

Auckland Electric Power Board Act 1978

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Contents

	Page
Title	5
1 Short Title	5
2 Interpretation	5
Part I	
Auckland Electric Power District	
3 Auckland Electric Power District	6
4 Alteration of boundaries	6
Part II	
Auckland Electric Power Board	
5 Auckland Electric Power Board	6
6 Members of the Board	6
7 Disqualification from election as member	6
Part III	
Elections and Polls	
8 Interpretation	7
9 Election of the Board	7
10 Polls	7
11 Voting on proposal to borrow money	8
12 Returning Officers	8
13 Polling places	8
14 Majority required for polls	8

Part IV
Extraordinary Vacancies

15	Extraordinary vacancies	9
16	Filling of extraordinary vacancy	9
17	Election procedure for extraordinary vacancies	11
18	Defects not to affect constitution of Board	11

Ouster of Office

19	Ouster of Office	11
----	------------------	----

Part V
Proceedings of the Board

20	Chairman of Board	12
21	Deputy Chairman of Board	12
22	Election of Chairman or appointment of Deputy Chairman	12
23	Remuneration of Chairman	12
24	Majority of Board to determine questions	13
25	Chairman or Deputy Chairman to preside at meetings	13
26	Annual and ordinary meetings of Board	13
27	Special meetings	14
28	Adjournment of meetings	14
29	Postponement of meetings	14
30	Meetings of Board to be open to public unless Board otherwise determines	14
31	Extraordinary business	14
32	Revocation or alteration of resolutions	15
33	Proceedings not invalidated by failure to give notice	15
34	Board may appoint committees and delegate powers, etc.	15
35	Minutes of proceedings to be kept	16
36	Remuneration of Board	16

Special Orders

37	Special orders, how made	16
----	--------------------------	----

Regulation of Procedure

38	Bylaws in respect of procedure	17
----	--------------------------------	----

Public Office

39	Offices of Board	18
----	------------------	----

Part VI
Officers

40	Appointment of officers of Board	18
41	Acting Officers	18

Part VII
Finance

42	Borrowing powers of Board	19
43	Payment of interest out of loan moneys	19
44	Unauthorised expenditure of Board	19
45	Estimated income and expenditure of Board	19
46	Board may levy rate for excess of expenditure	19
47	Rates	20
48	Board may collect rates made by it	20
49	Mode of collection of rates	20
50	Collection of rates by Board	20
51	Rates may be collected by local authority	21
52	Liability of local authority for failing to collect rates	21
53	Valuer-General to supply statements for rateable values	21
54	Power to make separate rates within defined portion of District	21
55	Board may establish special funds	22
56	Power fund account	23
57	Board to keep proper accounts	23
58	Deposit of money at interest	24
59	Balance sheets and audit	24

Part VIII

Construction and Purchase of Electric Works

60	Purchase, construction, and maintenance of electric works	24
61	Purchase from Local Authority	25
62	Works constructed to be subject to the Electricity Act	25
63	Construction of works	25
64	Powers of local authority	25
65	Board may make survey or inspection	26
66	Board may hold and occupy land and exercise incidental powers	26
67	General powers of Board with respect to electric works	27
68	Powers of the Board with respect to planting trees and with respect to private land	28
69	Powers of Board outside District	29
70	Alteration of roads, etc., by Board	29
71	Temporary occupation and use of land for construction purposes	29
72	Notice to be given to occupier of intention to occupy lands	30
73	Board may be required to take land occupied	30
74	Crown may authorise inspection of works and require alterations or additions	30
75	Disposal of lands, etc., taken but not required	31
76	Compensation for lands taken or injuriously affected	31

Part IX
Power of Purchase by Crown

77	Crown may acquire works	31
78	On payment of compensation, Board to convey works, etc., to Crown	32
79	No compensation payable for goodwill	32
80	Additional compensation to be paid in certain cases	32
81	Compensation to be in full satisfaction of Board's claims	32
82	Control of works acquired by Crown	33
83	Debenture-holders not required to accept repayment in advance	33
84	Receiver to give notice to Crown of intention to sell Board's property	33
85	Provisions to apply where Crown purchases works charged with moneys borrowed by Board	33

Part X
Bylaws

86	Bylaws of Board	34
87	Method of making bylaws	34
88	Penalties for breach of bylaws	35

Part XI
Miscellaneous Provisions

89	Judge or Magistrate being a ratepayer not thereby interested in proceedings	35
90	Service on Board	35
91	Authentication of documents	35
92	Crown may assume possession and control of works if inexcusable delay	36
93	Appeal to Supreme Court from exercise of powers of Crown	36
94	Crown may retain works so taken permanently	36
95	Works to be vested in Her Majesty	37
96	Amalgamation of works with other Boards	37
97	Board may install motors, etc., in buildings	37
98	Cost of installation recoverable as a rate	37
99	Board may purchase and sell electric light fittings and equipment	38
100	Penalties for causing damage to electric works	38
101	Penalties for obstructing officers and workmen of Board	38
102	Recovery of fines	38
103	Regulations	38
104	Protection of Board against claims by consumers	39
105	Board may establish or assist industries dependent on electrical energy	39
106	Governor-General may extend time and supply deficiencies	39
107	Board may cause trees or other growth to be removed	39

108	Board may provide dwellings for its employees	39
109	Authorising Board to make advances to employees for housing purposes	40
110	Board may guarantee advances to employees for housing purposes	41
111	Repeals	42
	FIRST SCHEDULE	44
	Constituent Districts	
	SECOND SCHEDULE	45
	Enactments Repealed	

An Act to consolidate and amend the law relating to the Auckland Electric Power Board

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

1 Short Title

This Act may be cited as the Auckland Electric Power Board Act 1978.

2 Interpretation

In this Act, unless the context otherwise requires,—

“Board” means the Auckland Electric Power Board constituted under this Act:

“Constituent district” means the whole or any part of any borough, town district, or county situated within and forming part of the Auckland Electric Power District:

“District” unless otherwise stated means the Auckland Electric Power District as constituted under this Act and as altered or enlarged from time to time:

“Electric works” includes generating-works, transmission-lines, transformer-stations and all other works authorised by this Act to be acquired, constructed, carried out, or operated for or in connection with the production, transmission, or supply of electricity:

“Engineer” means the engineer for the time being of the Board:

“Financial year” means a period of twelve months ending on the 31st day of March in any year:

“Minister” means the Minister of Energy:

“Prescribed” means prescribed by this Act, or by bylaws or regulations made under this Act:

“Ratepayer” means a person whose name appears for the time being in the occupiers’ column in the valuation roll of a constituent district in respect of rateable property within that constituent district:

“Secretary” means the Secretary for the time being of the Board.

Compare: 1921, No. 17, s. 2

Part I

Auckland Electric Power District

3 Auckland Electric Power District

The Auckland Electric Power District shall comprise the constituent districts named in the First Schedule to this Act together with any borough, town district or county or part thereof which may be proclaimed a part of the District under section 4 of this Act.

Compare: 1921, No. 17, s. 3(1)

4 Alteration of boundaries

Section 6 of the Electric Power Boards Act 1925 shall apply to the District as if the Board were a Board constituted under that Act.

Compare: 1921, No. 17, s. 3(2)

Part II

Auckland Electric Power Board

5 Auckland Electric Power Board

There is hereby established for the District a board to be known as the Auckland Electric Power Board which shall be a body corporate with perpetual succession and a common seal with power to purchase, take, hold, deal with, and dispose of real and personal property, and to do and suffer all that bodies corporate may lawfully do and suffer.

Compare: 1921, No. 17, s. 4

6 Members of the Board

The Board shall consist of 12 members elected pursuant to Part III of this Act.

Compare: 1921, No. 17, s. 5; 1937, No. 11, s. 16

7 Disqualification from election as member

The following persons shall be incapable of being elected members of the Board—

- (a) a person under the age of 18 years;
- (b) an alien;
- (c) a person of unsound mind;
- (d) a bankrupt who has not obtained his order of discharge, or his order of discharge is suspended for a term not yet expired or is subject to conditions not yet fulfilled;

- (e) a person convicted of any offence punishable by imprisonment, unless he has received a free pardon, or has served his sentence, or otherwise suffered the penalty imposed on him.

Compare: 1921, No. 17, s. 11; 1924, No. 10, s. 3; 1937, No. 11, s. 16

Part III

Elections and Polls

8 Interpretation

For the purposes of this Part of this Act—

“Elector” means any person on the electors’ roll or supplementary electors roll (as compiled pursuant to Part III of the Local Government Act 1974) of every constituent district as at the 29th day preceding the date of each general election of the Board;

“Poll” means the submission to the vote of the electors for decision of a proposal other than an election which is required to be so submitted under this or any other Act.

9 Election of the Board

- (1) The representatives on the Board shall be elected at large by the electors of every constituent district.
- (2) No person other than an elector shall be capable of being elected or appointed to the Board.
- (3) At every election electors shall have 1 vote only.
- (4) Every election shall be held in the same manner with all necessary modifications as the elections of members of the local authority of each constituent district and the provisions of the Local Elections and Polls Act 1976 and of all other Acts affecting the mode of election of members of that local authority (including the penal provisions thereof and the provisions relating to disputed elections) shall, so far as applicable and so far as consistent with this Act, apply accordingly.

10 Polls

- (1) For the purposes of any poll of ratepayers to be taken by the Board the rolls of the ratepayers of the several constituent districts taken together or so much of those rolls as relates to land within the District or any defined part of the District, as the case may require, shall be deemed to be the roll of the ratepayers of the District or that defined part of it.
- (2) It shall be the duty of the principal officer of the local authority of each constituent district, whenever requested to do so by the Board, to supply to the Board a certified roll of the ratepayers of such constituent district or of any

defined part of the constituent district, together with as many copies thereof as the Board may require.

- (3) For the purposes of this section, the cost of preparing any roll of ratepayers of a constituent district or defined part of it and of supplying copies thereof shall be paid by the Board.
- (4) All polls taken for the purposes of this Act shall be conducted under the provisions of the Local Elections and Polls Act 1976.

11 Voting on proposal to borrow money

At any poll taken on a proposal of the Board to borrow money, only those persons whose names appear on the roll of ratepayers shall be entitled to vote and every such ratepayer shall have 1 vote only.

12 Returning Officers

At any election or poll, the Returning Officer appointed by the local authority of a constituent district may be appointed by the Board a Returning Officer or Deputy Returning Officer of the Board and upon notice of such appointment shall be the Returning Officer or Deputy Returning Officer for the purposes of that election or poll for that constituent district.

Compare: 1937, No. 11, s. 12(3)

13 Polling places

At any election or poll—

- (a) An elector whose name appears in the electors' roll of only one constituent district may not vote at that election or poll in a polling place in another constituent district;
- (b) Any elector whose name appears in the electors' roll of two or more constituent districts may vote at that election or poll at a polling place in only one of those constituent districts and shall not be entitled to vote at that election or poll in a polling place in a constituent district in whose elector's roll his name does not appear.

Compare: 1937, No. 11, s. 12(2)

14 Majority required for polls

Except where otherwise expressly provided, the majority required to carry any proposal submitted for decision by poll shall be a simple majority of the valid votes cast at the poll.

Compare: 1937, No. 11, s. 10(3)

Part IV Extraordinary Vacancies

15 Extraordinary vacancies

- (1) The office of a member shall become vacant if he—
 - (a) dies; or
 - (b) resigns his office by writing under his hand delivered to the Secretary or Chairman of the Board, or is ousted from office; or
 - (c) becomes a bankrupt, or makes any composition with his creditors for less than 100 cents in the dollar, or makes an assignment of his estate for the benefit of his creditors; or
 - (d) becomes of unsound mind; or
 - (e) is convicted of any offence punishable by imprisonment for a term of two years or more, or is convicted of any offence punishable by imprisonment for a term of less than two years and is sentenced to imprisonment for that offence; or
 - (f) is absent without leave from 4 consecutive meetings of the Board.
- (2) In any case to which paragraph (e) of subsection (1) of this section applies—
 - (a) the disqualification shall not take effect until the expiration of the time for appealing against conviction or against the sentence and in the event of an appeal against conviction or against the sentence or both, until that appeal is determined; and
 - (b) the member concerned shall be deemed to have been granted leave of absence until the expiration of that time, and shall not be capable of acting as a member during the period of that leave of absence.
- (3) If any person does any act as a member after his office has become vacant under this section or while on leave of absence pursuant to subsection (2) of this section he commits an offence and shall be liable on summary conviction to a fine of \$100.
- (4) It shall be the duty of the Audit Office to institute proceedings for the recovery of any fine under this section, but nothing in this subsection shall be construed so as to prevent such proceedings from being taken by any other person.
- (5) Any vacancy occurring under this section or under section 19 of this Act shall be deemed an extraordinary vacancy.

Compare: 1921, No. 17, s. 12; 1924, s. 3(2)

16 Filling of extraordinary vacancy

- (1) Where, through the operation of section 15 of this Act or otherwise, an extraordinary vacancy occurs in the office of a member, and the Secretary whether by notice or otherwise, receives knowledge of that vacancy, he shall forthwith

notify the Board and the Board shall, at its next ordinary meeting, or if that is not practicable at its next subsequent ordinary meeting, by resolution determine that the vacancy shall be filled by an appointment by the Board in accordance with the provisions of this section:

Provided that where any such vacancy occurs within 6 months before the date fixed for the next triennial general election of the Board, the Board may by resolution determine that the vacancy shall not be filled.

- (2) Where the Board determines that an extraordinary vacancy shall be filled by appointment, it shall forthwith give public notice of its decision and not less than the specified number of the electors for the time being on the electors' rolls for all constituent districts by notice in writing under their hands delivered at the offices of the Board not later than 30 days after the date of the giving of that public notice may demand that an election shall be held to fill the vacancy. If such a demand is made an election shall be held accordingly and for the purposes of this subsection the term "specified number" means a number equal to 5 percent of the number of electors who are on the electors' rolls for all constituent districts for the immediately preceding general election of members of the Board or 500 whichever is the less.
- (3) Where the Board determines that a vacancy shall be filled by appointment pursuant to subsection (1) of this section and no demand for an election is received by the Board pursuant to subsection (2) of this section, the Board shall, at a meeting held not later than 30 days after the expiration of the time specified in subsection (2) for demanding an election, by resolution appoint a person to fill that vacancy and shall forthwith give public notice of that appointment. The person so appointed shall for all purposes be deemed to have been elected on the date on which that resolution is made.
- (4) For the purpose of subsection (3) of this section, the person to be appointed shall, subject to section 7 and section 9 of this Act, be that candidate who, of the unsuccessful candidates at the immediately preceding general election of members of the Board—
 - (a) received the highest number of votes; and
 - (b) is prepared to accept appointment.

In the event that no unsuccessful candidate at the immediately preceding general election of members of the Board is prepared to accept appointment the Board shall appoint some other suitably qualified person.

- (5) The Secretary shall forthwith give notice to the Returning Officer of every demand received by the Board under subsection (2) of this section.
- (6) Where under subsection (2) of this section an election to fill an extraordinary vacancy is required to be held pursuant to a demand of the electors, that vacancy shall be deemed to have occurred on the last date on which the notice in respect of that demand may be delivered in accordance with that subsection.

- (7) In all other matters pertaining to extraordinary vacancies, the provisions of the Local Elections and Polls Act 1976 shall apply except in so far as they are inconsistent with the provisions of this Act.
- (8) For the purposes of this section the terms “electors” and “electors’ rolls” have the same meaning as is given to those terms in section 8 of this Act.

Compare: 1921, No. 17, s. 13; 1969, No. 67, s. 2

17 Election procedure for extraordinary vacancies

Where any election is required to be held pursuant to section 16 of this Act, the provisions of sections 8, 9 and 13 of this Act shall apply so far as they are applicable and with all necessary modifications.

18 Defects not to affect constitution of Board

The constitution of the Board and the validity or legality of acts done by the Board shall not be affected by any error or defect in the election of any member of the Board, or by the fact that the full number of members has not been elected, or by the fact that any person acting as a member of the Board is disqualified or has vacated his seat.

Compare: 1921, No. 17, s. 14

Ouster of Office

19 Ouster of Office

- (1) Upon proof, in the first instance by affidavit or otherwise, that any member of the Board is or has become incapable under this Act of holding office, any Magistrate’s Court in the District may issue a summons calling upon the person holding such office to show cause why he should not be adjudged to be ousted of the same.
- (2) If on the return of such summons it appears to the Court, on affidavit or oral evidence on oath, that such person is incapable under this Act of holding the said office, the Court may adjudge such person to be ousted of the same, and such person shall be ousted of such office accordingly.
- (3) In any such proceeding the Magistrate’s Court may exercise all the powers and authorities which it may exercise in its ordinary jurisdiction in civil cases, and the procedure of such court shall, so far as applicable, apply generally to proceedings had under this section.
- (4) No matter in relation to a disputed election shall be heard by the Magistrate’s Court under this section.
- (5) No question which may be tried under this section shall be tried in the Supreme Court; and no proceedings in the Magistrate’s Court hereunder shall be removable into the Supreme Court by certiorari or otherwise.

Compare: 1921, No. 17, s. 17

Part V

Proceedings of the Board

20 Chairman of Board

- (1) The Board shall at a meeting to be held at the office of the Board on a day to be fixed by the Board, being not later than 60 days after the day on which a triennial election of members is held, or in any year in which no such election is held not later than 60 days after the anniversary of the last triennial election of the Board, elect one of its members to be Chairman of the Board.
- (2) At every meeting for the election of a Chairman the Secretary shall preside, and in any case of an equality of votes shall determine the election by lot in such manner as the Board directs.
- (3) The Chairman shall come into office on his election, and shall hold office until the election of his successor.
- (4) The Chairman may resign his office by writing under his hand delivered to the Secretary; and in such case, or in the case of his ceasing, from any cause, to be a member of the Board, his office shall become vacant, and the Secretary shall forthwith convene a meeting of the Board for the election of a new Chairman.

Compare: 1921, No. 17, s. 16

21 Deputy Chairman of Board

- (1) The Board may at any time and from time to time appoint a Deputy Chairman who shall act as Chairman during the temporary absence or incapacity of the Chairman.
- (2) While so acting, the Deputy Chairman shall have and may exercise the powers and functions of the Chairman.
- (3) The fact that the Deputy Chairman exercises any power or function or performs any duty of the Chairman shall be sufficient evidence of his authority to do so; and no person shall be concerned to enquire whether any occasion has arisen requiring or authorising him so to do, or be affected by notice that no such occasion has arisen.

Compare: 1921, No. 17, s. 16(5)

22 Election of Chairman or appointment of Deputy Chairman

Notwithstanding the provisions of section 24 of this Act the election of a Chairman or the appointment of a Deputy Chairman shall take place in such manner as the Board thinks fit.

23 Remuneration of Chairman

- (1) The Chairman may be paid out of the funds of the Board an annual allowance, not exceeding such amount as may from time to time be approved by the Minister of Finance, to be fixed from time to time by the Board, but no

alteration in the amount of the allowance shall take effect during the term of office of the Chairman for the time being.

- (2) For the purpose of this section a person re-elected Chairman shall be deemed a new Chairman.

Compare: 1921, No. 17, s. 17; 1963, No. 41, s. 2

24 Majority of Board to determine questions

- (1) All acts of the Board, and all questions coming or arising before the Board, may be done and decided by a majority of the members of the Board as are present and vote at a meeting held in conformity with the provisions of this Act or any bylaw made thereunder.
- (2) A meeting shall be duly constituted if a quorum is present thereat, whether voting or not.
- (3) At a meeting of the Board a quorum is a number of members not less than one half of the number of the whole of the Board when that number is even, or a majority of such number, if odd.
- (4) The Chairman shall have a deliberative vote, and in any case in which the votes are equal, shall also have a casting vote.
- (5) Every question before the Board shall be decided by open voting.

Compare: 1921, No. 17, s. 18

25 Chairman or Deputy Chairman to preside at meetings

- (1) The Chairman shall preside at every meeting of the Board at which he is present.
- (2) If the Chairman is absent from any meeting of the Board, the Deputy Chairman, or in his absence such member as the members of the Board then present choose, shall be Chairman of that meeting.

Compare: 1921, No. 17, s. 19

26 Annual and ordinary meetings of Board

- (1) The Board shall hold such ordinary meetings at such times and at such places as it from time to time appoints.
- (2) The Chairman or the Secretary shall give notice in writing to each of the members of the time and place appointed from time to time for holding ordinary meetings, and the members shall attend such meetings without further notice of each meeting.
- (3) The Board shall hold an annual meeting in the month of May in each year at the office of the Board.

Compare: 1921, No. 17, s. 21

27 Special meetings

- (1) The Board may hold special meetings, and the Chairman or any 3 or more of the members may call a special meeting.
- (2) No special meeting shall be held unless at least 2 days notice in writing thereof and of the business to be transacted thereat has been given to members, and no business shall be transacted at a special meeting unless notice thereof has been so given.

Compare: 1921, No. 17, s. 22

28 Adjournment of meetings

Any meeting of the Board may be adjourned to another day not later than 7 days from the date of that meeting, and notice of that adjourned meeting shall be given to each member.

Compare: 1921, No. 17, s. 23

29 Postponement of meetings

If a quorum is not present within half an hour of the time appointed for any meeting, the Chairman, or members, or member (if there is only one) present, or the Secretary if no member is present, shall postpone such meeting either to a later hour on the same day or to the next day at the usual hour of meeting. No notice of any such postponement need be given. A postponed meeting may be adjourned, but not postponed.

Compare: 1921, No. 17, s. 24

30 Meetings of Board to be open to public unless Board otherwise determines

- (1) Meetings of the Board shall be open to the public, but the Board, for sufficient cause, of which it shall be the sole judge, may exclude strangers altogether from any meeting.
- (2) The Chairman at any meeting may order any constable or officer of the Board to exclude or remove any stranger from the meeting on account of noisy or disorderly conduct or intoxication.

Compare: 1921, No. 17, s. 25

31 Extraordinary business

- (1) No extraordinary business shall be transacted at any ordinary meeting of the Board unless due notice of such business has been given at a prior meeting, or forwarded to the Chairman or Secretary at least 7 days before the meeting at which it is to be brought forward, and at least 3 days' notice in writing of such business has been sent out to each meeting.
- (2) Subject to the bylaws of the Board, the Chairman of the meeting shall determine what business shall be deemed to be extraordinary within the meaning of this section.

Compare: 1921, No. 17, s. 26

32 Revocation or alteration of resolutions

- (1) Any resolution of the Board may be revoked or altered at the same meeting by the unanimous vote of the members present when it was passed, or by a resolution passed at a subsequent meeting of the Board.
- (2) Notice of such subsequent meeting and of the proposal to revoke or alter such resolution shall be given to each member not less than 3 days before such subsequent meeting.
- (3) Nothing in this section shall affect anything lawfully done pursuant to a resolution which is subsequently altered or revoked.

Compare: 1921, No. 17, s. 27

33 Proceedings not invalidated by failure to give notice

No act or proceeding of the Board shall be invalidated by reason of any failure to give to any member of the Board due notice of any meeting or of the business to be transacted at that meeting.

Compare: 1921, No. 17, s. 28

34 Board may appoint committees and delegate powers, etc.

- (1) The Board may from time to time appoint committees, whether standing or special, and may delegate to such committees:
 - (a) Any matter for consideration, inquiry, management, or regulation; and
 - (b) Any power or function conferred, or any duty imposed, on the Board by this Act or any enactment.
- (2) Nothing in subsection (1) of this section shall authorise the Board to confer on any committee any power:
 - (a) To commence an action; or
 - (b) To borrow money; or
 - (c) To make a rate; or
 - (d) To make a bylaw; or
 - (e) Except as provided in section 4 of the Public Bodies Contracts Act 1959, to execute a deed or contract.
- (3) Every committee to which any powers or duties are delegated may, without confirmation by the Board, exercise or perform the same in like manner and with the same effect as the Board could itself have exercised or performed the same.
- (4) Every committee shall be subject in all things to the control of the Board, and shall carry out all directions, whether general or special, of the Board given in relation to that committee or its affairs.

- (5) In appointing any committee the Board may appoint a member of such committee to be its permanent Chairman, and if no such appointment is made the committee may make the appointment.
- (6) The Board may from time to time remove any Chairman appointed under subsection (5) of this section and appoint another in his stead.
- (7) The Board may from time to time discharge, alter, continue, or reconstitute any committee.

Compare: 1924, No. 10, s. 13

35 Minutes of proceedings to be kept

- (1) The Secretary shall keep minutes of the proceedings of the Board in a book (the pages of which shall be numbered consecutively) which shall be kept in the office of the Board, and shall be open to inspection without fee during all office hours by any member or elector, or by any creditor of the Board.
- (2) The minutes of the proceedings of the Board or of any committee, duly entered and authenticated as prescribed by the Board, shall be prima facie evidence of those proceedings and the validity thereof.

Compare: 1921, No. 17, s. 29; 1958, No. 26, s. 2

36 Remuneration of Board

- (1) The Board may, out of its funds, pay to members (other than the Chairman) such reasonable remuneration for their services as may be prescribed by regulations under the Electric-Power Boards Act 1925 as if the Board were a Board constituted under that Act.
- (2) There shall be paid to the Chairman and other members of the Board travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly as if the members were members of a statutory Board within the meaning of that Act.

Compare: 1921, No. 17, s. 30

Special Orders

37 Special orders, how made

- (1) The power given by this or any other Act to the Board to do anything by special order shall be exercised only as follows:—
 - (a) Notice of the intention to move the resolution to do such thing shall be given as for extraordinary business, and the resolution shall be passed at the meeting for which the notice was given;
 - (b) The resolution shall be confirmed at a subsequent meeting (either ordinary or special) held not sooner than the 28th day and not later than the 70th day after the first meeting;

- (c) Public notices of the date, time and place fixed for the subsequent meeting, and of the purport of the resolution, shall be given twice during the period of 28 days immediately preceding the date of the subsequent meeting with an interval of not less than 14 days between the two notifications;
 - (d) In publicly notifying the resolution it shall be sufficient to set forth the object, purport, or general effect thereof if a copy of the resolution is deposited at the public office of the Board and is open to the inspection of the public for at least 21 days immediately preceding the day appointed for holding the subsequent meeting.
- (2) A special order may be revoked or altered by a subsequent special order.
 - (3) Nothing in subsection (2) of this section shall affect anything lawfully done pursuant to a special order which is subsequently altered or revoked.
 - (4) A document purporting to be copy of any special order, sealed with the common seal of the Board, shall be received as evidence for all purposes of the special order, of which such document purports to be a copy, having been duly made in accordance with this Act, unless the contrary is proved.
 - (5) A special order shall not be quashed by any proceedings in any Court or otherwise, unless such proceedings are commenced within 6 months from the making of the special order.

Compare: 1921, No. 17, s. 31; 1958, No. 26, s. 3

Regulation of Procedure

38 Bylaws in respect of procedure

Subject to the provisions of this Act, the Board may make bylaws or pass resolutions—

- (a) Regulating the proceedings of the Board and the conduct of its meetings:
- (b) Regulating the adjournment of meetings of the Board:
- (c) Directing notices of meetings to be given, and prescribing the form, mode, and time of their service:
- (d) Regulating debates:
- (e) Providing for the custody of documents and the custody and use of the common seal including the mode and form of attestation:

Provided that no bylaw or resolution made or passed under this paragraph shall affect any person acting in good faith, and taking or about to take any estate, interest, or advantage under any document having or about to have the common seal affixed thereto:
- (f) Prescribing the duties of its officers and servants:
- (g) Prescribing forms of, and in connection with, any proceedings of the Board:

- (h) Incidental to any of the matters contained in paragraphs (a) to (g) of this section.

Compare: 1921, No. 17, s. 32

Public Office

39 Offices of Board

The Board may from time to time provide public offices within the District with suitable furniture for the same for holding its meetings and transacting its business and for the use of its officers, and for any other purposes; and may purchase or take on lease land or buildings for such purposes, or may cause buildings to be erected on any land belonging to or leased to the Board, or any such building to be added to or improved.

Compare: 1921, No. 17, s. 33

Part VI Officers

40 Appointment of officers of Board

- (1) The Board may, by resolution from time to time, appoint fit persons to be Manager, Secretary, Chief Accountant, Engineer and all such other officers and servants as it thinks necessary to assist in the proper administration of this Act; and may pay such persons such salaries and allowances, including allowances and travelling expenses, in respect of their attendance at any conference or meeting out of the funds of the Board as it thinks fit.
- (2) One person may hold two or more offices.
- (3) The Board may, pursuant to a resolution in that behalf, from time to time pay to any of its officers such allowances and expenses as it thinks fit in respect of their attendance at any course of study or training which, in the opinion of the Board, will render them better suited to carry out their duties as officers of the Board.

Compare: 1921, No. 17, s. 34

41 Acting Officers

During the absence from duty of any officer of the Board by reason of illness, leave of absence, or other cause, the duties and powers of such officer may be performed and exercised by an acting officer appointed by the Board; and any such appointment may be either general or for a particular occasion.

Compare: 1921, No. 17, s. 35

Part VII

Finance

42 Borrowing powers of Board

The Board may from time to time borrow such sums as are necessary for the undertaking authorised pursuant to this Act.

Compare: 1921, No. 17, s. 36

43 Payment of interest out of loan moneys

- (1) The Board may, out of any loan or other capital money, pay the interest or interest and sinking fund of any loan for the first year or, with the consent of the Minister, for any longer period not exceeding in any case the period of construction of any works for which the loan was raised or a period of 3 years, whichever is the less.
- (2) Nothing in the Local Authorities Loans Act 1956 or in any other Act shall be construed so as to restrict the power of the Board to pay interest out of loan money in accordance with the provisions of this section.

Compare: 1921, No. 17, s. 91

44 Unauthorised expenditure of Board

The Board may in every financial year, out of the Power Fund Account, expend for purposes not authorised by any Act or law for the time being in force any sum or sums not amounting in the whole to more than one per centum of the gross receipts of the Board for that year exclusive of loan moneys.

Compare: 1924, No. 10, s. 14

45 Estimated income and expenditure of Board

- (1) The Board shall, during the month of April in every year or as soon thereafter as may be, make an estimate—
 - (a) Of the amount of its expenditure during the financial year; and
 - (b) Of the amount of its income during the same year.
- (2) In this section the term “expenditure” includes any deficiency in the revenues of the Board during the preceding or any former financial year, but does not include capital expenditure; and the term “income” includes money in the hands of the Board at the commencement of the financial year, but does not include capital moneys borrowed under the authority of section 42 of this Act.

Compare: 1921, No. 17, s. 38

46 Board may levy rate for excess of expenditure

In any year in which the amount of the estimated expenditure exceeds the amount of the estimated income, the amount of the excess may be raised either wholly or in part by a uniform rate, which may be levied either on the annual capital or unimproved value of all rateable property within the district as the

Board may determine. If part only of such excess is raised as aforesaid, the balance may be raised by a separate rate or by separate rates on all rateable property within such portion or within such several portions of the district as may be defined for the purpose by special order.

Compare: 1921, No. 17, s. 39; 1924, No. 10, s. 5

47 Rates

The Board may make and levy rates by resolution.

Compare: 1921, No. 17, s. 40

48 Board may collect rates made by it

Any rate made and levied by the Board may be collected by the Board, and may be recovered by it by action in its own name, and the provisions of the Rating Act 1967 as to the collection and recovery of rates shall apply accordingly.

49 Mode of collection of rates

- (1) Before making and levying any rate the Board shall by resolution determine whether the rate, when made and levied, shall be collected by the Board or by the local authorities of the constituent districts on behalf of the Board.
- (2) Any resolution under this section may be in like manner rescinded at any time before the collection of the rate.

Compare: 1921, No. 17, s. 41

50 Collection of rates by Board

- (1) If the Board determines that any rate shall be collected by the Board itself, it shall cause a valuation roll and a ratebook to be provided, and, subject to the provisions of this Act, the provisions of the Rating Act 1967 and the Valuation of Land Act 1951 shall apply accordingly.
- (2) For the purposes of this section the several valuation rolls and rate-books in force in the constituent districts, taken together, or so much of those rolls and rate-books as relates to lands within the District, may be deemed to be the valuation roll and rate-book respectively of the District.
- (3) It shall be the duty of the principal officer of the local authority of each constituent district, whenever requested so to do by the Board, to supply to the Board a certified copy of the valuation roll and rate-book of the constituent district so far as it relates to lands within the District.
- (4) The cost of preparing such certified copy of the valuation roll and rate-book shall be paid by the Board.

Compare: 1921, No. 17, s. 42

51 Rates may be collected by local authority

- (1) If the Board determines that any rates shall be collected by the local authorities of the constituent districts on behalf of the Board, it may cause a copy of the resolution making and levying such rates to be forwarded by registered letter to the local authority of every constituent district within which such rate has been made and levied.
- (2) Every such local authority shall forthwith proceed to collect the rate in such manner as if the rate had been validly made and levied by the local authority.
- (3) Any rate collected pursuant to this section shall be held by each local authority as trustee for the Board, and shall be handed over to the Board as collected:

Provided that each local authority may deduct from the proceeds of any such rate an amount, not exceeding 5 percent thereof, in respect of the cost of collecting the rate and as remuneration for the services of its officers, and the amount so deducted shall be paid into the general fund of the local authority.

Compare: 1921, No. 17, s. 43

52 Liability of local authority for failing to collect rates

If the local authority of any constituent district, or any officer or servant of the local authority, fails to take the steps required by law to be taken for the collection or recovery of any rate pursuant to section 43 of this Act, the amount of that rate, or of any part uncollected or unrecovered owing to such failure, shall be deemed to be a debt owing by the local authority to the Board, and may be recovered by action by the Board from that local authority accordingly.

Compare: 1921, No. 17, s. 44

53 Valuer-General to supply statements for rateable values

The Valuer-General shall, at the request of the Board, and on payment of such fees as the Governor-General in Council may from time to time prescribe, supply to the Board a statement showing the total value of all the rateable property within each constituent district and such other particulars as the Board may require for the purpose of making and levying any rate.

Compare: 1921, No. 17, s. 45

54 Power to make separate rates within defined portion of District

- (1) The Board may from time to time and at any time during any financial year, in addition to any other rate made or levied under this Act, make and levy separate rates within any defined part or parts of the District.
- (2) The proceeds of any such rate or rates shall be deemed to be part of the income of the Board.
- (3) No rate made and levied under this section in any year shall in respect of any one property exceed \$60 or be less than \$1.

- (4) For the purposes of this section the expression “one property” means a continuous area of land occupied and used as one holding. An area of land shall be deemed to be continuous notwithstanding that it may be severed by public road or by railway or river if it is in fact occupied and used as one property.
- (5) Where one property is situated within different constituent districts, the rateable value of such property shall be the total rateable values of the separate parts thereof as appearing in the district valuation rolls of such constituent districts.
- (6) Unless a supply of electricity is available at the boundary of the property or at a point within 200 metres of such boundary from the Board’s mains, the Board shall not be entitled under this section to collect any rate in respect of that property, and every person liable to pay a rate under this section shall be entitled to receive free of charge for use on the property in respect of which the rate is levied a supply of electrical energy equivalent in value to the total amount of such rate at the scale of charges from time to time fixed by the Board.
- (7) In the event of electricity having been made available for any property at any time during the currency of the year for which a rate under this section is made, such property shall be liable only for a part of that rate proportionate to the unexpired portion of the year.
- (8) If with respect to any property liable to a separate rate under this section the Board is satisfied that the occupier (if any) or, if there is no occupier, the owner is unable to take advantage of the supply of electricity with reasonable benefit to himself or to the property, the Board may at any time remit such rate in whole or in part insofar as it affects such property, or may refund the whole or any part of such rate paid in respect of such property.

Compare: 1924, No. 10, s. 15

55 Board may establish special funds

- (1) The Board may appropriate in any year such moneys as it think fit, not appropriated for any special purpose, towards the creation of a special fund to provide for the following contingencies:
 - (a) Destruction of, or injury to, any of the property of the Board;
 - (b) Depreciation in the value of any property of the Board;
 - (c) Claims which may be made upon the Board by employees or other persons;
 - (d) The lack or insufficiency of any sinking fund of any loan, or the depreciation of any of the investments thereon;
 - (e) Any other losses or expenditure.
- (2) The Board may invest all moneys so appropriated and the interest accruing therefrom in such securities as it from time to time determines, or in the Board’s undertaking.

- (3) The Board may at any time, and from time to time, repay into the Power Fund Account the whole or any part of the moneys so appropriated or invested and the accumulations thereof, except in the case of moneys set apart for the contingencies mentioned in subsection (1)(b) of this section.

Compare: 1921, No. 17, s. 47; 1924, No. 10, s. 6

56 Power fund account

- (1) Subject to the provisions of section 56 of the Local Authorities Loans Act 1956, all money belonging to the Board shall be paid into such bank or banks as the Board from time to time appoints, to an account to be called the Power Fund Account.

- (2) All moneys shall be paid by the Board in cash, or by cheque or other instrument signed by the Chief Accountant or other officer of the Board whom the Board by resolution, from time to time appoints for the purpose of signing cheques and instruments, and countersigned in each case by any member whom the Board from time to time authorises to sign cheques and instruments:

Provided that it shall be lawful for any money to be paid by the Board by cheque or other instrument signed as aforesaid and countersigned by any officer of the Board whom the Board, by resolution, from time to time, appoints for that purpose.

- (3) Every payment of money by the Board shall be authorised by the prior resolution of the Board or shall be submitted to the Board for authorisation at its next ordinary meeting.
- (4) Notwithstanding the provisions of subsection (2) of this section, it shall be lawful for the Board to pay any money by cheque issued by means of a cheque-writing machine and every cheque issued by means of such a machine and bearing the facsimile of the signature of the Chief Accountant or of the Chief Accountant and such other person as the Board may by resolution authorise in that behalf shall be deemed to have been duly signed and countersigned in accordance with this section.

Compare: 1921, No. 17, s. 48; 1958, No. 26, s. 4; 1963, No. 41, s. 3

57 Board to keep proper accounts

- (1) The Board shall cause books to be provided and kept, and true and regular accounts to be entered therein in the form prescribed by regulations, of all sums received and paid by the Board, and of the several purposes for which such sums were received and paid.
- (2) Such books shall at all reasonable times be open for the inspection of any member of the Board and any debenture-holder or creditor of the Board.

Compare: 1921, No. 17, s. 49

58 Deposit of money at interest

The Board may in any case where it is deemed advisable that any sum of money at credit of any account (other than a separate account for a loan) should be placed on deposit at interest, deposit that sum of money with any bank approved by the Board or may deposit that sum with any local authority or public body entitled by law to receive money on deposit.

Compare: 1963, No. 41, s. 4

59 Balance sheets and audit

- (1) The Board shall, not later than the month of May in every financial year, cause its accounts for the preceding financial year to be balanced, and a true statement and account to be prepared in the form prescribed by regulations—
 - (a) Of all contracts entered into during the financial year;
 - (b) Of the income and expenditure of the Board for that year; and
 - (c) Of all assets and liabilities of the Board at the end of that year.
- (2) All such accounts shall be audited by the Audit Office which for that purpose shall have and may exercise such powers as it has under the Public Finance Act 1977 in respect of public moneys and public stores.
- (3) The Board shall furnish to any person a copy of any statement and account prepared by the Board under this section on payment of such fee, if any, as the Board thinks fit, not exceeding 5 cents for each folio of 72 words.

Compare: 1921, No. 17, s. 50; 1924, No. 10, s. 7; 1958, No. 26, s. 5

Part VIII**Construction and Purchase of Electric Works****60 Purchase, construction, and maintenance of electric works**

- (1) Subject to section 61 of this Act, the Board may purchase, construct, maintain and renew electric works, and may enter into any contract with any person for the purchase, construction, maintenance, or renewal of electric works or for any other purpose authorised by this Act or by any Order in Council made under this Act, or for providing the Board with materials, or for any other thing necessary for any purpose of this Act.
- (2) Subject to the provisions of this Act, any order in council under subsection (1) of this section may authorise the Board to construct a specified electric works or may be general in its application and authorise the Board to construct all electric works which may from time to time be required for the distribution and supply of electricity in any specified area without specifying the nature of any such works.

Compare: 1921, No. 17, s. 51; 1961, No. 31, s. 2

61 Purchase from Local Authority

- (1) The Board shall not purchase any electric works from any local authority except with the consent in writing of the Minister.
- (2) Any consent given under subsection (1) of this section shall be subject to the provisions of the Local Government Act 1974 and shall be subject to such conditions as may be imposed by the Minister.
- (3) Subject to the provisions of the Local Government Act 1974 and to all such conditions (if any) imposed by the Minister, but notwithstanding anything in any enactment under which the local authority is constituted or in any other enactment, upon consent being given by the Minister under this section to the purchase by the Board of any electric works owned by the local authority, the local authority shall thereupon have power to sell those electric works to the Board.

Compare: 1921, No. 17, s. 51(3)

62 Works constructed to be subject to the Electricity Act

The electric works constructed under this Act shall be subject to Part III of the Electricity Act 1968.

Compare: 1921, No. 17, s. 51(5)

63 Construction of works

- (1) All electric works constructed by the Board before the commencement of this Act shall be deemed to have been lawfully constructed under the authority of an Order in Council under section 60 of this Act and any such Order in Council which would have been valid if section 60 had been in force at the date of the Order in Council is hereby validated.
- (2) Nothing in this section shall be construed so as to relieve or to have relieved the Board from any obligation to comply with the requirements of any regulation or any requirements lawfully imposed under any regulation.

Compare: 1961, No. 31, s. 3

64 Powers of local authority

It shall be lawful and be deemed always to have been lawful for the local authority of any constituent district to do all or any of the following—

- (a) To enter into agreements with traders within its district for the supply and installation of community lighting systems;
- (b) To provide in any such agreement for the payment of the cost of such supply and installation to the local authority in one sum or by instalments extending over a number of years;
- (c) To provide in any such agreement for the payment to the local authority of the operating-costs of any such system, including the maintenance

and supply of electric current thereto, and to include such other terms and conditions as may be agreed upon;

- (d) To undertake to repay to the Board in one sum or by instalments extending over a number of years, the cost of supplying and installing community lighting systems within its district, and to undertake to pay to the Board all operating-costs of such systems, including the maintenance and supply of electric current thereto, and for this purpose to enter into such agreements and upon such terms and conditions as may be agreed upon between the Board and the local authority.

Compare: 1938, No. 4, s. 2

65 Board may make survey or inspection

- (1) Any surveyor, or engineer, or other officer appointed by the Board may from time to time enter upon any land within the District, whether before or after the giving of any consent of the Minister that may be required under section 61 of this Act, with such assistants as he thinks fit for the purpose of making any survey or inspection for the proposed works and undertakings of the Board; and may fix, or set up thereon, survey pegs, marks, or poles, and dig or bore into such land so as to ascertain the nature of the soil and set out the lines of any works thereon.
- (2) In all cases notice shall be given to the owner or occupier of the land to be entered upon before such entry is made, and the surveyor, engineer, or other officer shall, when required to do so produce to the owner or occupier of any land the written authority of the Secretary or Chairman of the Board to make the survey.
- (3) In any case where any damage is done by the surveyor, engineer, or other officer in the exercise of the powers hereby conferred upon him, the Board shall be liable to make good the same; and the amount thereof shall be ascertained in the mode hereinafter provided as to the assessment of compensation for land taken or affected by the electric works.

Compare: 1921, No. 17, s. 56

66 Board may hold and occupy land and exercise incidental powers

- (1) Subject to the provisions of this Act, the Board may exercise all or any of the powers conferred by this Act for the purchase or construction of any electric works, and may enter upon or cause to be entered upon all lands which it is authorised to use or acquire under this Act for the purpose of making such surveys as may be necessary and may take and hold all the lands required for the electric works, and may from time to time temporarily occupy and use such lands as may be necessary on either side of the electric works during the construction thereof or for the purposes of maintenance.
- (2) The Board shall be a local authority for all the purposes of the Public Works Act 1928, and the electric works constructed, purchased, or taken over, and all

works which the Board is authorised by this Act to undertake, shall be deemed to be public works within the meaning of that Act.

Compare: 1921, No. 17, s. 57

67 General powers of Board with respect to electric works

In respect of any electric works authorised to be constructed or acquired under this Act the Board may do any or all of the following:

- (a) Erect generating-works, transmission-lines, transformer-stations, and all other works authorised by this Act on, over, or under any land necessary for the construction thereof, and for this purpose may construct works of every description and of every material necessary to the working thereof;
- (b) Secure the rights of and utilize any water intended or required to be used for the generation of electric power;
- (c) Purchase, either for cash or on such terms as it may deem fit, or lease on such terms as may be expedient, such coal or other fuel-bearing lands as may be necessary for the proper working of the undertaking; and may do all things necessary by mining, quarrying, or otherwise to raise any fuel required for generating the electric power;
- (d) Purchase electric energy in bulk from the Minister, or from any local authority, company, or person authorised to sell the same;
- (e) Erect transformer-stations in such places as may be found necessary for the distribution of the electric energy generated or purchased by the Board;
- (f) Erect a transmission-line or transmission-lines along, on, over or under, any road or tramway or public reserve, and may alter the level of any road or tramway for such purpose;
- (g) Erect a transmission-line or transmission-lines across any river or stream, but so as not to impede the navigation on any navigable river, except as may be provided by any enactment;
- (h) Alter the course or level of any river not navigable or of any stream, water-course, ditch, or drain;
- (i) Make and maintain drains or conduits on or under any land adjacent to, for the purpose of carrying water off, the works and undertakings of the Board;
- (j) Remove or alter any drain or sewer or any pipes or other material for the supply of water or gas belonging to any body or person within or beyond the limits of the operation of the Board;
- (k) Erect works and install all needful machinery and plant for the utilisation and proper treatment of the by-products of coal or other fuel used in the generation of electric power, and employ chemists or other specialists, either permanently or temporarily, for research and advice thereon;

- (l) Sell or otherwise dispose of tar, gas, coke, or other by-products of coal or other fuel (if any) used in the generation of electric power or otherwise;
- (m) Provide all such buildings, engines, stations, machinery, piers, wharves, roads, bridges, approaches, and other works in connection with the undertaking of the Board as may be thought necessary;
- (n) Enter into contracts with local authorities, persons, public and private companies, and others for the supply to them of electric power in bulk, and such local authorities, public and private companies, and others may distribute such power to consumers either as agents of the Board or on their own behalf on such terms and conditions as may be agreed upon;
- (o) Sell electric energy to any local authority or to consumers generally within the district, in bulk or otherwise, at such prices and on such terms and conditions as it deems fit;
- (p) Construct all roads, bridges, tramways, or other means of access and transit necessary for the construction and maintenance of the electric works; and
- (q) Generally do all acts necessary for constructing, maintaining, altering, repairing, and using the works and all the other undertakings of the Board.

Compare: 1921, No. 17, s. 58; 1924, No. 10, s. 8

68 Powers of the Board with respect to planting trees and with respect to private land

In addition to the general powers conferred on it by section 67 of this Act the Board may:

- (a) Undertake the planting of trees for the purpose of providing a supply of timber for the requirements of the Board;
- (b) Construct tunnels under any private land or aqueducts or flumes over the same, and may erect poles thereon, and carry wires over or along any such land without being bound to acquire the same, with right-of-way by the best available route to and along all such works and erections for the Boards servants, workmen, and agents from time to time and at all times, with or without any suitable or available means of conveyance, and with all such tools, machinery, particles, and materials as may be necessary for the construction of such works, or for the maintenance or repairing of the same, or for the doing of anything hereby authorised; and may also deposit in store from time to time upon any lands adjoining such

works all such machinery and material of any kind as may be used in the construction or repairing of such works.

Provided that nothing in this Act shall abrogate the right of the owner or occupier to have all the rights to compensation given by section 76 of this Act.

Compare: 1924, No. 10, s. 9

69 Powers of Board outside District

Nothing in this Act shall prevent the Board from acquiring land outside the District and erecting buildings and generating-plant thereon, or from applying for or obtaining licences for the erection and maintenance of electric lines or other electric works, or for the use of water for generating electricity outside the District, or from supplying electric energy to consumers (whether local authorities or otherwise) outside the District if it shall think fit so to do.

Compare: 1921, No. 17, s. 59

70 Alteration of roads, etc., by Board

- (1) Where it is found necessary for the construction of electric works to alter any road, tramway, watercourse, sewer, or drain or any other public work, or any water-pipe or gas-pipe for the supply of water or gas belonging to a local authority or private person or a company, such alterations shall be made in such manner as to interfere as little as possible with the works so altered, and so as to afford to the public and to every person entitled to use the same an equal use and convenience as before such alteration.
- (2) Before commencing any such alteration the Board shall cause a plan thereof to be prepared and to be submitted to the local authority having control of the work to be altered, or to the owner of such sewer, drain, water-pipe, or gas-pipe, or other work, as the case may be; and, if such local authority or owner objects to the proposed alteration, the Board shall appoint a competent engineer to confer with such local authority or owner and to agree with it or him as to the manner in which such alteration shall be made.
- (3) In the event that the parties fail to agree the matter shall be submitted to a Magistrate who shall make an order as to the manner in which the alteration shall be made and the alteration shall be made accordingly.

Compare: 1921, No. 17, s. 60

71 Temporary occupation and use of land for construction purposes

- (1) The Board may temporarily occupy and use any lands for the purpose of construction or repairing the electric works.
- (2) For the purposes of subsection (1) of this section, the Board may do any or all of the following:
 - (a) Take therefrom stone, gravel, earth, and other materials;

- (b) Deposit thereon any such material;
- (c) Form and use temporary roads thereon;
- (d) Manufacture bricks or other materials thereon;
- (e) Erect workshops, sheds, and other buildings of a temporary nature thereon.

Compare: 1921, No. 17, s. 61

72 Notice to be given to occupier of intention to occupy lands

- (1) The engineer or other person having charge of the electric works shall, before occupying or using any land pursuant to any authority, and except in the case of accident to the electric works requiring immediate repair, give to the owner or occupier thereof not less than 21 days' notice in writing, and shall state in such notice the use proposed to be made of such land.
- (2) The said owner or occupier may, within 10 days after receiving such notice, and after giving notice to the said engineer or other person of his intention so to do, apply to any Justice, who may thereupon summon such engineer or other person to appear before a Magistrate at a time and place to be named in the summons.
- (3) If it appears to the Magistrate that the use proposed to be made of the said land is unreasonable and unnecessary, or that other neighbouring lands are more fitting to be used for the purpose proposed, the Magistrate may, by writing under his hand, order that the land in question shall not be occupied or used in the manner proposed.
- (4) If it appears to the Magistrate that the use proposed to be made of the said land is reasonable and necessary, he may in like manner order that the said land may be occupied and used, or material taken therefrom, in such manner and to such extent and subject to such limitations and restrictions as he thinks fit; and all persons concerned shall be bound by any such order.

Compare: 1921, No. 17, s. 62

73 Board may be required to take land occupied

The owner of any land temporarily occupied pursuant to section 71 of this Act may at any time during such occupation by notice in writing to the Board require the Board to take the land.

Compare: 1921, No. 17, s. 63

74 Crown may authorise inspection of works and require alterations or additions

During the construction of the electric works and the execution of the works connected therewith, and after their completion, the Crown shall be at liberty to direct any engineer or other person to inspect the works, transmission-lines, and other works of the Board, and upon or after such inspection may require

that such additions, alterations, or repairs shall be made by the Board as, in the opinion of the Crown, are necessary or desirable for the utility and safety of the undertaking and the public. All such additions, alterations, or repairs shall be made in a manner to be approved by an officer appointed for the purpose by the Minister.

Compare: 1921, No. 17, s. 64

75 Disposal of lands, etc., taken but not required

- (1) If any land taken under this Act or otherwise acquired by the Board or any building erected on any such land are not required for the purposes of the Board, the Board may:
 - (a) Sell the land or buildings or any portion thereof either separately or together by public auction or public tender or, with the consent of the Minister and subject to such conditions as he may impose, by private treaty;
 - (b) With the consent of the Minister, exchange the land or buildings or any part thereof for other land or buildings required for the purposes of the Board;
 - (c) Let or lease the land or buildings or any portion thereof either separately or together upon such terms as the Board thinks fit for any period not exceeding 21 years or, with the consent of the Minister and subject to such conditions as he may impose, for a period exceeding 21 years.
- (2) Nothing in this section shall limit or affect the provisions of section 108 of this Act.

Compare: 1921, No. 17, s. 65; 1963, No. 47, s. 5

76 Compensation for lands taken or injuriously affected

Every person having any estate or interest in any land taken under the authority of this Act, or injuriously affected thereby, or suffering any damage from the exercise of any of the powers hereby given, shall be entitled to full compensation for the same from the Board. Such compensation may be claimed, and shall be determined, in the manner provided by the Public Works Act 1928.

Compare: 1921, No. 17, s. 66

Part IX Power of Purchase by Crown

77 Crown may acquire works

The Crown shall be entitled at any time after the date on which the electric works have been completed or acquired, upon giving 12 months' notice in writing to the Board, to purchase the electric works at a price to be determined by arbitration, the award being that of 3 arbitrators or any 2 of them, 1 arbitra-

tor being appointed by the Crown, another by the Board, and a third arbitrator by the 2 other arbitrators.

Compare: 1921, No. 17, s. 67

78 On payment of compensation, Board to convey works, etc., to Crown

- (1) On payment of the compensation determined in accordance with section 77 of this Act, the Board shall convey, assign, and transfer to Her Majesty the whole of the electric works and everything appurtenant thereto, free from all encumbrances.
- (2) The Crown shall take over the liability of the Board in respect of any contracts then subsisting relating to or dependent upon the electric works.

Compare: 1921, No. 17, s. 68

79 No compensation payable for goodwill

- (1) No compensation shall be paid for the goodwill of the electric works, but the arbitrators, in determining the price to be paid to the Board shall take as a basis of the valuation the cost of other similar electric works at the time when the works forming the subject of the arbitration were constructed or acquired, as the case may be.
- (2) The arbitrators shall also take into consideration the depreciation in the electric works, including any onerous or burdensome provisions regarding the use of the electric works, or any easements, rights, or privileges in connection therewith.

Compare: 1921, No. 17, s. 69

80 Additional compensation to be paid in certain cases

- (1) If such power of purchase is exercised by the Crown as aforesaid between the periods hereinafter respectively mentioned after the electric works have been completed or acquired, there shall be added to the amount of compensation, to be ascertained as before provided, the percentage hereinafter mentioned, that is to say,—

10 years and not exceeding 14 years, 5 percent:

14 years and not exceeding 21 years, 10 percent.

- (2) The amount of such percentage, as the case may require, shall be ascertained by the arbitrators, and shall be deemed to be and shall be paid as part of the compensation.

Compare: 1921, No. 17, s. 70

81 Compensation to be in full satisfaction of Board's claims

- (1) The compensation determined under this Part of this Act shall be accepted by the Board in full satisfaction of all claims and demands in respect of the purchase of the electric works, and all rights, powers, and privileges of the

Board in respect thereof, and shall be paid out of moneys appropriated for that purpose by Parliament.

- (2) Until Parliament has appropriated money for such purpose, no agreement made by the Crown to purchase any electric works constructed or purchased under this Act shall be binding on the Crown.

Compare: 1921, No. 17, s. 71

82 Control of works acquired by Crown

All electric works purchased by the Crown under this Act shall be and become subject to all laws, bylaws, and regulations in force at the time of such purchase in respect of any similar Crown undertaking.

Compare: 1921, No. 17, s. 72

83 Debenture-holders not required to accept repayment in advance

Nothing in this Act shall be deemed to authorise the Crown on purchasing any electrical works under the authority of this Act to require any person holding a debenture to receive payment of the principal moneys secured thereby unless and until the time prescribed therein for repayment has arrived.

Compare: 1921, No. 17, s. 73

84 Receiver to give notice to Crown of intention to sell Board's property

No receiver shall sell or make application to a Judge for an order to sell any portion of the Board's property charged by any debenture unless and until he has first given notice in writing to the Crown of his intention to sell or to apply for such an order and unless the Crown, within 3 months following receipt of such notice, either fails to give to the receiver notice of its intention to purchase, or gives to such receiver notice in writing that it is its intention not to purchase.

Compare: 1921, No. 17, s. 74

85 Provisions to apply where Crown purchases works charged with moneys borrowed by Board

- (1) If the Crown exercises the power of purchase conferred by this Act, and the electric works or any part thereof purchased is then charged with any moneys borrowed by the Board, and the moneys charged are less than the price determined by arbitration, the moneys to be paid to the Board shall be the difference between the moneys charged and the price so to be determined.
- (2) If the moneys charged are more than the price so determined, the Board shall pay to the Crown the difference between the price so determined and the money charged.
- (3) If the money charged, or any part thereof, bears interest at a higher rate than 5½ percent per annum, the arbitrators, when determining the price to be paid for the purchase, shall ascertain what (if any) is a proper sum to be allowed

to the Crown as a rebate in respect of any interest on the amount charged in excess of 5½ percent per annum; and the amount so ascertained (if any) shall be added to the principal money so charged, and as between the Crown and the Board shall be deemed an amount charged upon the electric works.

- (4) If after having paid or liquidated all moneys borrowed and other debts or charges which may have been owing against and in connection with the electric works purchased and taken over by the Crown, the Board has a sum of money or securities for money remaining in hand, it shall hand over such remaining money or securities to the local authorities of the constituent districts in proportion to the rateable value of all rateable property within each constituent district.

Compare: 1921, No. 17, s. 75

Part X

Bylaws

86 Bylaws of Board

Subject to the provisions of this Act, the Board may from time to time make bylaws in respect of any electric works for any or all of the following purposes:

- (a) Regulating the use and management of any electrical works so as to secure the safety of persons from injury by reason of such use;
- (b) Protecting electric works or other property belonging to the Board from damage or injury;
- (c) The more effectual carrying-out any of the objects of this Act.

Compare: 1921, No. 17, s. 76

87 Method of making bylaws

- (1) Bylaws made under section 86 of this Act shall be made in the manner, and subject to, the following conditions:

- (a) They shall be made by special order:

Provided that in publicly notifying the resolution making such order it shall not be necessary to set forth the whole of the proposed bylaw if the object or purport of the same is stated, and if a copy of the proposed bylaw is deposited at the office of the Board and is open to the inspection of the public during normal office hours for at least 7 days immediately preceding the meeting at which the said resolution is to be confirmed:

- (b) They may be amended before the confirmation of the resolution making the same;
- (c) They shall have the common seal of the Board affixed thereto;

- (d) They shall come into force on a day to be fixed at the meeting held for the confirmation of the resolution, which day shall not be earlier than 7 clear days after the date of that meeting.
- (2) A copy of any bylaws sealed with the common seal of the Board shall be received as evidence of the same having been duly made as provided by this Act unless the contrary is proved.
- (3) The Board shall cause printed copies of all bylaws to be kept at the office of the Board and to be sold at a reasonable charge.
- (4) Where any bylaw of a local authority relating to any matter provided for in this Act is inconsistent with any bylaw made by the Board, the bylaw of the local authority, to the extent of that inconsistency, shall be of no effect.

Compare: 1921, No. 17, s. 77

88 Penalties for breach of bylaws

- (1) Every person who commits a breach of any bylaw made under this Act is liable to a fine of \$100; and where the breach is a continuing one, to a further fine of \$10 for every day or part of a day during which such breach continues.
- (2) The Board may, after conviction for a continuing breach of any bylaw, apply to the Supreme Court for an injunction to restrain further continuance of such breach by the person so convicted.
- (3) For the purposes of this section, the continued existence in a state contrary to any bylaws of any work or thing shall be deemed a continuing offence.

Compare: 1921, No. 17, s. 78

Part XI Miscellaneous Provisions

89 Judge or Magistrate being a ratepayer not thereby interested in proceedings

No Judge, Magistrate, or Justice shall be deemed to be interested in any case in which he is acting judicially by reason only of the fact that he is a ratepayer.

Compare: 1921, No. 17, s. 80

90 Service on Board

Any summons, writ, or other legal proceedings requiring to be served on the Board may be served by being left at the office of the Board or by being given personally to the Secretary.

Compare: 1921, No. 17, s. 81

91 Authentication of documents

Every order, notice, or other document requiring authentication by the Board may, unless otherwise provided, be signed by any two members of the Board or

by an officer of the Board authorised by the Board in that behalf, and need not be under seal.

Compare: 1963, No. 41, s. 6

92 Crown may assume possession and control of works if inexcusable delay

- (1) In the event of any unreasonable or inexcusable delay by the Board in the prosecution of the electric works authorised by this Act, or if, after the completion of the said electric works in whole or in part so that the whole or any complete part or section of such electric works may be used for the purposes of supplying electric power, the Board fails for the space of 21 clear days, without reasonable excuse, to supply such power, the Crown may take possession and assume the management of the electric works, and, if it thinks fit, complete the same and supply the electric power, charging the Board with all outlay and expenditure which may be incurred, and crediting the Board with all earnings and receipts.
- (2) In any such case there shall be paid by the Board to the Crown, and by the Crown to the Board, the balance from time to time found to be due from the one to the other of them, the accounts being computed and rendered at intervals of not less than 6 months; or the Crown may restore the possession of the electric works to the Board, or waive any breach in any contract as aforesaid, on such terms and conditions as it thinks fit.

Compare: 1921, No. 17, s. 82

93 Appeal to Supreme Court from exercise of powers of Crown

- (1) If the Crown exercises the powers vested in it by section 92 of this Act, the Board may apply to the Supreme Court as hereinafter provided.
- (2) Every such application shall be heard and determined by a Judge of the Supreme Court in a summary way; and such application shall be limited to the question whether there has been such unreasonable or inexcusable delay, or such failure to supply power as aforesaid, as to justify the exercise of such powers by the Crown or any of them.
- (3) The Judge shall, in such manner as he thinks fit, hear and receive evidence, either oral or by affidavit, as to the matters upon which his decision is sought; and any order made by the Judge shall set forth whether in his opinion the power conferred by the last preceding section was rightly exercised; and every such order shall be final and conclusive on the Crown and the Board.
- (4) In all other respects the procedure and practice in force for the time being in the Supreme Court shall apply to all proceedings authorised by this provision.

Compare: 1921, No. 17, s. 83

94 Crown may retain works so taken permanently

If the Board, for the space of 1 year after the Crown has taken possession as aforesaid, fails to repay all sums of public money which have been expended

in or towards completing the electric works and the equipment thereof, and all sums of public money which have been expended on the repair or management of the electric works or in connection therewith in excess of the receipts therefrom, it shall be lawful for the Crown, at any time after the expiration of that year, to give 3 months' notice to the Board that it intends to retain permanently the electric works as Government property.

Compare: 1921, No. 17, s. 84

95 Works to be vested in Her Majesty

On the publication of an Order in Council at any time after the expiration of the said 3 months to the effect that possession has been taken as aforesaid and will be permanently retained by the Government, the said electric works, and all plant, equipment, and appurtenances belonging thereto, shall, unless a satisfactory arrangement is in the meantime made between the Government and the Board, become and be absolutely vested in Her Majesty without any conveyance or transfer whatsoever.

Compare: 1921, No. 17, s. 85

96 Amalgamation of works with other Boards

Subject to the approval of the Governor-General in Council, the Board and the board of any other contiguous electric-power district may link up their respective transmission lines for greater security against interruption in the supply, or may amalgamate their undertakings, or make such other arrangements as those boards may deem expedient.

Compare: 1921, No. 17, s. 86

97 Board may install motors, etc., in buildings

The Board may install motors, electric wires, electric lamps, and other fittings and equipment in public or private buildings, works, dwellings, and other places, and charge rent for the use thereof, or may accept payment therefor by instalments.

Compare: 1921, No. 17, s. 88

98 Cost of installation recoverable as a rate

Where, in exercise of the powers conferred on it by section 97 of this Act, the Board has installed any motor, electric wires, electric lamps, or other fittings or equipment on any land, or in any building thereon, the cost of any such motor, electric wires, electric lamps, and other fittings and equipment and of the installation thereof together with interest at the rate of 6 percent per annum on the total sum until payment thereof or any rent payable for the use of any such fittings or equipment, shall be a charge on such land, and may be recovered as rates are recovered under the Rating Act 1967 and the provisions of that Act as to the recovery of rates shall apply accordingly.

Compare: 1921, No. 17, s. 89; 1926, No. 7, s. 2

99 Board may purchase and sell electric light fittings and equipment

The Board may purchase motors, fittings, machinery, and all other equipment for the use of electric energy as applied to industrial, domestic, and other purposes; and may sell for either cash or on terms, or lease, with or without purchasing clauses, such motors, fittings, machinery, and equipment to users of electrical power; and generally may do all things which in the judgment of the Board may promote the safe, efficient, and economical use of electric energy within the District.

Compare: 1921, No. 17, s. 90

100 Penalties for causing damage to electric works

Every person who damages electric works, appliances, or conveniences erected, constructed, or used under this Act shall be liable for the amount of such damage, to be recovered by any person authorised in that behalf by the Board, in any Court of competent jurisdiction, and, if such damage is done wilfully, shall be liable in addition to a fine not exceeding \$1,000.

Compare: 1921, No. 17, s. 92

101 Penalties for obstructing officers and workmen of Board

Every person who wilfully obstructs any engineer, surveyor, overseer, workman, or other person in the performance of any duty, or in doing any work which he has lawful authority to do under or by virtue of the provisions of this Act, is liable to a fine not exceeding \$100.

Compare: 1921, No. 17, s. 93

102 Recovery of fines

All fines recoverable under the provisions of this Act, or any bylaws or regulations made thereunder, may be recovered in a summary way, and when recovered shall be the property of the Board.

Compare: 1921, No. 17, s. 94

103 Regulations

- (1) The Governor-General may from time to time by Order in Council, make regulations for effectually carrying out any of the provisions of this Act in respect whereof the Board is not by this Act empowered to make by-laws or regulations, and also providing for and regulating any matter in respect whereof any power, authority, or discretion is by this Act conferred on the Governor-General.
- (2) The Governor-General may, by any such regulations, prescribe fines for the breach of any of those regulations not exceeding \$200.

Compare: 1921, No. 17, s. 96; 1924, No. 10, s. 17

104 Protection of Board against claims by consumers

No person who is a consumer of electric energy supplied by the Board or by a local authority, as the case may be, shall have any claim against the Board or such local authority in the event of any failure of the supply of any such energy through accident, strike or labour disturbance, drought, or other unavoidable cause.

Compare: 1921, No. 17, s. 97

105 Board may establish or assist industries dependent on electrical energy

With the consent of the Governor-General in Council the Board may, within the District, establish or assist in the establishment of electro-chemical, electro-metallurgical, or other industries which may be dependent upon or more effectively prosecuted by the use of electric energy, and may do all things which it deems necessary to encourage such industries within the District.

Compare: 1921, No. 17, s. 98

106 Governor-General may extend time and supply deficiencies

It shall be lawful for the Governor-General to extend the time allowed or fix a later date for the doing of any act, matter or thing herein provided for, notwithstanding that the time may have elapsed or the day passed within or on which the same ought to have been done, and to adopt, or cause to be adopted, such measures as may be necessary to remove any obstacle of a technical or formal nature by which the carrying-out of the provisions of this Act may be impeded, and to supply any deficiency which may require to be supplied in order to enable the said provisions to be carried out.

Compare: 1921, No. 17, s. 99

107 Board may cause trees or other growth to be removed

If any tree growing on any land causes or is likely to cause damage to an electric line to which this Act relates, the Board may give notice to the owner or occupier of that land to remove the said tree or other growth or any part thereof, and if the owner or occupier fails to comply with the terms of such notice within the time specified therein (being not less than 7 days) the Board, or its agent, may enter upon that land and remove the tree or other growth or any part thereof, but so that no unnecessary damage is done or incurred thereby.

Compare: 1921, No. 17, s. 100

108 Board may provide dwellings for its employees

- (1) With the consent in writing of the Minister and subject to such conditions as he may impose, the Board may—
 - (a) Acquire land, and may erect dwellings thereon for disposal under this section;

- (b) Erect dwellings for disposal under this section on any land being the property of the Board and not held in trust for any special purpose.
- (c) Purchase any land with dwellings thereon for disposal under this section.
- (2) All land and the dwellings thereon disposed of under this section shall be disposed of by way of sale or lease to any workers or other persons employed in the service of the Board.
- (3) In the event of any dwelling acquired or erected by the Board for the purposes of this section being no longer required for those purposes the Board may sell, let, demise, exchange, or otherwise dispose of the same in such manner and on such terms as the Board, with the approval of the Minister, thinks fit.

Compare: 1924, No. 10, s. 11

109 Authorising Board to make advances to employees for housing purposes

- (1) The Board may from time to time advance money to any employee of the Board for the purpose of enabling the employee to—
 - (a) Purchase land and erect a dwelling thereon;
 - (b) Erect a dwelling on land owned by the employee;
 - (c) Purchase an existing dwelling; or
 - (d) Add to or repair an existing dwelling owned and occupied by the employee.
- (2) Any advance under this section shall be made only in respect of a dwelling occupied or intended to be occupied by the employee, and any such advance may be made to the employee alone or, where the property in respect of which the advance is made is owned or is intended to be purchased by the employee and his or her spouse jointly, to the employee and that spouse.
- (3) For the purpose of providing funds for making advances under this section the Board may from time to time borrow money by way of special loan under the Local Authorities Loans Act 1956.
- (4) Any advances by the Board under this section may be made out of loan money borrowed under subsection (3) of this section or out of money in the Power Fund Account of the Board.
- (5) The following provisions shall apply in respect of advances made by the Board under this section:
 - (a) All money advanced shall be secured by way of mortgage on the land in respect of which the advance is made:
 - (b) Where the advance is made out of loan money borrowed by the Board under subsection (3) of this section the rate of interest payable in respect of the advance shall not be less than the rate payable by the Board in respect of the loan money:

- (c) Where the advance is made out of money in the Power Fund Account the rate of interest payable in respect of the advance shall not be less than the rate for the time being ruling, pursuant to Part I of the Local Authorities Loans Act 1956, in respect of loans to Electric Power Boards:
- (d) The amount of the advance together with the amount secured by any mortgage having priority over the mortgage in favour of the Board shall not exceed nine-tenths of the value of the property to be mortgaged as valued by a public valuer registered under the Valuers Act 1948, and shall not in any case exceed such sum as may be determined by the Minister of Finance from time to time to be the maximum amount that may be advanced by the Board under this section:
- (e) Any money advanced and interest payable thereon shall be repaid by equal periodical instalments of principal and interest:
- (f) Every mortgage to secure an advance shall contain a covenant by the mortgagor that all money for the time being owing under the mortgage shall become due and payable—
 - (i) If the mortgagor dies, or resigns, or is dismissed, or for any other reason ceases to be an employee of the Board unless within 3 months after the mortgagor ceases to be an employee as aforesaid the property mortgaged is sold to another employee of the Board approved by the Board in that behalf, or
 - (ii) If the mortgagor sells, leases, or otherwise parts with the possession of the property mortgaged otherwise than in accordance with an agreement with the Board.
- (6) Collateral security may be taken by the Board in respect of any mortgage to secure and advance under this section; and in particular collateral security may be taken over any policy of life assurance, whether the policy be on the life of the mortgagor or on the life of any other person.

110 Board may guarantee advances to employees for housing purposes

- (1) The Board may, in addition to or in substitution for the making of any advance pursuant to section 109 of this Act, give a guarantee to any person as security for the liability of any employee of the Board under any mortgage whereby an advance of money is made for the purpose of enabling the employee to—
 - (a) Purchase land and erect a dwelling thereon;
 - (b) Erect a dwelling on land owned by the employee;
 - (c) Purchase an existing dwelling; or
 - (d) Add to or repair an existing dwelling owned and occupied by the employee.

- (2) Every guarantee under this section shall be given in respect of a mortgage of a dwelling occupied or intended to be occupied by the employee, and may be given in respect of the liability of the employee alone, or, if the mortgage in respect of which the guarantee is given is of property owned or intended to be purchased by the employee and his or her spouse jointly, in respect of the joint liability of the employee and that spouse.
- (3) Every guarantee given by the Board under this section shall, if called up, be paid out of money in the Power Fund Account of the Board.
- (4) No guarantee shall be given in respect of any mortgage by which an advance, together with any other money secured by any mortgage having priority over the mortgage in respect of which the guarantee is given, exceeds nine-tenths of the value of property to be mortgaged as valued by a public valuer registered under the Valuers Act 1948, and shall not in any case exceed such sum as may be determined by the Minister of Finance from time to time to be the maximum amount that may be guaranteed by the Board under this section.
- (5) Every guarantee under this section shall be given as security for the liability of the employee, or the employee and his or her spouse, under a mortgage on the land in respect of which the advance of money is made.
- (6) Every mortgage in respect of which a guarantee is given by the Board shall contain a covenant by the Mortgagor that all money for the time being owing under the mortgage shall become due and payable—
 - (a) If the mortgagor dies, or resigns, or is dismissed, or for any other reason ceases to be an employee of the Board unless within 3 months after the mortgagor ceases to be an employee the property is sold to another employee of the Board approved by the Board in that behalf; or
 - (b) If the mortgagor sells, leases, or otherwise parts with the possession of the property mortgaged otherwise than in accordance with an agreement with the Board.
- (7) Subject to the provisions of this section, any guarantee may be given by the Board on and subject to such terms and conditions as the Board in its discretion considers necessary or desirable in the circumstances.
- (8) Security may be taken by the Board in respect of any guarantee under this section; and in particular, security may be taken over any policy of life insurance, whether the policy be on the life of the mortgagor or on the life of any other person.

111 Repeals

The enactments specified in the Second Schedule to this Act are hereby repealed, and with respect to those enactments the following provisions shall apply:

- (a) The District and Board subsisting under those enactments shall, on the coming into operation of this Act, be deemed to be constituted under this Act as the same District and Board under this Act:
- (b) The members and chairman of the Board in office on the coming into operation of this Act shall, subject to the provisions of this Act, continue in office until the election or appointment of their successors in accordance with this Act.

SCHEDULES**FIRST SCHEDULE
Constituent Districts**

Section 3

Auckland.

Manukau.

Papakura (excepting that part described in *Gazette*, 1965, page 2076).

Papatoetoe.

Ellerslie.

Howick.

Mount Albert.

Mount Eden.

Mount Roskill.

Mount Wellington.

Newmarket.

Onehunga.

One Tree Hill.

Otahuhu.

That part of the County of Waiheke comprising the Island of Waiheke.

SECOND SCHEDULE
Enactments Repealed

Section 111

- 1921, No. 17—The Auckland Electric Power Board Act 1921–22.
- 1921, No. 71—The Electric Power Boards Amendment Act 1921: section 6.
- 1924, No. 10—The Auckland Electric Power Board Amendment Act 1924.
- 1926, No. 7—The Auckland Electric Power Board Amendment Act 1926.
- 1930, No. 40—The Finance Act 1930 (No. 2): section 50.
- 1937, No. 11—The Auckland Electric Power Board Amendment Act 1937.
- 1938, No. 4—The Auckland Electric Power Board Amendment Act 1938.
- 1946, No. 27—The Local Elections and Polls Amendment Act 1946: So much of the First and Second Schedules as relate to the Auckland Electric Power Board Amendment Act 1937.
- 1958, No. 26—The Auckland Electric Power Board Amendment Act 1958.
- 1961, No. 31—The Auckland Electric Power Board Amendment Act 1961.
- 1963, No. 41—The Auckland Electric Power Board Amendment Act 1963.
- 1969, No. 67—The Auckland Electric Power Board Amendment Act 1969.
- 1975, No. 61—The Auckland Electric Power Board Amendment Act 1975.