

SNOWY MOUNTAINS HYDRO-ELECTRIC POWER.

No. 25 of 1949.

An Act relating to the Construction and
Operation of Works for the Generation
of Hydro-electric Power in the Snowy
Mountains Area.

[Assented to 7th July, 1949.]

WHEREAS additional supplies of electricity are required for the purposes of defence works and undertakings : Preamble.

AND WHEREAS the construction of further defence works and the establishment of further defence undertakings will require additional supplies of electricity :

AND WHEREAS it is desirable that provision should be made now to enable increased supplies of electricity to be immediately available in time of war :

AND WHEREAS the consumption of electricity in the Australian Capital Territory and, in particular, at the Seat of Government within that Territory, is increasing and is likely to continue to increase :

AND WHEREAS it is desirable that the generation of electricity for the purposes referred to in this preamble should be undertaken in such an area and in such a manner as to be least likely to suffer interruption in time of war :

AND WHEREAS, by reason of the foregoing, it is desirable that provision should be made now for the generation of electricity by means of hydro-electric works in the Snowy Mountains Area :

BE it therefore enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

PART I.—PRELIMINARY.

Short title. 1. This Act may be cited as the *Snowy Mountains Hydro-electric Power Act 1949*.

Commencement. 2. This Act shall come into operation on the day on which it receives the Royal Assent.

Parts. 3. This Act is divided into Parts, as follows:—

Part I.—Preliminary.

Part II.—The Snowy Mountains Hydro-electric Authority.

Part III.—Functions and Powers of the Authority.

Part IV.—Officers and Employees of the Authority.

Part V.—Finances of the Authority.

Part VI.—Miscellaneous.

Definitions. 4. In this Act, unless the contrary intention appears—

“Associate Commissioner” means an Associate Commissioner holding office under this Act;

“easement” includes a licence or a right in the nature of an easement;

“officer” means an officer of the Authority;

“owner”, in relation to any land, includes any person having an estate or interest in that land;

“the Authority” means the Snowy Mountains Hydro-electric Authority;

“the Commissioner” means the Commissioner constituting the Authority.

Act to bind States.

The Snowy Mountains Area.

5. This Act shall bind the Crown in right of a State.

6.—(1.) For the purposes of this Act, the Snowy Mountains Area shall be an area of land in the south-eastern portion of the State of New South Wales and the north-eastern portion of the State of Victoria defined in accordance with this section.

(2.) The Governor-General may, by Proclamation, define the boundaries of the Snowy Mountains Area and may, from time to time, by Proclamation, vary the boundaries as so defined.

PART II.—THE SNOWY MOUNTAINS HYDRO-ELECTRIC AUTHORITY.

The Snowy Mountains Hydro-electric Authority.

7.—(1.) For the purposes of this Act, there shall be an Authority to be known as the Snowy Mountains Hydro-electric Authority.

(2.) The Authority shall be constituted by a Commissioner, shall be a corporation sole with perpetual succession and an official seal, may acquire, hold and dispose of real and personal property and shall be capable of suing and being sued in its corporate name.

(3.) All courts, judges and persons acting judicially shall take judicial notice of the seal of the Authority affixed to any document and shall presume that it was duly affixed.

(4.) The Commissioner shall be appointed by the Governor-General.

8.—(1.) The Commissioner shall be assisted by two Associate Commissioners, each of whom shall be appointed by the Governor-General. Associate Commissioners.

(2.) An Associate Commissioner shall give such advice and assistance to the Commissioner as the Commissioner requires and shall perform such duties as the Commissioner directs.

9.—(1.) The Commissioner and the Associate Commissioners first appointed under this Act shall be appointed— Tenure of office of Commissioner and Associate Commissioners.

(a) in the case of the Commissioner—for a period of seven years ;
and

(b) in the case of the Associate Commissioners—for periods of six years and five years, respectively.

(2.) After the appointment of the Commissioner and the Associate Commissioners first appointed under this Act, each further appointment shall be for a period of seven years.

(3.) Where the period of appointment of the Commissioner or an Associate Commissioner has expired he shall be eligible for re-appointment.

(4.) Notwithstanding the preceding provisions of this section, where the period of appointment of the Commissioner or of an Associate Commissioner would, but for this sub-section, expire after he attains the age of sixty-five years, his appointment shall be for a period ending upon the date upon which he attains that age.

10. The Commissioner and each Associate Commissioner shall be paid salary and allowances at such rates as the Governor-General determines. Remuneration of Commissioner and Associate Commissioners.

11. The Minister may grant leave of absence to the Commissioner or an Associate Commissioner upon such terms and conditions as to payment of salary or otherwise as the Minister determines. Leave of absence.

12. The Governor-General may terminate the appointment of the Commissioner or of an Associate Commissioner for inability, inefficiency or misbehaviour. Dismissal of Commissioner or Associate Commissioner.

13. The office of the Commissioner or of an Associate Commissioner shall be vacated— Vacation of office.

(a) if he engages in any paid employment outside the duties of his office ;

(b) if he becomes bankrupt, 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 salary for their benefit ;

- (c) if he resigns his office by writing under his hand addressed to the Governor-General and the resignation has been accepted ;
- (d) if he is absent from duty, except on leave granted by the Minister, for fourteen consecutive days or for twenty-eight days in any twelve months ; or
- (e) if he, in any way, otherwise than as a member, and in common with the other members, of an incorporated company consisting of not less than twenty-five persons—
 - (i) becomes concerned or interested in any contract or agreement entered into by or on behalf of the Authority ; or
 - (ii) participates or claims to participate in the profit of any such contract or agreement or in any benefit or emolument arising from any such contract or agreement.

Acting
Commissioner.

14.—(1.) In the event of the office of Commissioner becoming vacant at any time, or in the event of the illness or absence of the Commissioner, the Governor-General may appoint a person to be Acting Commissioner.

(2.) An Acting Commissioner appointed in the event of the office of Commissioner becoming vacant shall hold office during the pleasure of the Governor-General but shall not in any event continue in office after the expiration of twelve months from the occurrence of the vacancy in the office of Commissioner.

(3.) An Acting Commissioner appointed in the event of the illness or absence of the Commissioner shall hold office during that illness or absence but his appointment may at any time be terminated by the Governor-General.

(4.) An Acting Commissioner shall have all the powers and perform all the duties of the Commissioner.

(5.) An Acting Commissioner shall be paid salary and allowances at such rates (if any) as the Governor-General determines.

Delegation.

15.—(1.) The Authority may, in relation to any particular matter or class of matters, or to any particular place, by writing under its seal, delegate to an Associate Commissioner or an officer all or any of its powers under this Act (except this power of delegation), so that the delegated powers may be exercised by the delegate with respect to the matter or class of matters, or to the place, specified in the instrument of delegation.

(2.) Every delegation under this section shall be revocable at will and no delegation shall prevent the exercise of any power by the Authority.

PART III.—FUNCTIONS AND POWERS OF THE AUTHORITY.

16. The functions of the Authority shall be—

Functions of
the Authority.

- (a) to generate electricity by means of hydro-electric works in the Snowy Mountains Area ; and
- (b) to supply electricity so generated to the Commonwealth—
 - (i) for defence purposes ; and
 - (ii) for consumption in the Australian Capital Territory.

17.—(1.) For the purpose of performing its functions under the last preceding section, the Authority shall have power to construct, maintain, operate, protect, manage and control works—

General
powers of the
Authority.

- (a) for the collection, diversion and storage of water in the Snowy Mountains Area ;
- (b) for the generation of electricity in that area ;
- (c) for the transmission of electricity generated by the Authority ; and
- (d) incidental or related to the construction, maintenance, operation, protection, management or control of any works specified in the preceding paragraphs of this sub-section.

(2.) The Authority shall have power to construct, maintain, operate, protect, manage and control works which, in the opinion of the Authority, are necessary or desirable for the purpose of preventing or mitigating injurious effects of any works referred to in the last preceding sub-section.

18. The Authority shall have, in addition to the powers specifically conferred upon it by this Act, such other powers as are necessary or convenient for the performance of its functions under this Act, and, in particular, and without limiting the generality of the foregoing, shall have power—

Particular
powers of the
Authority.

- (a) to purchase land ;
- (b) to take land on lease ;
- (c) to take easements over land ;
- (d) to sell or otherwise dispose of land vested in the Authority but not required for the purposes of the Authority ;
- (e) to lease land vested in the Authority the use of which is not for the time being required by the Authority ;
- (f) to release any easement over land ;
- (g) to purchase or take on hire plant, machinery, equipment or other goods ;
- (h) to dispose of plant, machinery, equipment or other goods owned by the Authority but not required by the Authority ;
- (i) to provide transport, accommodation, provisions, medical treatment, hospital facilities and amenities for officers and employees of the Authority and their families ; and
- (j) to do anything incidental to any of its powers.

Power to enter
land and take
levels, &c.

19. The Commissioner, an Associate Commissioner, an officer or employee of the Authority, or any other person authorized by the Authority so to do, may, for the purposes of this Act, without any previous notice—

- (a) enter upon land (including land owned or occupied by the Crown in right of a State) for the purpose of inspecting the land ;
- (b) make surveys, take levels, sink bores, dig pits and examine the soil ; and
- (c) do any other thing necessary for ascertaining the suitability of the land for the purposes of the Authority.

Power to enter
and occupy
land.

20. The Authority, or any person authorized by the Authority so to do, may, for the purposes of this Act—

- (a) after giving not less than seven days' notice in writing to the occupier of land (including land owned or occupied by the Crown in right of a State), enter upon and occupy that land ;
- (b) on or from land so occupied—
 - (i) construct, build or place any plant, machinery, equipment or goods ;
 - (ii) take sand, clay, stone, earth, gravel, timber, wood or other materials or things ;
 - (iii) make cuttings or excavations ;
 - (iv) deposit sand, clay, stone, earth, gravel, timber, wood or other materials or things ;
 - (v) erect workshops, sheds and other buildings ;
 - (vi) make roads ; and
 - (vii) manufacture and work materials of any kind ; and
- (c) demolish, destroy or remove, on or from land so occupied, any plant, machinery, equipment, goods, workshop, shed, building or road.

Powers in
respect of
waters.

21. The Authority may raise or lower the level of a lake, river or stream in the Snowy Mountains Area and impound, divert and use the waters of a lake, river or stream in that area.

PART IV.—OFFICERS AND EMPLOYEES OF THE AUTHORITY.

Appointment
of officers.

22.—(1.) The Authority may appoint such officers as it thinks necessary for the purposes of this Act.

(2.) The selection of persons for appointment as officers under this section shall be made in accordance with such requirements as the Public Service Board determines.

(3.) Subject to the next succeeding sub-section, a person shall not be appointed as an officer of the Authority unless—

- (a) he is a British subject ;
- (b) the Commissioner or an Associate Commissioner is satisfied, upon medical examination, as to his health and physical fitness ; and

(c) he makes and subscribes an oath or affirmation of allegiance in accordance with the form in the Schedule to the Constitution.

(4.) The Authority may, with the approval of the Minister, appoint a person who is not a British subject and has not made and subscribed the oath or affirmation of allegiance.

(5.) The appointment, transfer or promotion of a person to a position the salary, or the maximum salary, of which exceeds One thousand five hundred pounds, or such higher amount as is prescribed, per annum, shall be subject to the approval of the Minister.

(6.) For the purposes of the last preceding sub-section, the salary of a position shall not be deemed to be affected by variations made in accordance with variations in the cost of living and shall not include any allowance.

(7.) Officers shall not be subject to the *Commonwealth Public Service Act 1922-1948* but shall hold office under such terms and conditions as are, subject to the approval of the Public Service Board, determined by the Authority.

23.—(1.) The Authority may employ such temporary or casual employees as it thinks fit, on such terms and conditions as the Authority thinks necessary for the purposes of this Act. Temporary and casual employees.

(2.) A person shall not be employed under this section unless, when required by the Authority so to do, he makes and subscribes an oath or affirmation of allegiance in accordance with the form in the Schedule to the Constitution.

24. Nothing in this Act shall prevent the making of an industrial award, order, determination or agreement under any Act in relation to officers or employees appointed or employed under this Act or affect the operation of any such award, order, determination or agreement in relation to any such officer or employee. Preservation of certain awards.

PART V.—FINANCES OF THE AUTHORITY.

25.—(1.) The Authority shall have power to borrow money on overdraft from the Commonwealth Bank of Australia upon the guarantee of the Treasurer. Power to borrow money.

(2.) The Treasurer may, out of moneys appropriated by the Parliament for the purposes of this Act, make advances to the Authority of such amounts and upon such terms as he thinks fit.

(3.) Except with the consent of the Treasurer, the Authority shall not have power to borrow money otherwise than in accordance with this section.

26. The Authority shall open and maintain an account or accounts with the Commonwealth Bank of Australia and may open and maintain an account or accounts with such other bank or banks as the Treasurer approves. Bank accounts.

Application
of moneys.

27. Subject to this Act, the moneys of the Authority—

(a) shall be applied by the Authority—

- (i) in payment or discharge of the expenses, charges, and other obligations incurred or undertaken by the Authority under this Act ;
- (ii) in payment of the salaries and allowances of the Commissioner and of the Associate Commissioners and of any Acting Commissioner ; and
- (iii) in re-payment of advances made to the Authority by the Treasurer under this Act, in accordance with the terms upon which those advances were made ; and

(b) may be invested on fixed deposit with the Commonwealth Bank of Australia or in securities of, or guaranteed by, the Government of the Commonwealth.

Accounts.

28.—(1.) The Authority shall keep accounts in such form as the Treasurer approves.

(2.) The accounts of the Authority shall be subject to inspection and audit, at least once yearly, by the Auditor-General for the Commonwealth.

(3.) The Auditor-General shall report to the Minister the result of each inspection and audit.

Provisions with
respect to
taxation.

29. The income, property and operations of the Authority shall be subject to taxation (other than income tax) under the laws of the Commonwealth but shall not be subject to taxation under any law of a State to which the Commonwealth is not subject.

Reserves.

30. The Authority may, with the approval of the Treasurer, set aside, out of its revenue, such sums as it thinks proper for depreciation of assets, insurance or other purposes.

Certain
contracts
require
Minister's
approval.

31. The Authority shall not, except with the approval of the Minister, enter into any contract involving the payment or receipt of an amount exceeding One hundred thousand pounds.

Price for
supply and
sale of
electricity.

32. The price at which electricity is supplied or sold by the Authority shall be such as the Treasurer, after receipt of a recommendation by the Minister, determines.

PART VI.—MISCELLANEOUS.

Authority in
execution of
works to do
as little
damage as
possible.

33.—(1.) In the exercise of its powers under this Act, the Authority shall cause as little detriment and inconvenience and do as little damage as possible.

(2.) Where the owner of land in the Snowy Mountains Area is injuriously affected by the exercise, in relation to that land, of any of the powers conferred by this Act, compensation shall be paid by the Authority.

(3.) Where land (whether within or without the Snowy Mountains Area) is entered or occupied in pursuance of section twenty of this Act, the Authority shall be liable to pay compensation to the owner or occupier of the land, or to both, as the case requires, and the compensation so payable shall include compensation in respect of—

- (a) damage of a temporary character as well as of a permanent character; and
- (b) the taking of sand, clay, stone, earth, gravel, timber, wood, materials or things by the Authority.

(4.) The provisions of Divisions 2, 3 and 5 of Part IV., and of section sixty, of the *Lands Acquisition Act 1906-1936* shall, so far as they are applicable, and subject to the next succeeding sub-section, be applicable in relation to claims for compensation against the Authority.

(5.) In the application of those provisions—

- (a) any reference therein to the Commonwealth or to the Minister shall be read as a reference to the Authority; and
- (b) the reference in paragraph (b) of sub-section (1.) of section thirty-three of the *Lands Acquisition Act 1906-1936* to damage suffered by reason of the exercise of any powers under Part III. of that Act shall be read as a reference to damage suffered by reason of the exercise of any powers under this Act.

34. Where the Commissioner, an Acting Commissioner, an Associate Commissioner or an officer was, immediately prior to his appointment under this Act, an officer of the Public Service of the Commonwealth, his service as the Commissioner, as Acting Commissioner, as an Associate Commissioner or as an officer of the Authority shall, for the purpose of determining his existing and accruing rights, be taken into account as if it were service in the Public Service of the Commonwealth and the *Officers' Rights Declaration Act 1928-1940* shall apply as if this Act and this section had been specified in the Schedule to that Act.

Preservation
of rights.

35.—(1.) The *Commonwealth Employees' Compensation Act 1930-1948* shall apply to the Commissioner, to an Acting Commissioner, to the Associate Commissioners and to the officers and employees of the Authority as if they were employees within the meaning of that Act.

Application of
Commonwealth
Employees'
Compensation
Act.

(2.) Any liability to pay compensation under that Act as applied by this section shall be borne by the Authority.

36. The Authority may arrange with a Minister of State or authority of the Commonwealth or of a State for the performance by that Minister or authority of any work on behalf of the Authority.

Arrangements
with States, &c.

37. Except as prescribed, a person shall not, in the Snowy Mountains Area, carry out any work, or make any use of the water in a lake, river or stream, whereby any works, or proposed works, of the Authority, or the use, or proposed use, of water by the Authority, is or may be injuriously affected or interfered with.

Works of
Authority
not to be
injuriously
affected.

Discharge of water.

38. Any water used by the Authority for the generation of electricity shall be discharged into a lake, river or stream in the Snowy Mountains Area.

Sale of surplus electricity.

39. The Authority may sell to a State, or to an authority of a State, electricity generated by the Authority which is not immediately required by the Commonwealth for defence purposes or for consumption in the Australian Capital Territory.

Annual report.

40.—(1.) The Authority shall, as soon as practicable after the thirtieth day of June in each year, prepare and furnish to the Minister a report on the operations of the Authority during the year ended on that date, together with financial accounts in respect of that year in such form as the Treasurer approves.

(2.) Before submitting the financial accounts to the Minister, the Authority shall submit them to the Auditor-General for the Commonwealth for report as to their correctness or otherwise.

(3.) The report and financial accounts of the Authority, together with the report of the Auditor-General as to those accounts, shall be laid before each House of the Parliament within fifteen sitting days of that House after their receipt by the Minister.

(4.) The Authority shall furnish to the Minister such other reports, and such documents and information, relating to the operations of the Authority, as the Minister requires.

Regulations.

41. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which, by this Act, are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to this Act and, in particular, for prescribing penalties not exceeding a fine of Fifty pounds or imprisonment for a period not exceeding three months, or both, for offences against the regulations.
