms; and

(j) in the case of a licence authorizing the generation of electricity or the operation of a transmission or distribution network, requiring the electricity undertaker—

(i) to prepare and periodically revise a safety and technical management plan dealing with such matters as are prescribed; and (ii) to obtain the approval of the Regulator to the plan and any revision; and

(iii) to comply with the plan as approved from time to time; and

(iv) to audit from time to time the electricity undertaker's compliance with the plan and report the results of those audits to the Regulator; and

(k) in the case of a licence authorizing the generation of electricity, requiring the electricity undertaker not to do anything affecting the compatibility of the electricity undertaker's electricity generating plant with any transmission or distribution network so as to prejudice public safety or the security of the power system of which the generating plant forms a part; and

(l) in the case of a licence authorizing the operation of a transmission or distribution network, requiring the electricity undertaker not to do anything affecting the compatibility of the electricity undertaker's transmission or distribution network with any electricity generating plant or transmission or distribution

network so as to prejudice public safety or the security of the power system of which the transmission or distribution network forms a part; and

(m) in the case of a licence authorizing the operation of a transmission or distribution network, requiring the electricity undertaker to comply with—

(i) specified provisions for or relating to the granting to other electricity undertakers of rights to use or have access to the electricity undertaker's transmission or distribution network for the transmission or distribution of electricity by the other electricity undertakers; and

(ii) any scheme that the Regulator may establish by a code made under the Independent Consumer and Competition Commission Act 2002 for the resolution of disputes in relation to such rights; and

(n) in the case of a licence authorizing the operation of a transmission or distribution network, requiring the electricity undertaker to comply with—

(i) specified provisions for or relating to the granting to all electricity undertakers and customers of a class specified in the condition of rights to use or have access to the electricity undertaker's transmission or distribution network to obtain electricity from the network; and

(ii) any scheme that the Regulator may establish by a code made under the Independent Consumer and Competition Commission Act 2002 for the resolution of disputes in relation to such rights; and

(o) in the case of a licence authorizing the operation of a transmission or distribution network, requiring the electricity undertaker to comply with code provisions in force from time to time under the Independent Consumer and Competition Commission Act 2002 establishing a method for sharing of the costs of an augmentation of the network, being an augmentation of a kind specified in the code provisions, between customers who benefit from that augmentation; and

(p) in the case of a licence authorizing the operation of a transmission or distribution network or the retailing of electricity, requiring a specified process to be followed to resolve any dispute between the electricity undertaker and a customer as to the supply or sale of electricity; and

(q) in the case of a licence authorizing the operation of a transmission or distribution network or the retailing of electricity, requiring or relating to standard contractual terms and conditions to apply to the supply or sale of electricity to customers of a prescribed class; and

(r) in the case of a licence authorizing the operation of a transmission or distribution network or the retailing of electricity, requiring the electricity undertaker to comply with code provisions in force from time to time under the Independent Consumer and Competition Commission Act 2002 imposing minimum standards of service for customers and requiring the electricity undertaker to monitor and report on levels of compliance with those minimum standards; and

(s) in the case of a licence authorizing the operation of a transmission or distribution network or the retailing of electricity, requiring the electricity undertaker to comply with code provisions in force from time to time under the Independent Consumer and Competition Commission Act 2002 limiting the grounds on which the supply or sale of electricity to customers may be disconnected or discontinued and prescribing the process to be followed before the supply or sale of electricity is disconnected or discontinued; and

(t) in the case of a licence authorizing the retailing of electricity which confers an exclusive right to sell electricity pursuant to Section 24M, requiring the electricity undertaker to sell electricity to the relevant customers within the specified area.

(2) On the issue of a licence, the Regulator shall make the licence subject to further conditions that the Regulator is required by regulation to impose on the issue of such a licence. (3) On the issue of a licence, the Regulator may make the licence subject to further conditions considered appropriate by the Regulator. (4) A condition of an electricity undertaker's licence imposed under Subsection

(1)(m) is not to take effect until the date prescribed for that purpose. (5) Nothing in this section permits a condition to be included in a licence where that condition would be inconsistent with the terms of a regulatory contract issued under Section 34 or Section 35 of the Independent Consumer and Competition Commission Act 2002 which applies to the electricity undertaker. 24M. Exclusive retail licences. A licence authorizing the retailing of electricity may, if the Regulator so determines, confer on the electricity undertaker an exclusive right to sell electricity to customers or classes of customers

within a specified area. 24N. Regulatory duplication. Notwithstanding the preceding provisions of this Division, the Regulator is not to impose a condition on a licence if the Regulator is satisfied that the condition would unnecessarily duplicate, or be inconsistent with, regulatory requirements under any other Act that are binding on the electricity undertaker. 24O. Offence to contravene licence conditions.

(1) An electricity undertaker shall not contravene a condition of its licence. Penalty: A fine not exceeding K10,000,000.00. Default penalty: a fine not exceeding K1,000,000.00.

(2) If an electricity undertaker profits from contravention of a condition of its licence, the Regulator may recover an amount equal to the profit from the electricity undertaker—

(a) on application to a court convicting the electricity undertaker of an offence against this section; or

(b) by action in a court of competent jurisdiction.

(3) An amount recovered under Subsection

(2) shall be paid into the Consolidated Revenue Fund. 24P. Variation of licence.

(1) The Regulator may vary the terms or conditions of an electricity undertaker's licence by written notice to the electricity undertaker as the Regulator considers appropriate, but not so as to—

(a) remove a condition that the Regulator is required by this Act to impose on such a licence; or

(b) vary or remove a term or condition contained in a licence issued under Section 24K to the extent that, as at the date of issue of the licence, the licence provided that such term or condition is not be varied or removed.

(2) A variation may only be made—

(a) on application by the electricity undertaker or with the electricity undertaker's agreement; or (b) after giving the electricity undertaker reasonable notice of the proposed variation and allowing the electricity undertaker a reasonable opportunity to make submissions about the proposed variation. 24Q. Transfer of licence.

(1) A licence may only be transferred with the Regulator's agreement. (2) The Regulator shall not agree to the transfer of a licence if the transferee would not be entitled to the issue of the licence.

(3) An application for agreement to the transfer of a licence shall—

(a) be made by the transferor with the consent of the transferee to the Regulator in a form approved by the Regulator; and (b) contain the information specified in the form.

(4) The applicant shall pay to the Regulator an application fee fixed by the Minister responsible for treasury matters of an amount that he considers appropriate to meet the reasonable costs of determining the application.

(5) The applicant shall give the Regulator further relevant information requested by the Regulator. 24R. Notice of licence decisions. (1) The Regulator shall give an applicant for a licence, or for agreement to the transfer of a licence, written notice of the Regulator's decision on the application.

(2) The Regulator shall give the holder of a licence written notice of any decision by the Regulator affecting the terms or conditions of the licence. 24S. Surrender of licence.

(1) An electricity undertaker may, by written notice given to the Regulator, surrender its licence.

(2) A notice given under Subsection

(1) shall be given to the Regulator at least six months before the surrender is to take effect or, if the licence requires a longer period of notice, as required by the licence.

(3) The Regulator may, by agreement with the electricity undertaker, shorten the required period of notice. 24T. Register of licences.

(1) The Regulator shall keep a register of the licences issued to electricity undertakers under this Act.

(2) The register shall include— (a) the terms and conditions of each licence; and

(b) such other information as is required under the regulations.

(3) A person may, without payment of a fee, inspect the register. Division 3.—Standard Terms and Conditions for Sale or Supply. 24U. Standard terms and conditions for sale or supply.

(1) An electricity undertaker may, from time to time, fix standard terms and conditions governing the sale or supply of electricity (including the service of making connections to a transmission or distribution network) by the electricity undertaker to customers of a prescribed class. (2) An electricity undertaker shall publish in the National Gazette and in a daily newspaper circulating nationally a notice setting out any standard terms and conditions fixed by the electricity undertaker.

(3) Standard terms and conditions fixed under this section—

(a) shall comply with the conditions of the electricity undertaker's licence; and (b) shall come into force on the day specified by the electricity undertaker in the notice of the standard terms and conditions published under this section, being a day not earlier than the day on which the notice is published; and

(c) when in force, are contractually binding on the electricity undertaker and the class of customers to which the terms and conditions are expressed to apply.

(4) Subject to the conditions of an electricity undertaker's licence, a standard term or condition fixed under this section may be modified or excluded by express agreement between the electricity undertaker and a customer of the electricity undertaker. Division 4.—Suspension or Cancellation of Licences. 24V. Suspension or cancellation of licences.

(1) Upon being satisfied that—

(a) the holder of a licence obtained the licence improperly; or

(b) the holder of a licence has been guilty of a material contravention of a condition of a licence or any other requirement imposed by or under this Act or any other Act in connection with the operations authorized by the licence; or

(c) the holder of a licence has ceased to carry on operations authorized by the licence; or (d) there has been any act or default or change of circumstances such that the holder of a licence would no longer be entitled to the issue of such a licence, the Regulator may suspend or cancel the licence with effect from a specified date.

(2) A suspension under this section may be for a specified period, or until the fulfillment of specified conditions, or until further order of the Regulator. (3) Before the Regulator acts under this section, the Regulator shall—

(a) notify the holder of the licence in writing of the proposed action specifying the reasons for the proposed action; and (b) allow the holder of the licence at least 14 days within which to make submissions to the Regulator in relation to the proposed action. Division 5.—Regulator's powers to take over operations. 24W. Power to take over operations.

(1) If— (a) an electricity undertaker contravenes a condition of its licence or any other requirement of this Act, or an electricity undertaker's licence is suspended, cancelled or surrendered; and

(b) it is necessary, in the Regulator's opinion, to take over the electricity undertaker's operations (or some of them) to ensure an adequate supply of electricity to customers, the Head of State, acting on advice, may make an order under this section.

(2) Before an order is made under this section, the Regulator shall give the electricity undertaker a reasonable opportunity to make written representations giving reasons why the order should not be made.

(3) An order under this section—

(a) authorizes the Regulator to take over the electricity undertaker's operations or a specified part of the electricity undertaker's operations; and (b) may contain ancillary directions (and may, in particular, contain directions about how the costs of carrying on the operations, and revenue generated from the operations, are to be dealt with).

(4) A direction under Subsection

(3)(b) operates to the exclusion of rights that are inconsistent with it. 24X. Appointment of operator.

(1) If an order is made under this Division, the Regulator shall appoint a suitable person to take over the relevant operations on agreed terms and conditions.

(2) A person appointed under Subsection (1)— (a) is referred to in this section as the "operator; and (b) may, but need not, be an electricity undertaker.

(3) The electricity undertaker shall facilitate the take over of the relevant operations by the operator.

(4) The operator may have access to the employees, and equipment, infrastructure and other property, of the electricity undertaker for the purposes of carrying on the relevant operations.

(5) A person shall not obstruct the operator's access to employees or property or the exercise by the operator of the operator's responsibilities under this Division. Penalty: A fine not exceeding K10,000,000.00.

(6) A person shall comply with reasonable directions given by the operator in the exercise of the operator's responsibilities under this Division. Penalty: A fine not exceeding K10,000,000.00. PART IIIC.—CONSTRUCTION, ENTRY ON LAND, REGISTRATION OF TITLES. Division 1.—Construction, Entry on Land, etc. 25. Erection of transmission lines, etc. (1) In this section, "Government land" means all land other than— (a) customary land that is not leased by the owners to the State; and (b) land held by a person other than the State for an estate greater than a term of years; and (c) land that is the subject of a State lease under the Land Act. (2) For the purposes of the conveyance, transmission and distribution of electricity, an electricity undertaker, on giving notice of its intention to do so to the owner or occupier of the land, may, subject to Subsection (4), erect, maintain and remove— (a) pylons, posts, poles or pillars in, under, through, over, across or on any land to which this subsection applies; and (b) electric lines (including, without limiting the definition of that expression in Section 1, conduits, substations, transformers and other appliances and things necessary for the works) in, under, through, over, across or on any such land or any building, house or premises on any such land. (3) The land to which Subsection (2) applies is land, including land under the sea or a river or stream, that—

(a) is outside a town; or (b) is a street or other Government land within a town, at the time when the pylons, posts, poles, pillars or electric lines are erected.

(4) The exercise of the powers conferred by Subsection

(2) is subject to the prior approval of— (a) the Head of State, acting on advice, in the case of land outside a town; or

(b) the Minister, in the case of land within a town.

(5) . . . [Repealed] 25A. Ownership of transmission lines, etc. Notwithstanding anything in any other law, but subject to any agreement in writing to the contrary, the ownership of pylons, posts, poles, pillars and electric lines erected or operated by an electricity undertaker is not affected by their affixation to land.

26. Entry on land, etc.

(1) Notwithstanding anything in any other law, a person authorized by an electricity undertaker may, subject to Subsections

(2) and

(3), at all reasonable times—

(a) enter on any land on which pylons, posts, poles, pillars and electric lines owned or operated by the electricity undertaker have been or may be erected, or on any adjoining land, with such assistants, vehicles and things as the thinks necessary; and

(b) make surveys, take levels, sink pits, examine the soil and do any other thing in relation to the land, for the purposes of maintaining, removing or (where otherwise authorized or permitted to do so) erecting or preparing (including through surveying and obtaining other information in relation to the land) for the possible erection of pylons, posts, poles, pillars and electric lines.

(2) Subject to Subsection (3), before entering any land under Subsection

(1) the person concerned shall give notice to the owner or occupier of the land of his intention to do so. (3) Notice in accordance with Subsection

(2) need not be given if—

(a) the land, or part of the land, is in a Local Government Council area and written notice has, not less than one week before entry, been given to the Council specifying the area, or the approximate area, affected, together with a request that the Council advise any persons likely to be affected; or

(b) the name, or the place of abode or business, of the owner or occupier cannot, after the exercise of reasonable diligence, be found and unreasonable delay or expense would otherwise be caused to the electricity undertaker; or

(c) the land is apparently unoccupied, but in any such case the authorized person shall advise any person who asks for his authority for being on the land that he is on the land for the purposes of this Act.

(4) In addition to the powers conferred by Subsection

(1), the authorized person or his assistants, doing as little damage as may be, may— (a) trim, lop or cut down any trees and bushes that may obstruct the work being carried out; and

(b) place on or below the surface of the soil such pegs, marks, metal pins or other distinguishing marks as are necessary for any of the purposes set out in Subsection (1).

(5) An electricity undertaker shall minimize the impact of things done under this section on activities of others on the relevant land. 27. Notice of intention to enter under Section 25 or 26.

(1) Notice of intention to enter land under Section 25 or 26 may be given—

(a) orally or in writing to the owner or occupier personally; or (b) by post addressed to the owner or occupier at his usual or last-known place of abode or business; or (c) in writing to a person apparently living or employed at that place of abode or business and apparently not less than 16 years of age, but where notice of intention is given in accordance with Paragraph (b), entry shall not be made before the notice would be delivered in the ordinary course of post.

(2) In an emergency, a person authorized by an electricity undertaker may exercise a power of entry referred to in Section 25 or 26— (a) at any time and without prior notice if it is not practicable to give such notice; and

(b) if necessary in the circumstances, by the use of reasonable force, but only if the authorized person is accompanied by a member of the police force.

28. Ancillary powers. [Repealed] Division 2.—Registration of Titles.

29. Noting of N.E.C. approval to works. Where—

(a) the Head of State, acting on advice, under Section 25(4

)(a); or (b) the Minister, under Section 25(4)

(b), approves the erection of electric lines in, under, through, over, across or on any land or on a building, house or premises on any land, that is subject to the Land Registration Act (Chapter 191), a copy of the approval shall be forwarded by the Clerk of the Executive Council to—

(c) the Registrar of Titles, with a request that the approval be noted on the title or titles affected; and

(d) the registered proprietor of the land. 30. Registration of rights, etc. (1) As soon as practicable after the erection of electric lines— (a) under Section 25; or

(b) by agreement between an electricity undertaker and any other person, the electricity undertaker shall conduct a survey and forward to the Registrar of Titles a copy of the survey plan specifying details of the land affected.

(2) The Registrar of Titles shall—

(a) when requested under Section 29, note the approval on the title or titles affected; and

(b) on receipt of a survey plan required by Subsection

(1) specifying the width of the land affected and the extent of the restrictions imposed, cause the rights conferred by Sections 25 and 26 and any regulations to be registered on any title or titles affected.

(3) Notwithstanding the absence of a dominant tenement, the registration of rights under Subsection (2)(b) shall be deemed to be the registration of an easement, and the Land Registration Act (Chapter 191) shall be read subject to this section. PART IV.—ELECTRICITY UNDERTAKERS.

31. Authorization to supply electricity. [Repealed] PART V.—INSPECTION, SAFETY AND TECHNICAL REQUIREMENTS. Division 1.—Authorized Officers. 31A. Appointment of Authorized Officers.

(1) The Regulator may appoint suitable persons as Authorized Officers for the purposes of this Act.

(2) An Authorized Officer holds office on the conditions stated in the instrument of appointment. 31B. Identity Card. (1) The Regulator shall give each Authorized Officer an identity card.

(2) The identity card shall—

(a) contain a photograph of the Authorized Officer taken for the purpose; and

(b) identify the Authorized Officer as an Authorized Officer appointed by the Regulator. (3) A person shall, within two days after ceasing to be an Authorized Officer, return the identify card to the Regulator. Penalty: A fine not exceeding K200.00.

(4) An Authorized Officer shall, before exercising a power in relation to another person, produce his identity card for inspection by that other person. Division 2.—Powers of Authorized Officers. 31C. Power of Entry.

(1) An Authorized Officer may, as reasonably required for the purposes of the enforcement of this Act, enter and remain in any place with such assistants, vehicles and things as he thinks necessary.

(2) In an emergency, an Authorized Officer may exercise a power of entry under Subsection

(1) at any time and, if necessary in the circumstances, by the use of reasonable force.

(3) An Authorized Officer may not enter a place by force in an emergency unless accompanied by a member of the police force. 31D. General Investigative Powers.

(1) An Authorized Officer who enters a place under this Division may exercise any one or more of the following powers:—

(a) investigate whether the provisions of this Act are being or have been complied with; and

(b) examine and test works, electrical installations or equipment in the place to find out whether the works, electrical installations or equipment are safe and comply with the requirements of this Act; and

(c) investigate a suspected electrical accident; and (d) investigate a suspected interference with works or an electrical installation; and (e) investigate a suspected theft or diversion of electricity; and

(f) search for, examine and copy or take an extract from a document or record of any kind as reasonably required for the purposes of the enforcement of this Act; and

(g) take photographs or make films or other records of activities in the place and works, electrical installations or equipment in the place; and (h) take possession of any object that may be evidence of an offence against this Act.

(2) If an Authorized Officer takes possession of an object that may be evidence of an offence—

(a) the Authorized Officer shall give the occupier of the place a receipt for the object; and

(b) the object shall be returned to its owner—

(i) if proceedings for an offence are not commenced within six months after the Authorized Officer takes possession of the object—at the end of that period; or

(ii) if such proceedings are commenced within that period—on completion of the proceedings, unless the court, on application by the Regulator, orders confiscation of the object.

(3) A court may order the confiscation of an object of which an Authorized Officer has taken possession under Subsection

(1) if it is of the opinion that the object has been used for the purpose of committing an offence or there is some other proper reason for ordering its confiscation.

(4) If the court orders the confiscation of an object, the Regulator may dispose of the object. 31E. Disconnection of Electricity Supply.

(1) If an Authorized Officer finds that electricity is being consumed or supplied contrary to this Act, the Authorized Officer may disconnect the electricity supply.

(2) If an Authorized Officer disconnects an electricity supply under this section, the Authorized Officer shall give written notice to the occupier of the relevant place—

(a) informing the occupier that the electricity supply has been disconnected under this section; and

(b) directing that the electricity supply shall not be reconnected until arrangements have been made to the satisfaction of an Authorized Officer to ensure against future contravention of this Act.

(3) If an electricity supply has been disconnected under this section, no person shall reconnect the electricity supply, or have it reconnected, without the approval of an Authorized Officer. Penalty: A fine not exceeding K2,000.00. 31F. Power to make works or installation safe.

(1) If an Authorized Officer finds that works or an electrical installation are unsafe, the Authorized Officer may—

(a) disconnect the electricity supply or give a direction requiring the disconnection of the electricity supply; or

(b) give a direction requiring the carrying out of the work necessary to make the works or electrical installation safe before the electricity supply is reconnected. (2) Subject to this section, a direction under this section shall be given—

(a) in relation to works—to the electricity undertaker or other person that operates the works; or (b) in relation to an electrical installation—to the person in charge of the electrical installation or the occupier of the place in which the electrical installation is situated.

(3) A direction under this section may be given by written notice or, if the Authorized Officer is of the opinion that immediate action is required, orally but shall subsequently be confirmed in writing.

(4) A person to whom a direction is given under this section—

(a) shall comply with the direction; and

(b) shall not reconnect or permit the reconnection of the electricity supply unless the work required by the direction under this section has been carried out, or an Authorized Officer approves the reconnection of the electricity supply. Penalty: A fine not exceeding K2,000.00. 31G. Power to require information.

(1) An Authorized Officer may require a person to provide information in the person's possession relevant to the enforcement of this Act.

(2) An Authorized Officer may require a person to produce documents in the person's possession that may be relevant to the enforcement of this Act for inspection by the Authorized Officer.

(3) A person shall not, without reasonable excuse, fail to comply with a requirement under this section. Penalty: A fine not exceeding K2,000.00.

(4) A person is not required to give information or produce a document under this section if the answer to the question or the contents of the document would tend to incriminate the person of an offence. Division

### 3.—Electricity Inspectors.

#### 32. Appointment of Inspectors.

(1) An electricity undertaker may, subject to conditions determined by the Minister, appoint an officer or employee to be an Electricity Inspector for the purposes of this Act.

(2) An Inspector may only exercise powers under this Act subject to his conditions of appointment and any directions given to him by the electricity undertaker.

33. Identity card.v (1) An electricity undertaker shall give each Inspector appointed by the electricity undertaker an identity card.

(2) The identity card shall be in a form approved by the Minister and shall—

(a) contain a photograph of the Inspector taken for the purpose; and (b) identify the Inspector as an Electricity Inspector appointed by the electricity undertaker.

(3) A person shall, within two days after ceasing to be an Inspector for the relevant electricity undertaker, return the identity card to the electricity undertaker. Penalty: A fine not exceeding K200.00.

(4) An Inspector shall, before exercising a power in relation to another person, produce his identity card for inspection by that other person. 34. Powers of Inspectors.

(1) An Inspector for an electricity undertaker may—

(a) require the owner or occupier of any land to cut down or lop any trees or undergrowth growing on the land that obstruct or, in the opinion of the electricity undertaker or the Inspector, are likely to interfere with an electric line; and (b) at all reasonable times enter any premises to which electricity is, or is to be or has been, supplied or sold by the electricity undertaker for the purpose of—

(i) inspecting or testing any electric line or works; or

(ii) ascertaining the quantity of electricity consumed or supplied; or

(iii) installing, repairing or replacing meters and testing their accuracy; or

(iv) removing or disconnecting any electric line or works or electricity supply where—

(A) a supply of electricity to the premises is no longer required; or

(B) the electricity undertaker desires to cut off the supply of electricity to the premises; or

(C) in the opinion of the Inspector, the supply of electricity to the premises is unsafe; or (v) inspecting electrical installations in the place to ensure that it is safe to connect or reconnect electricity supply; or

(vi) taking action to prevent or minimize an electrical hazard; or

(vii) investigating a suspected theft or diversion of electricity.

(2) In an emergency, an Inspector may exercise a power of entry under Subsection (1)(b) at any time and, if necessary in the circumstances, by the use of reasonable force.

(3) An Inspector may enter a place under Subsection

(1)(b) with such assistants, vehicles and things as he thinks reasonably necessary.

(4) An Inspector may not enter a place by force in an emergency unless accompanied by a member of the police force. Division 4.—Safety and Technical Requirements. 35. Safety and Technical Compliance of Works, Electrical Installations and Equipment.

(1) A person who connects an electrical installation to a transmission or distribution network shall ensure that the electrical installation, and the connection, comply with technical and safety requirements imposed under the regulations. Penalty: A fine not exceeding K2,000.00 and, in addition, a fine not exceeding K200.00 for every day during which the offence continues.

(2) A person who owns or operates works or an electrical installation shall ensure that—

(a) the works or electrical installation comply with, and are operated in accordance with, technical and safety requirements imposed under the regulations; and

(b) the works or electrical installation are safe and are safely operated. Penalty: A fine not exceeding K2,000.00 and, in addition, a fine not exceeding K200.00 for every day during which the offence continues. 36. Power to require rectification, etc., in relation to works or electrical installations

. (1) If works or an electrical installation are unsafe, or do not comply with this Act, the Regulator may give a direction requiring—

(a) the rectification of the works or electrical installation to the Regulator's satisfaction; or

(b) if appropriate, the temporary disconnection of the electricity supply while the rectification is carried out; or

(c) the disconnection and removal of the works or installation.

(2) Subject to this section, a direction under this section shall be given— (a) in relation to works—to the electricity undertaker or other person that operates the works; or

(b) in relation to an electrical installation—to the person in charge of the electrical installation or the occupier of the place in which the installation is situated.

(3) A direction may be given by written notice or, if the Regulator is of the opinion that immediate action is required, orally but shall subsequently be confirmed in writing.

(4) A person to whom a direction is given under this section shall comply with the direction. Penalty: A fine not exceeding K2,000.00 and, in addition, a fine not exceeding K200.00 for every day during which the offence continues.

(5) If a person does not comply with a direction, the Regulator may take any action that is reasonable and necessary to have the direction carried out.

(6) A person, authorized in writing by the Regulator, may do what is reasonable and necessary to carry out the direction.

(7) The costs incurred in carrying out the direction are recoverable as a debt due to the Regulator.

37. Reporting of Accidents. If an accident happens that involves electric shock caused by the operation or condition of works or an electrical installation—

(a) the accident shall be reported as required under the regulations—

(i) if the accident involves part of an electricity undertaker's works—by the electricity undertaker; or

(ii) if the accident happens while an electrician or an electrical contractor is working on an electrical installation and the electrician or electrical contractor is able to make the report—by the electrician or electrical contractor; or

(iii) in any other case—by the occupier of the place in which the accident happens; and (b) the works or electrical installation shall not be altered or interfered with unnecessarily by any person so as to prevent a proper investigation of the accident. Penalty: A fine not exceeding K2,000.00. PART VA.—ELECTRICAL CONTRACTORS AND ELECTRICIANS. 38. Licensing of Electrical Contractors and Electricians. The Regulator may issue electrical contractor's licences and electrician's licences in accordance with the regulations. 39. Electrical wiring work.

(1) Subject to Section 40, a person other than—

(a) the holder of an electrical contractor's or electrician's licence under this Act; or

(b) a person who is in the employment of and carries out the work under the personal supervision of a person so licensed, who undertakes or carries out any electrical wiring work is guilty of an offence. Penalty: A fine not exceeding K100.00.

(2) Subject to Section 40, an electrical contractor who undertakes any electrical wiring work shall— (a) himself, carry out the work whether with or without assistance; or

(b) constantly employ on the work a person who is the holder of an electrician's licence or electrical contractor's licence. Penalty: A fine not exceeding K100.00 and, in addition, a fine not exceeding K10.00 for every day during which the offence continues.

(3) Subsection

(2) does not apply to work that consists of fixing, connecting and maintaining overhead electrical conductors not in conduits, or of other work usually carried out by a linesman, where the work is carried

out under the personal supervision of the holder of an electrical contractor's licence or electrician's licence.

(4) The holder of an electrician's licence who undertakes or carries out electrical wiring work otherwise than—

- (a) on his own premises; or
- (b) as an employee of an electrical contractor; or
- (c) in accordance with Section

40(b), is guilty of an offence. Penalty: A fine not exceeding K100.00.

(5) This section does not prevent the carrying out of electrical wiring work by an apprentice electrician working under the supervision of his master.

40. Exceptions. Notwithstanding this Division—

(a) an unlicensed person may carry out electrical wiring work as part of a contract for building or construction work if the installation is carried out by or under the personal supervision of a person holding an electrical contractor's licence or electrician's licence; and (b) a person, or body of persons, corporate or unincorporate, who or that—

(i) is not trading as an electrical contractor; and

(ii) is employing a licensed electrician for the purpose of making or maintaining the installations necessary for the conduct of the business of that person, is not required to be licensed under this Division, and a licensed electrician so employed may carry out the duties of that employment. PART VB.—ELECTRICAL APPLIANCES AND APPARATUS.

41. Prohibited appliances, etc.

(1) The regulations may prohibit the sale, hiring or exposure or advertisement for sale or hire of any class, description or type of wire, cable, appliance, fitting, meter, insulator, apparatus or material intended, suggested or designed for use in or for the purposes of or for connection to any electrical installation, unless the wire, cable, appliance, fitting, meter, insulator, apparatus or material, as the case may be, has been approved by the Regulator and is stamped or labelled as prescribed. "

(2) Regulations made for the purposes of this section may provide for the approval of the Regulator to be signified by approval of a sample or by some other means. PART VC.—REVIEW.

42. Review of decisions under Act.

(1) An application may be made to the Appeals Panel—

(a) by an applicant for the issue or variation of the terms or conditions of a licence under Part IIIB, or for agreement to the transfer of such a licence, for review of the decision of the Regulator to refuse the application; or

(b) by an electricity undertaker for review of a decision of the Regulator under Part IIIB to suspend or cancel the electricity undertaker's licence or to vary the terms or conditions of the electricity undertaker's licence; or

(c) by a person to whom a direction has been given under Part V by the Regulator or an Authorized Officer for review of the decision to give the direction; or (d) by a person affected by the decision for review of the decision of an Authorized Officer or an Inspector to disconnect an electricity supply. (2) An application for review of a decision referred to in Subsection

(1) shall

— (a) be in writing; and

(b) set out the decision to which the application relates; and

(c) set out in detail the grounds on which the applicant seeks review and the decision sought on the review; and

(d) be accompanied by any information that the applicant considers should be taken into account by the Appeals Panel on the review; and

(e) be lodged with the Appeals Panel—

(i) in the case of a decision relating to a licence or application for a licence—within ten days after written notice of the decision is given to the electricity undertaker or applicant; or (ii) in the case of a decision to give a direction—within ten days after the direction is given; or

(iii) in the case of a decision to disconnect an electricity supply—within ten days after notice of the disconnection is given or, if notice is not given, within ten days after the supply is disconnected, or, in any of these cases, such longer period as the Appeals Panel may allow.

(3) The Appeals Panel may stay the operation of the decision to which the application relates.

(4) A review shall be decided within four weeks of the application being lodged with the Appeals Panel.

(5) After considering the application, the Appeals Panel may confirm, amend or substitute the decision or return the matter to the original decision maker with directions the Appeal Panel considers appropriate.

(6) The Appeals Panel shall give the applicant written notice of the decision, and the reasons for the decision, on the review.

43. Minister's power to intervene. The Minister may intervene, personally or by counsel or other representative, in a review under this Part for the purpose of introducing evidence, or making submissions, on any question relevant to the public interest. PART VD.—EXEMPTIONS. 43A. Power of Exemption.

(1) The Regulator may, with the approval of the Minister, grant an exemption from Part IIIB, or specified provisions of Part IIIB, on terms and conditions the Regulator considers appropriate.

(2) If the Regulator exempts a person from the requirement to hold a licence under Part IIIB, the Regulator may, without limiting Subsection (1), by conditions of the exemption require that the person is to be treated as an electricity undertaker for the purposes of specified provisions of this Act. (3) Except as otherwise provided in the exemption, an exemption under Subsection

(1) may be varied or revoked by the Regulator by notice in writing. 43B. Register of exemptions. (1) The Regulator shall keep a register of exemptions granted under this Act.

(2) The register shall include—

(a) the terms and conditions of each exemption; and (b) any other information required under the regulations. (3) A person may, without payment of a fee, inspect the register.

43C. Obligation to comply with conditions of exemption.

(1) A person in whose favour an exemption is given shall comply with the conditions of the exemption. Penalty: A fine not exceeding K10,000,000.00. Default penalty: A fine not exceeding K1,000,000.00.

(2) If a person in whose favour an exemption is given profits from contravention of a condition of its exemption, the Regulator may recover an amount equal to the profit from the person—

(a) on application to a court convicting the person of an offence against this section; or

(b) by action in a court of competent jurisdiction.

(3) Any amount recovered under Subsection (2) shall be paid into the Consolidated Revenue Fund. PART VI.—THE BY-LAWS OF THE COMMISSION. [Repealed] PART VII.—OFFENCES.

47. Obstruction, etc. A person who hinders or obstructs a person in the performance of his functions or the exercise of his powers under this Act is guilty of an offence. Penalty: A fine not exceeding K100.00.

48. Corruption.

(1) In this section, "bribe" includes the giving, conferring or procuring of any property or benefit of any kind in respect of—

- (a) any act done or to be done; or
- (b) any forbearance observed or to be observed; or
- (c) any favour or disfavour shown or to be shown, in relation to the affairs or business of the Commission or to any matter under this Act.

(2) A member, officer or employee of the Commission who obtains or attempts to obtain a bribe is guilty of an offence. (3) A person who bribes or attempts to bribe a member, officer or employee of the Commission is guilty of an offence. Penalty: Imprisonment for a term not exceeding two years.

#### 48. Corruption. [Repealed]

#### 49. Removing, tampering with, etc., electric lines, etc.

(1) A person who—

(a) wilfully and without lawful excuse removes, destroys or damages an electric line, or a pillar, post, lamp, meter, sealing device, fitting, insulator, apparatus or works connected with or relating to the supply of electricity by the State, or an electricity undertaker; or

(b) wilfully and unlawfully extinguishes a public lamp or light maintained by the State, or an electricity undertaker, is guilty of an offence. Penalty: A fine not exceeding K100.00 or imprisonment for a term not exceeding 12 months.

(2) A person who— (a) wilfully, fraudulently or by culpable negligence—

(i) injures an electric line or a pillar, post, lamp, meter, sealing device, fitting, insulator, apparatus or works connected with or relating to the supply of electricity by the State, or an electricity undertaker, or permits one to be injured; or

(ii) alters the index of a meter; or

(iii) prevents a meter from duly registering the quantity of electricity supplied; or

(b) fraudulently abstracts, causes to be wasted or diverted, consumes or uses electricity supplied by the State, or an electricity undertaker, is guilty of an offence. Penalty: A fine not exceeding K1,000.00 or imprisonment for a term not exceeding three years.

(3) In addition to any damages that may be recovered, a person who is convicted of an offence against Subsection (1) or (2) shall for each offence forfeit and pay to the State, or the electricity undertaker such sum as the court that convicts him thinks reasonable, not exceeding K50.00.

(4) Subsection

(3) does not affect any other right or remedy for the protection of the State, or an electricity undertaker, or the punishment of the offender.

(5) The existence, in connexion with a meter that is in the custody or control of the consumer, of artificial means for—

(a) causing the alteration of the index of the meter; or

(b) preventing the meter from duly registering the quantity of electricity supplied; or

(c) abstracting, wasting, diverting or using electricity supplied by the State, the Commission or an electricity undertaker, is prima facie evidence that the alteration, prevention, abstraction, waste, diversion, consumption or use, as the case may be, has been fraudulently, knowingly and wilfully caused by the consumer.

50. Impersonation. A person shall not impersonate an Authorized Officer, an Electricity Inspector or other person entitled to exercise a power or perform a function under this Act. Penalty: A fine not exceeding K2,000.00. Default penalty: A fine not exceeding K200.00. 50A. False or misleading information. A person shall not make a statement that is false or misleading in a material particular (whether by reason of the inclusion or omission of any particular) in any information furnished under this Act. Penalty: If the person made the statement knowing that it was false or misleading—a fine not exceeding K2,000.00. In any other case—a fine not exceeding K200.00. 50B. Offences by corporations or firms. If a corporation or a firm is guilty of an offence against this Act, a director,

manager, secretary, officer or member of the corporation or of the firm, as the case may be, who knowingly and willfully authorizes or permits the commission of the offence is also guilty of the offence.

51. Agreements for re-supply of electricity.

(1) Where— (a) electricity is supplied to a person; and

(b) he makes electricity available to a second person under an agreement, express or implied, that the second person shall pay to him an amount of money in respect of the electricity, the first-mentioned person must not, without the consent of the Regulator, demand or receive an amount for the electricity greater than the amount that the second person would be liable to pay if the electricity had been supplied directly to the second person. Penalty: A fine not exceeding K200.00.

(2) The excess of any amount paid in contravention of Subsection (

1) may be recovered by the person who paid it from the person to whom it was paid as a debt. PART VIII.—MISCELLANEOUS.

52. Purposes of the Commission to be public purpose. The purposes of the Commission are a public purpose within the meaning of any law.

52. Purposes of the Commission to be public purpose. [Repealed]

53. Authorization for purposes of the Land Act.

(1) The Commission, or an officer or employee of the Commission authorized by it for the purpose, shall be deemed to be a person authorized by the Minister for the purposes of Sections 79, 80, 81 and 82 of the Land Act.

(2) In the application of Section 83 of the Land Act in relation to the Commission or an officer or employee of the Commission by virtue of this section, a reference to the Minister or to the State shall be read as a reference to the Commission. 53. Authorization for purposes of the Land Act. [Repealed]

54. Proof of certain matters. In any proceedings by or against the Commission, proof is not required, unless evidence is given to the contrary, of—

(a) the constitution of the Commission; or

(b) a resolution of the Commission; or

(c) the appointment of a member, officer, servant or agent of the Commission; or

(d) the presence of a quorum at a meeting at which a determination is made or an act done by the Commission.

54. Proof of certain matters. [Repealed]

55. Indemnity. A member, officer, employee or agent of the Commission is not personally liable for any thing done or omitted to be done in good faith in the course of the operations of the Commission or for the purposes of this Act.

55. Indemnity. [Repealed]

56. Service of process. Any notice, summons, writ or other process required to be served on the Commission may be served by being left at the office of the Commission or, in the case of a notice, by post.

56. Service of process. [Repealed] 57. Authentication of documents. Any document requiring authentication by the Commission is sufficiently authenticated without the seal of the Commission if signed by the Chairman.

57. Authentication of documents. [Repealed]

58. Appointment of attorneys.

(1) The Commission may, by instrument under its seal, appoint a person to act as its attorney outside the country for the purpose of doing anything that the Commission itself might lawfully do.

(2) A person appointed under Subsection

(1) may, on behalf of and in the name of the Commission, do any act, exercise any power and perform any function that he is authorized by the instrument to do, exercise or perform. 58. Appointment of Attorneys. [Repealed]

58A. Immunity. Any person engaged in the administration or enforcement of this Act is not personally liable for any thing done or omitted to be done in good faith in the performance or exercise, or purported performance or exercise, of a function or power under this Act. 58B. Immunity for failure to supply. An electricity undertaker is not liable in damages to any person for any partial or total failure to supply electricity or any variation in electricity supply to the extent that the failure or variation is due to an event that is beyond the reasonable control of the electricity undertaker.

59. Compensation.

(1) Where loss or damage is suffered by any person by reason of the exercise, by or on behalf of an electricity undertaker, of a power conferred by or under this Act, compensation for the loss or damage is payable to him by the electricity undertaker.

(2) Subject to Subsection

(3), the amount of compensation payable under Subsection

(1) is as determined by the Minister.

(3) A person aggrieved by a determination of the Minister under Subsection

(2) may appeal to the National Court. 59A. Emergency. An electricity undertaker may, without incurring any liability, cut off the supply of electricity to any region, area, land or place if it is, in the electricity undertaker's opinion, necessary to do so to avert danger to person or property.

60. Recovery of money due. Any money due to the Commission under this Act may be recovered by the Commission as a debt.

60. Recovery of money due. [Repealed] 61. Regulations.

(1) The Head of State, acting on advice, may make regulations, not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be prescribed, or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Without limiting Subsection

(1), the regulations may deal with the following matters:—

(a) the construction, installation and positioning of cables, poles, structures, pipes, fittings and other works supplying electricity, the notice to be given of such work, the superintendence of such work, the making good and replacement of ground disturbed in the course of such work and the inspection of such work; and

(b) the method (including the notice (if any) to be given) and means of access to land on or from which any pylon, post, pole, pillar or electric line is or is to be erected, maintained or removed under Subsection 25(2) and the prohibition or restriction of any use of any such land to the extent necessary or desirable for the maintenance of, or the prevention of damage or interference to, any such pylon, post, pole, pillar or electric line or the conveyance, transmission or distribution of electricity; and

(c) the construction, distribution, installation, inspection and reading of meters, and access to them; and

(d) the lamps, meters, appliances and electricity-consuming devices that a consumer may connect to an electricity supply; and

(e) the licensing of electrical contractors and electricians, the standards required and the fees to be paid for such licences and the conditions on which such licences may be cancelled, suspended or limited in their application; and

(f) standards of safety in the construction, operation, maintenance and use of—

(i) electrical installations, works and equipment for the generation, transmission, distribution, supply and consumption of electricity; and (ii) electrical apparatus and appliances; and (g) technical, operational and safety requirements and standards; and

(h) the generation, transmission, distribution, sale and supply of electricity; and

(i) the exemption (conditionally or unconditionally) of persons or operations from the application of this Act or specified provisions of this Act; and

(j) fees to be paid in respect of any matter under this Act and the recovery, refund, waiver or reduction of such fees; and

(k) penalties not exceeding K100.00, or K10.00 for every day during which the offence continues, for contravention of a regulation.

(3) Without limiting Subsection

(1), the regulations may contain provisions of a saving or transitional nature consequent on the enactment of this Act or anything done under or for the purposes of this Act.

(4) If the regulations grant an exemption from the requirement to hold a licence under Part IIIB, the regulations may require a person exempted from the requirement to be treated as an electricity undertaker for the purposes of specified provisions of this Act.

(5) The regulations may—

(a) be of general application or limited in application according to the persons, areas, times or circumstances to which they are expressed to apply; or

(b) provide that a matter or thing in respect of which regulations may be made is to be determined, regulated or prohibited according to the discretion of the Minister or the Regulator; or

(c) refer to or incorporate, wholly or partially and subject to such modifications, conditions or restrictions as are prescribed, any standard, code, procedure or other document prepared or laid down by the Standards Association of Australia or any other authority, as in force from time to time or as in force at a particular time. SCHEDULE. Sec.

18. EXCEPTIONS AND MODIFICATIONS TO PART VIII OF THE PUBLIC FINANCES (MANAGEMENT) ACT 1995. Provision. Modifying etc. Section

51 Applies as if the requirement of estimates, etc., not later than three months before the end of the fiscal years were a requirement of submission before 30 November in each year. Section 52 Does not apply. Section 53 Does not apply. Section 56 Does not apply. Section

57 Does not apply. Section 58 Does not apply. Section 59 Applies as if the sum specified is K4,000.00. SCHEDULE. [Repealed]

(d) there has been any act or default or change of circumstances such that the holder of a licence would no longer be entitled to the issue of such a licence, the Regulator may suspend or cancel the licence with effect from a specified date.

(2) A suspension under this section may be for a specified period, or until the fulfillment of specified conditions, or until further order of the Regulator.

(3) Before the Regulator acts under this section, the Regulator shall—

(a) notify the holder of the licence in writing of the proposed action specifying the reasons for the proposed action; and

(b) allow the holder of the licence at least 14 days within which to make submissions to the Regulator in relation to the proposed action. Division 5.—Regulator's powers to take over operations. 24W. Power to take over operations.

(1) If— (a) an electricity undertaker contravenes

a condition of its licence or any other requirement of this Act, or an electricity undertaker's licence is suspended, cancelled or surrendered; and

(b) it is necessary, in the Regulator's opinion, to take over the electricity undertaker's operations (or some of them) to ensure an adequate supply of electricity to customers, the Head of State, acting on advice, may make an order under this section.

(2) Before an order is made under this section, the Regulator shall give the electricity undertaker a reasonable opportunity to make written representations giving reasons why the order should not be made.

(3) An order under this section— (a) authorizes the Regulator to take over the electricity undertaker's operations or a specified part of the electricity undertaker's operations; and

(b) may contain ancillary directions (and may, in particular, contain directions about how the costs of carrying on the operations, and revenue generated from the operations, are to be dealt with). (

4) A direction under Subsection

(3)(b) operates to the exclusion of rights that are inconsistent with it. 24X. Appointment of operator.

(1) If an order is made under this Division, the Regulator shall appoint a suitable person to take over the relevant operations on agreed terms and conditions.

(2) A person appointed under Subsection

(1)— (a) is referred to in this section as the "operator; and

(b) may, but need not, be an electricity undertaker.

(3) The electricity undertaker shall facilitate the take over of the relevant operations by the operator. (

4) The operator may have access to the employees, and equipment, infrastructure and other property, of the electricity undertaker for the purposes of carrying on the relevant operations.

(5) A person shall not obstruct the operator's access to employees or property or the exercise by the operator of the operator's responsibilities under this Division. Penalty: A fine not exceeding K10,000,000.00.

(6) A person shall comply with reasonable directions given by the operator in the exercise of the operator's responsibilities under this Division. Penalty: A fine not exceeding K10,000,000.00. PART IIIC.—CONSTRUCTION, ENTRY ON LAND, REGISTRATION OF TITLES. Division 1.—Construction, Entry on Land, etc. 25. Erection of transmission lines, etc.

(1) In this section, "Government land" means all land other than—

(a) customary land that is not leased by the owners to the State; and

(b) land held by a person other than the State for an estate greater than a term of years; and

(c) land that is the subject of a State lease under the Land Act. (2) For the purposes of the conveyance, transmission and distribution of electricity, an electricity undertaker, on giving notice of its intention to do so to the owner or occupier of the land, may, subject to Subsection

(4), erect, maintain and remove—

(a) pylons, posts, poles or pillars in, under, through, over, across or on any land to which this subsection applies; and (b) electric lines (including, without limiting the definition of that expression in Section 1, conduits, substations, transformers and other appliances and things necessary for the works) in, under, through, over, across or on any such land or any building, house or premises on any such land.

(3) The land to which Subsection

(2) applies is land, including land under the sea or a river or stream, that—

(a) is outside a town; or (b) is a street or other Government land within a town, at the time when the pylons, posts, poles, pillars or electric lines are erected. (4) The exercise of the powers conferred by Subsection

(2) is subject to the prior approval of— (a) the Head of State, acting on advice, in the case of land outside a town; or (b) the Minister, in the case of land within a town.

(5) . . . [Repealed] 25A. Ownership of transmission lines, etc. Notwithstanding anything in any other law, but subject to any agreement in writing to the contrary, the ownership of pylons, posts, poles, pillars and electric lines erected or operated by an electricity undertaker is not affected by their affixation to land.

26. Entry on land, etc. (1) Notwithstanding anything in any other law, a person authorized by an electricity undertaker may, subject to Subsections (2) and (3), at all reasonable times—

(a) enter on any land on which pylons, posts, poles, pillars and electric lines owned or operated by the electricity undertaker have been or may be erected, or on any adjoining land, with such assistants, vehicles and things as the thinks necessary; and

(b) make surveys, take levels, sink pits, examine the soil and do any other thing in relation to the land, for the purposes of maintaining, removing or (where otherwise authorized or permitted to do so) erecting or preparing (including through surveying and obtaining other information in relation to the land) for the possible erection of pylons, posts, poles, pillars and electric lines.

(2) Subject to Subsection

(3), before entering any land under Subsection

(1) the person concerned shall give notice to the owner or occupier of the land of his intention to do so.

(3) Notice in accordance with Subsection

(2) need not be given if—

(a) the land, or part of the land, is in a Local Government Council area and written notice has, not less than one week before entry, been given to the Council specifying the area, or the approximate area, affected, together with a request that the Council advise any persons likely to be affected; or

(b) the name, or the place of abode or business, of the owner or occupier cannot, after the exercise of reasonable diligence, be found and unreasonable delay or expense would otherwise be caused to the electricity undertaker; or

(c) the land is apparently unoccupied, but in any such case the authorized person shall advise any person who asks for his authority for being on the land that he is on the land for the purposes of this Act. (4) In addition to the powers conferred by Subsection

(1), the authorized person or his assistants, doing as little damage as may be, may— (a) trim, lop or cut down any trees and bushes that may obstruct the work being carried out; and

(b) place on or below the surface of the soil such pegs, marks, metal pins or other distinguishing marks as are necessary for any of the purposes set out in Subsection (1).

(5) An electricity undertaker shall minimize the impact of things done under this section on activities of others on the relevant land. 27. Notice of intention to enter under Section 25 or 26.

(1) Notice of intention to enter land under Section 25 or 26 may be given—

(a) orally or in writing to the owner or occupier personally; or

(b) by post addressed to the owner or occupier at his usual or last-known place of abode or business; or

(c) in writing to a person apparently living or employed at that place of abode or business and apparently not less than 16 years of age, but where notice of intention is given in accordance with Paragraph

(b), entry shall not be made before the notice would be delivered in the ordinary course of post.

(2) In an emergency, a person authorized by an electricity undertaker may exercise a power of entry referred to in Section 25 or 26— (a) at any time and without prior notice if it is not practicable to give such notice; and

(b) if necessary in the circumstances, by the use of reasonable force, but only if the authorized person is accompanied by a member of the police force. 28. Ancillary powers. [Repealed] Division 2.—Registration of Titles. 29. Noting of N.E.C. approval to works. Where— (a) the Head of State, acting on advice, under Section 25(4)(a); or (b) the Minister, under Section 25

(4)(b), approves the erection of electric lines in, under, through, over, across or on any land or on a building, house or premises on any land, that is subject to the Land Registration Act (Chapter 191), a copy of the approval shall be forwarded by the Clerk of the Executive Council to—

(c) the Registrar of Titles, with a request that the approval be noted on the title or titles affected; and  
(d) the registered proprietor of the land. 30. Registration of rights, etc.

(1) As soon as practicable after the erection of electric lines—

(a) under Section 25; or

(b) by agreement between an electricity undertaker and any other person, the electricity undertaker shall conduct a survey and forward to the Registrar of Titles a copy of the survey plan specifying details of the land affected.

(2) The Registrar of Titles shall—

(a) when requested under Section 29, note the approval on the title or titles affected; and

(b) on receipt of a survey plan required by Subsection (1) specifying the width of the land affected and the extent of the restrictions imposed, cause the rights conferred by Sections 25 and 26 and any regulations to be registered on any title or titles affected.

(3) Notwithstanding the absence of a dominant tenement, the registration of rights under Subsection

(2)(b) shall be deemed to be the registration of an easement, and the Land Registration Act (Chapter 191) shall be read subject to this section. PART IV.—ELECTRICITY UNDERTAKERS. 31. Authorization to supply electricity. [Repealed] PART V.—INSPECTION, SAFETY AND TECHNICAL REQUIREMENTS. Division 1.—Authorized Officers. 31A. Appointment of Authorized Officers.

(1) The Regulator may appoint suitable persons as Authorized Officers for the purposes of this Act.

(2) An Authorized Officer holds office on the conditions stated in the instrument of appointment. 31B. Identity Card.

(1) The Regulator shall give each Authorized Officer an identity card.

(2) The identity card shall—

(a) contain a photograph of the Authorized Officer taken for the purpose; and

(b) identify the Authorized Officer as an Authorized Officer appointed by the Regulator.

(3) A person shall, within two days after ceasing to be an Authorized Officer, return the identify card to the Regulator. Penalty: A fine not exceeding K200.00.

(4) An Authorized Officer shall, before exercising a power in relation to another person, produce his identity card for inspection by that other person. Division 2.—Powers of Authorized Officers. 31C. Power of Entry.

(1) An Authorized Officer may, as reasonably required for the purposes of the enforcement of this Act, enter and remain in any place with such assistants, vehicles and things as he thinks necessary.

(2) In an emergency, an Authorized Officer may exercise a power of entry under Subsection (1) at any time and, if necessary in the circumstances, by the use of reasonable force.

(3) An Authorized Officer may not enter a place by force in an emergency unless accompanied by a member of the police force. 31D. General Investigative Powers.

(1) An Authorized Officer who enters a place under this Division may exercise any one or more of the following powers:—

(a) investigate whether the provisions of this Act are being or have been complied with; and

- (b) examine and test works, electrical installations or equipment in the place to find out whether the works, electrical installations or equipment are safe and comply with the requirements of this Act; and
  - (c) investigate a suspected electrical accident; and
  - (d) investigate a suspected interference with works or an electrical installation; and
  - (e) investigate a suspected theft or diversion of electricity; and
  - (f) search for, examine and copy or take an extract from a document or record of any kind as reasonably required for the purposes of the enforcement of this Act; and
  - (g) take photographs or make films or other records of activities in the place and works, electrical installations or equipment in the place; and
  - (h) take possession of any object that may be evidence of an offence against this Act.
- (2) If an Authorized Officer takes possession of an object that may be evidence of an offence—
- (a) the Authorized Officer shall give the occupier of the place a receipt for the object; and
  - (b) the object shall be returned to its owner—
    - (i) if proceedings for an offence are not commenced within six months after the Authorized Officer takes possession of the object—at the end of that period; or
    - (ii) if such proceedings are commenced within that period—on completion of the proceedings, unless the court, on application by the Regulator, orders confiscation of the object.
- (3) A court may order the confiscation of an object of which an Authorized Officer has taken possession under Subsection
- (1) if it is of the opinion that the object has been used for the purpose of committing an offence or there is some other proper reason for ordering its confiscation.
- (4) If the court orders the confiscation of an object, the Regulator may dispose of the object. 31E. Disconnection of Electricity Supply.
- (1) If an Authorized Officer finds that electricity is being consumed or supplied contrary to this Act, the Authorized Officer may disconnect the electricity supply.
- (2) If an Authorized Officer disconnects an electricity supply under this section, the Authorized Officer shall give written notice to the occupier of the relevant place—
- (a) informing the occupier that the electricity supply has been disconnected under this section; and
  - (b) directing that the electricity supply shall not be reconnected until arrangements have been made to the satisfaction of an Authorized Officer to ensure against future contravention of this Act.
- (3) If an electricity supply has been disconnected under this section, no person shall reconnect the electricity supply, or have it reconnected, without the approval of an Authorized Officer. Penalty: A fine not exceeding K2,000.00. 31F. Power to make works or installation safe. (1) If an Authorized Officer finds that works or an electrical installation are unsafe, the Authorized Officer may—
- (a) disconnect the electricity supply or give a direction requiring the disconnection of the electricity supply; or
  - (b) give a direction requiring the carrying out of the work necessary to make the works or electrical installation safe before the electricity supply is reconnected.
- (2) Subject to this section, a direction under this section shall be given—
- (a) in relation to works—to the electricity undertaker or other person that operates the works; or (b) in relation to an electrical installation—to the person in charge of the electrical installation or the occupier of the place in which the electrical installation is situated.
- (3) A direction under this section may be given by written notice or, if the Authorized Officer is of the opinion that immediate action is required, orally but shall subsequently be confirmed in writing.

(4) A person to whom a direction is given under this section—

(a) shall comply with the direction; and

(b) shall not reconnect or permit the reconnection of the electricity supply unless the work required by the direction under this section has been carried out, or an Authorized Officer approves the reconnection of the electricity supply. Penalty: A fine not exceeding K2,000.00. 31G. Power to require information.

(1) An Authorized Officer may require a person to provide information in the person's possession relevant to the enforcement of this Act.

(2) An Authorized Officer may require a person to produce documents in the person's possession that may be relevant to the enforcement of this Act for inspection by the Authorized Officer.

(3) A person shall not, without reasonable excuse, fail to comply with a requirement under this section. Penalty: A fine not exceeding K2,000.00.

(4) A person is not required to give information or produce a document under this section if the answer to the question or the contents of the document would tend to incriminate the person of an offence. Division 3.—Electricity Inspectors.

### 32. Appointment of Inspectors.

(1) An electricity undertaker may, subject to conditions determined by the Minister, appoint an officer or employee to be an Electricity Inspector for the purposes of this Act.

(2) An Inspector may only exercise powers under this Act subject to his conditions of appointment and any directions given to him by the electricity undertaker.

### 33. Identity card.

(1) An electricity undertaker shall give each Inspector appointed by the electricity undertaker an identity card.

(2) The identity card shall be in a form approved by the Minister and shall—

(a) contain a photograph of the Inspector taken for the purpose; and

(b) identify the Inspector as an Electricity Inspector appointed by the electricity undertaker.

(3) A person shall, within two days after ceasing to be an Inspector for the relevant electricity undertaker, return the identity card to the electricity undertaker. Penalty: A fine not exceeding K200.00.

(4) An Inspector shall, before exercising a power in relation to another person, produce his identity card for inspection by that other person.

### 34. Powers of Inspectors.

(1) An Inspector for an electricity undertaker may—

(a) require the owner or occupier of any land to cut down or lop any trees or undergrowth growing on the land that obstruct or, in the opinion of the electricity undertaker or the Inspector, are likely to interfere with an electric line; and

(b) at all reasonable times enter any premises to which electricity is, or is to be or has been, supplied or sold by the electricity undertaker for the purpose of—

(i) inspecting or testing any electric line or works; or

(ii) ascertaining the quantity of electricity consumed or supplied; or

(iii) installing, repairing or replacing meters and testing their accuracy; or

(iv) removing or disconnecting any electric line or works or electricity supply where—

(A) a supply of electricity to the premises is no longer required; or

(B) the electricity undertaker desires to cut off the supply of electricity to the premises; or

- (C) in the opinion of the Inspector, the supply of electricity to the premises is unsafe; or
  - (v) inspecting electrical installations in the place to ensure that it is safe to connect or reconnect electricity supply; or
  - (vi) taking action to prevent or minimize an electrical hazard; or
  - (vii) investigating a suspected theft or diversion of electricity.
- (2) In an emergency, an Inspector may exercise a power of entry under Subsection (1)
- (b) at any time and, if necessary in the circumstances, by the use of reasonable force.
- (3) An Inspector may enter a place under Subsection (1)
- (b) with such assistants, vehicles and things as he thinks reasonably necessary.
- (4) An Inspector may not enter a place by force in an emergency unless accompanied by a member of the police force. Division 4.—Safety and Technical Requirements. 35. Safety and Technical Compliance of Works, Electrical Installations and Equipment.
- (1) A person who connects an electrical installation to a transmission or distribution network shall ensure that the electrical installation, and the connection, comply with technical and safety requirements imposed under the regulations. Penalty: A fine not exceeding K2,000.00 and, in addition, a fine not exceeding K200.00 for every day during which the offence continues.
- (2) A person who owns or operates works or an electrical installation shall ensure that— (a) the works or electrical installation comply with, and are operated in accordance with, technical and safety requirements imposed under the regulations; and
- (b) the works or electrical installation are safe and are safely operated. Penalty: A fine not exceeding K2,000.00 and, in addition, a fine not exceeding K200.00 for every day during which the offence continues. 36. Power to require rectification, etc., in relation to works or electrical installations.
- (1) If works or an electrical installation are unsafe, or do not comply with this Act, the Regulator may give a direction requiring—
- (a) the rectification of the works or electrical installation to the Regulator's satisfaction; or
  - (b) if appropriate, the temporary disconnection of the electricity supply while the rectification is carried out; or
  - (c) the disconnection and removal of the works or installation.
- (2) Subject to this section, a direction under this section shall be given—
- (a) in relation to works—to the electricity undertaker or other person that operates the works; or
  - (b) in relation to an electrical installation—to the person in charge of the electrical installation or the occupier of the place in which the installation is situated.
- (3) A direction may be given by written notice or, if the Regulator is of the opinion that immediate action is required, orally but shall subsequently be confirmed in writing.
- (4) A person to whom a direction is given under this section shall comply with the direction. Penalty: A fine not exceeding K2,000.00 and, in addition, a fine not exceeding K200.00 for every day during which the offence continues.
- (5) If a person does not comply with a direction, the Regulator may take any action that is reasonable and necessary to have the direction carried out.
- (6) A person, authorized in writing by the Regulator, may do what is reasonable and necessary to carry out the direction.
- (7) The costs incurred in carrying out the direction are recoverable as a debt due to the Regulator.
37. Reporting of Accidents. If an accident happens that involves electric shock caused by the operation or condition of works or an electrical installation—

(a) the accident shall be reported as required under the regulations—

(i) if the accident involves part of an electricity undertaker's works—by the electricity undertaker; or

(ii) if the accident happens while an electrician or an electrical contractor is working on an electrical installation and the electrician or electrical contractor is able to make the report—by the electrician or electrical contractor; or

(iii) in any other case—by the occupier of the place in which the accident happens; and

(b) the works or electrical installation shall not be altered or interfered with unnecessarily by any person so as to prevent a proper investigation of the accident. Penalty: A fine not exceeding K2,000.00. PART VA.—ELECTRICAL CONTRACTORS AND ELECTRICIANS.

38. Licensing of Electrical Contractors and Electricians. The Regulator may issue electrical contractor's licences and electrician's licences in accordance with the regulations. 39. Electrical wiring work.

(1) Subject to Section 40, a person other than— (a) the holder of an electrical contractor's or electrician's licence under this Act; or

(b) a person who is in the employment of and carries out the work under the personal supervision of a person so licensed, who undertakes or carries out any electrical wiring work is guilty of an offence. Penalty: A fine not exceeding K100.00.

(2) Subject to Section 40, an electrical contractor who undertakes any electrical wiring work shall— (a) himself, carry out the work whether with or without assistance; or

(b) constantly employ on the work a person who is the holder of an electrician's licence or electrical contractor's licence. Penalty: A fine not exceeding K100.00 and, in addition, a fine not exceeding K10.00 for every day during which the offence continues. (3) Subsection (2) does not apply to work that consists of fixing, connecting and maintaining overhead electrical conductors not in conduits, or of other work usually carried out by a linesman, where the work is carried out under the personal supervision of the holder of an electrical contractor's licence or electrician's licence.

(4) The holder of an electrician's licence who undertakes or carries out electrical wiring work otherwise than— (a) on his own premises; or (b) as an employee of an electrical contractor; or

(c) in accordance with Section 40(b), is guilty of an offence. Penalty: A fine not exceeding K100.00.

(5) This section does not prevent the carrying out of electrical wiring work by an apprentice electrician working under the supervision of his master. 40. Exceptions. Notwithstanding this Division—

(a) an unlicensed person may carry out electrical wiring work as part of a contract for building or construction work if the installation is carried out by or under the personal supervision of a person holding an electrical contractor's licence or electrician's licence; and

(b) a person, or body of persons, corporate or unincorporate, who or that—

(i) is not trading as an electrical contractor; and

(ii) is employing a licensed electrician for the purpose of making or maintaining the installations necessary for the conduct of the business of that person, is not required to be licensed under this Division, and a licensed electrician so employed may carry out the duties of that employment. PART VB.—ELECTRICAL APPLIANCES AND APPARATUS. 41. Prohibited appliances, etc.

(1) The regulations may prohibit the sale, hiring or exposure or advertisement for sale or hire of any class, description or type of wire, cable, appliance, fitting, meter, insulator, apparatus or material intended, suggested or designed for use in or for the purposes of or for connection to any electrical installation, unless the wire, cable, appliance, fitting, meter, insulator, apparatus or material, as the case may be, has been approved by the Regulator and is stamped or labelled as prescribed.

"(2) Regulations made for the purposes of this section may provide for the approval of the Regulator to be signified by approval of a sample or by some other means. PART VC.—REVIEW. 42. Review of decisions under Act.

(1) An application may be made to the Appeals Panel—

(a) by an applicant for the issue or variation of the terms or conditions of a licence under Part IIIB, or for agreement to the transfer of such a licence, for review of the decision of the Regulator to refuse the application; or

(b) by an electricity undertaker for review of a decision of the Regulator under Part IIIB to suspend or cancel the electricity undertaker's licence or to vary the terms or conditions of the electricity undertaker's licence; or

(c) by a person to whom a direction has been given under Part V by the Regulator or an Authorized Officer for review of the decision to give the direction; or

(d) by a person affected by the decision for review of the decision of an Authorized Officer or an Inspector to disconnect an electricity supply.

(2) An application for review of a decision referred to in Subsection (1) shall—

(a) be in writing; and

(b) set out the decision to which the application relates; and

(c) set out in detail the grounds on which the applicant seeks review and the decision sought on the review; and

(d) be accompanied by any information that the applicant considers should be taken into account by the Appeals Panel on the review; and

(e) be lodged with the Appeals Panel—

(i) in the case of a decision relating to a licence or application for a licence—within ten days after written notice of the decision is given to the electricity undertaker or applicant; or

(ii) in the case of a decision to give a direction—within ten days after the direction is given; or

(iii) in the case of a decision to disconnect an electricity supply—within ten days after notice of the disconnection is given or, if notice is not given, within ten days after the supply is disconnected, or, in any of these cases, such longer period as the Appeals Panel may allow.

(3) The Appeals Panel may stay the operation of the decision to which the application relates.

(4) A review shall be decided within four weeks of the application being lodged with the Appeals Panel.

(5) After considering the application, the Appeals Panel may confirm, amend or substitute the decision or return the matter to the original decision maker with directions the Appeal Panel considers appropriate.

(6) The Appeals Panel shall give the applicant written notice of the decision, and the reasons for the decision, on the review. 43. Minister's power to intervene. The Minister may intervene, personally or by counsel or other representative, in a review under this Part for the purpose of introducing evidence, or making submissions, on any question relevant to the public interest. PART VD.—EXEMPTIONS. 43A. Power of Exemption.

(1) The Regulator may, with the approval of the Minister, grant an exemption from Part IIIB, or specified provisions of Part IIIB, on terms and conditions the Regulator considers appropriate.

(2) If the Regulator exempts a person from the requirement to hold a licence under Part IIIB, the Regulator may, without limiting Subsection

(1), by conditions of the exemption require that the person is to be treated as an electricity undertaker for the purposes of specified provisions of this Act. (3) Except as otherwise provided in the exemption, an exemption under Subsection

(1) may be varied or revoked by the Regulator by notice in writing. 43B. Register of exemptions.

- (1) The Regulator shall keep a register of exemptions granted under this Act.
- (2) The register shall include—
  - (a) the terms and conditions of each exemption; and
  - (b) any other information required under the regulations.
- (3) A person may, without payment of a fee, inspect the register. 43C. Obligation to comply with conditions of exemption.

(1) A person in whose favour an exemption is given shall comply with the conditions of the exemption. Penalty: A fine not exceeding K10,000,000.00. Default penalty: A fine not exceeding K1,000,000.00.

(2) If a person in whose favour an exemption is given profits from contravention of a condition of its exemption, the Regulator may recover an amount equal to the profit from the person—

- (a) on application to a court convicting the person of an offence against this section; or
- (b) by action in a court of competent jurisdiction.

(3) Any amount recovered under Subsection

(2) shall be paid into the Consolidated Revenue Fund. PART VI.—THE BY-LAWS OF THE COMMISSION. [Repealed] PART VII.—OFFENCES.

47. Obstruction, etc. A person who hinders or obstructs a person in the performance of his functions or the exercise of his powers under this Act is guilty of an offence. Penalty: A fine not exceeding K100.00.

48. Corruption.

(1) In this section, "bribe" includes the giving, conferring or procuring of any property or benefit of any kind in respect of—

- (a) any act done or to be done; or
- (b) any forbearance observed or to be observed; or
- (c) any favour or disfavour shown or to be shown, in relation to the affairs or business of the Commission or to any matter under this Act.

(2) A member, officer or employee of the Commission who obtains or attempts to obtain a bribe is guilty of an offence.

(3) A person who bribes or attempts to bribe a member, officer or employee of the Commission is guilty of an offence. Penalty: Imprisonment for a term not exceeding two years. 48. Corruption. [Repealed] 49. Removing, tampering with, etc., electric lines, etc.

(1) A person who—

(a) wilfully and without lawful excuse removes, destroys or damages an electric line, or a pillar, post, lamp, meter, sealing device, fitting, insulator, apparatus or works connected with or relating to the supply of electricity by the State, or an electricity undertaker; or (b) wilfully and unlawfully extinguishes a public lamp or light maintained by the State, or an electricity undertaker, is guilty of an offence. Penalty: A fine not exceeding K100.00 or imprisonment for a term not exceeding 12 months.

(2) A person who—

(a) wilfully, fraudulently or by culpable negligence—

(i) injures an electric line or a pillar, post, lamp, meter, sealing device, fitting, insulator, apparatus or works connected with or relating to the supply of electricity by the State, or an electricity undertaker, or permits one to be injured; or

(ii) alters the index of a meter; or (iii) prevents a meter from duly registering the quantity of electricity supplied; or

(b) fraudulently abstracts, causes to be wasted or diverted, consumes or uses electricity supplied by the State, or an electricity undertaker, is guilty of an offence. Penalty: A fine not exceeding K1,000.00 or imprisonment for a term not exceeding three years.

(3) In addition to any damages that may be recovered, a person who is convicted of an offence against Subsection (1) or (2) shall for each offence forfeit and pay to the State, or the electricity undertaker such sum as the court that convicts him thinks reasonable, not exceeding K50.00.

(4) Subsection (3) does not affect any other right or remedy for the protection of the State, or an electricity undertaker, or the punishment of the offender.

(5) The existence, in connexion with a meter that is in the custody or control of the consumer, of artificial means for—

(a) causing the alteration of the index of the meter; or

(b) preventing the meter from duly registering the quantity of electricity supplied; or

(c) abstracting, wasting, diverting or using electricity supplied by the State, the Commission or an electricity undertaker, is prima facie evidence that the alteration, prevention, abstraction, waste, diversion, consumption or use, as the case may be, has been fraudulently, knowingly and wilfully caused by the consumer.

50. Impersonation. A person shall not impersonate an Authorized Officer, an Electricity Inspector or other person entitled to exercise a power or perform a function under this Act. Penalty: A fine not exceeding K2,000.00. Default penalty: A fine not exceeding K200.00. 50A. False or misleading information. A person shall not make a statement that is false or misleading in a material particular (whether by reason of the inclusion or omission of any particular) in any information furnished under this Act. Penalty: If the person made the statement knowing that it was false or misleading—a fine not exceeding K2,000.00. In any other case—a fine not exceeding K200.00. 50B. Offences by corporations or firms. If a corporation or a firm is guilty of an offence against this Act, a director, manager, secretary, officer or member of the corporation or of the firm, as the case may be, who knowingly and wilfully authorizes or permits the commission of the offence is also guilty of the offence.

51. Agreements for re-supply of electricity.

(1) Where— (a) electricity is supplied to a person; and

(b) he makes electricity available to a second person under an agreement, express or implied, that the second person shall pay to him an amount of money in respect of the electricity, the first-mentioned person must not, without the consent of the Regulator, demand or receive an amount for the electricity greater than the amount that the second person would be liable to pay if the electricity had been supplied directly to the second person. Penalty: A fine not exceeding K200.00.

(2) The excess of any amount paid in contravention of Subsection

(1) may be recovered by the person who paid it from the person to whom it was paid as a debt. PART VIII.—MISCELLANEOUS.

52. Purposes of the Commission to be public purpose. The purposes of the Commission are a public purpose within the meaning of any law. 52. Purposes of the Commission to be public purpose. [Repealed]

53. Authorization for purposes of the Land Act.

(1) The Commission, or an officer or employee of the Commission authorized by it for the purpose, shall be deemed to be a person authorized by the Minister for the purposes of Sections 79, 80, 81 and 82 of the Land Act.

(2) In the application of Section 83 of the Land Act in relation to the Commission or an officer or employee of the Commission by virtue of this section, a reference to the Minister or to the State shall be read as a reference to the Commission.

53. Authorization for purposes of the Land Act. [Repealed]

54. Proof of certain matters. In any proceedings by or against the Commission, proof is not required, unless evidence is given to the contrary, of—

- (a) the constitution of the Commission; or
- (b) a resolution of the Commission; or
- (c) the appointment of a member, officer, servant or agent of the Commission; or
- (d) the presence of a quorum at a meeting at which a determination is made or an act done by the Commission.

54. Proof of certain matters. [Repealed]

55. Indemnity. A member, officer, employee or agent of the Commission is not personally liable for any thing done or omitted to be done in good faith in the course of the operations of the Commission or for the purposes of this Act.

55. Indemnity. [Repealed]

56. Service of process. Any notice, summons, writ or other process required to be served on the Commission may be served by being left at the office of the Commission or, in the case of a notice, by post.

56. Service of process. [Repealed] 57. Authentication of documents. Any document requiring authentication by the Commission is sufficiently authenticated without the seal of the Commission if signed by the Chairman.

57. Authentication of documents. [Repealed] 58. Appointment of attorneys.

(1) The Commission may, by instrument under its seal, appoint a person to act as its attorney outside the country for the purpose of doing anything that the Commission itself might lawfully do.

(2) A person appointed under Subsection (1) may, on behalf of and in the name of the Commission, do any act, exercise any power and perform any function that he is authorized by the instrument to do, exercise or perform.

58. Appointment of Attorneys. [Repealed]

58A. Immunity. Any person engaged in the administration or enforcement of this Act is not personally liable for any thing done or omitted to be done in good faith in the performance or exercise, or purported performance or exercise, of a function or power under this Act.

58B. Immunity for failure to supply. An electricity undertaker is not liable in damages to any person for any partial or total failure to supply electricity or any variation in electricity supply to the extent that the failure or variation is due to an event that is beyond the reasonable control of the electricity undertaker.

59. Compensation. (1) Where loss or damage is suffered by any person by reason of the exercise, by or on behalf of an electricity undertaker, of a power conferred by or under this Act, compensation for the loss or damage is payable to him by the electricity undertaker.

(2) Subject to Subsection (3), the amount of compensation payable under Subsection

(1) is as determined by the Minister.

(3) A person aggrieved by a determination of the Minister under Subsection

(2) may appeal to the National Court. 59A. Emergency. An electricity undertaker may, without incurring any liability, cut off the supply of electricity to any region, area, land or place if it is, in the electricity undertaker's opinion, necessary to do so to avert danger to person or property.

60. Recovery of money due. Any money due to the Commission under this Act may be recovered by the Commission as a debt.

60. Recovery of money due. [Repealed]

61. Regulations. (1) The Head of State, acting on advice, may make regulations, not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be prescribed, or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Without limiting Subsection

(1), the regulations may deal with the following matters:— (

a) the construction, installation and positioning of cables, poles, structures, pipes, fittings and other works supplying electricity, the notice to be given of such work, the superintendence of such work, the making good and replacement of ground disturbed in the course of such work and the inspection of such work; and

(b) the method (including the notice (if any) to be given) and means of access to land on or from which any pylon, post, pole, pillar or electric line is or is to be erected, maintained or removed under Subsection 25(2) and the prohibition or restriction of any use of any such land to the extent necessary or desirable for the maintenance of, or the prevention of damage or interference to, any such pylon, post, pole, pillar or electric line or the conveyance, transmission or distribution of electricity; and

(c) the construction, distribution, installation, inspection and reading of meters, and access to them; and

(d) the lamps, meters, appliances and electricity-consuming devices that a consumer may connect to an electricity supply; and

(e) the licensing of electrical contractors and electricians, the standards required and the fees to be paid for such licences and the conditions on which such licences may be cancelled, suspended or limited in their application; and

(f) standards of safety in the construction, operation, maintenance and use of—

(i) electrical installations, works and equipment for the generation, transmission, distribution, supply and consumption of electricity; and

(ii) electrical apparatus and appliances; and (g) technical, operational and safety requirements and standards; and

(h) the generation, transmission, distribution, sale and supply of electricity; and (i) the exemption (conditionally or unconditionally) of persons or operations from the application of this Act or specified provisions of this Act; and

(j) fees to be paid in respect of any matter under this Act and the recovery, refund, waiver or reduction of such fees; and

(k) penalties not exceeding K100.00, or K10.00 for every day during which the offence continues, for contravention of a regulation.

(3) Without limiting Subsection (1), the regulations may contain provisions of a saving or transitional nature consequent on the enactment of this Act or anything done under or for the purposes of this Act.

(4) If the regulations grant an exemption from the requirement to hold a licence under Part IIIB, the regulations may require a person exempted from the requirement to be treated as an electricity undertaker for the purposes of specified provisions of this Act.

(5) The regulations may—

(a) be of general application or limited in application according to the persons, areas, times or circumstances to which they are expressed to apply; or

(b) provide that a matter or thing in respect of which regulations may be made is to be determined, regulated or prohibited according to the discretion of the Minister or the Regulator; or

(c) refer to or incorporate, wholly or partially and subject to such modifications, conditions or restrictions as are prescribed, any standard, code, procedure or other document prepared or laid down by the Standards Association of Australia or any other authority, as in force from time to time or as in force at a particular time. SCHEDULE. Sec.

18. EXCEPTIONS AND MODIFICATIONS TO PART VIII OF THE PUBLIC FINANCES (MANAGEMENT) ACT 1995. Provision. Modifying etc. Section

51 Applies as if the requirement of estimates, etc., not later than three months before the end of the fiscal years were a requirement of submission before 30 November in each year. Section

52 Does not apply. Section

53 Does not apply. Section

56 Does not apply. Section

57 Does not apply. Section

58 Does not apply. Section

59 Applies as if the sum specified is K4,000.00. SCHEDULE. [Repealed]