

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 181.

Electricity Commission (Productive Use of Land).

GENERAL ANNOTATION.

ADMINISTRATION.

As at 13 February 1976 (the date of gazettal of the most comprehensive allocation of responsibilities to Ministers and Departments at about the effective date), since the general administration of the *Electricity Commission Act* (with which this Act is incorporated) was vested in the Minister for Public Utilities, the administration of this Chapter was also vested in that Minister.

There is no reference in this Chapter to "the Minister", "the Departmental Head" or "the Department".

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ARRANGEMENT OF SECTIONS.

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 - "the Electricity Commission"
 - "land to which this Act applies"
 - "water-power lease".
2. Act binds the State.
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4. Application.
5. Electricity Commission's exclusive right to possession for certain purposes.
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7. Power of Electricity Commission to manage certain businesses, etc.
8. Protection of certain persons dealing in good faith.

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Being an Act to permit the productive use of certain land held by the Papua New Guinea Electricity Commission under water-power leases until the land is needed for flooding or for other purposes of the Commission under the *Water Resources Act*, to be incorporated and read as one with the *Electricity Commission Act*.

1. Interpretation.

In this Act—

“the Electricity Commission” means the Papua New Guinea Electricity Commission;

“land to which this Act applies” means land to which this Act applies by virtue of Section 4;

“water-power lease” means a water-power lease granted to the Electricity Commission and in force under Division VI.4 of the *Water Resources Act*.

2. Act binds the State.

This Act binds the State.

3. Effect of Act.

(1) Subject to this Act, this Act applies notwithstanding anything in any other law other than the *Mining (Bougainville Copper Agreement) Act*.

(2) Subsection (1) does not affect the operation of Parts III., V., VII., and VIII. of the *Water Resources Act*.

(3) This Act does not relieve the Electricity Commission of any of its responsibilities, duties and liabilities under any other law.

4. Application.

This Act applies to and in relation to any land—

(a) over which the Electricity Commission holds a water-power lease; and

(b) that is not immediately required for flooding under the lease or for other purposes of the Commission under the *Water Resources Act*.

5. Electricity Commission's exclusive right to possession for certain purposes.

For the purposes of—

(a) any licence or proposed licence under Section 6; or

(b) the conduct and management of any business or enterprise under Section 7,

and for purposes ancillary to or associated with any such purpose, the Electricity Commission shall be deemed—

(c) to have an exclusive right of occupation of the subject land; and

(d) to be in the position of the holder of an estate in fee simple in the land.

6. Power of Electricity Commission to grant certain licences.

(1) Where, immediately before the grant of the relevant water-power lease—

- (a) a business or enterprise of any kind was being conducted on an area of land to which this Act applies that is comprised in the lease; or
- (b) any such area was otherwise in productive use,

the Electricity Commission may grant to any person a licence over that area so as to allow him—

- (c) to conduct and manage the business or enterprise to which Paragraph (a) refers, or a similar business or enterprise; or
- (d) to make the use to which Paragraph (b) refers, or a similar use, of the land.

(2) Where a special reason exists for putting any land to which this Act applies to a use to which it was not put immediately before the grant of the relevant water-power lease, the Electricity Commission may grant to a person a licence over that land for a purpose specified in the licence.

(3) A licence under Subsection (1) or (2)—

- (a) shall be for a period not exceeding 12 months, but may provide for renewal if the subject land is land to which this Act applies at the time of the renewal; and
- (b) shall contain covenants and conditions, to the satisfaction of the Head of State, acting on advice, to ensure that the purposes of the *Water Resources Act* are not defeated or impaired and that the plan and program approved under that Act in relation to the relevant water-power lease are carried out in accordance with that Act and the lease.

(4) A licence under this section, and a renewal of any such licence, is of no force or effect until approved by the Head of State, acting on advice.

7. Power of Electricity Commission to manage certain businesses, etc.

(1) Where, immediately before the grant of the relevant water-power lease, a business or enterprise of any kind was being conducted on an area of land to which this Act applies that is comprised in the lease, the Electricity Commission may—

- (a) with the approval of the Head of State, acting on advice; and
- (b) for such period and subject to such conditions as the Head of State, acting on advice, thinks proper,

continue to conduct and manage the business or enterprise while the area is land to which this Act applies.

(2) The Electricity Commission shall so conduct and manage the business or enterprise as not to defeat or impair the purposes of the *Water Resources Act* or to fail to carry out the plan and program approved under that Act in relation to the relevant water-power lease in accordance with that Act and the lease, and the Head of State, acting on advice, may give to the Commission, to that end, such directions as the Head of State, acting on advice, thinks proper.

(3) The Electricity Commission has and may exercise, subject to this section, all powers that are necessary or convenient for it to possess for the purpose of the conduct and management of a business or enterprise referred to in this section.

8. Protection of certain persons dealing in good faith.

(1) The approval of the Head of State, acting on advice, under Section 6 or 7 is for all purposes, except as against the State or the Electricity Commission, conclusive evidence that the land to which the approval relates is land to which this Act applies—

- (a) in the case of an approval under Section 6—throughout the period of the licence, or of the renewal of the licence, to which the approval relates; and
- (b) in the case of an approval under Section 7—throughout the period to which the approval relates.

(2) A person dealing in good faith with the Electricity Commission in the exercise or purported exercise of a power of the Commission under this Act is not concerned to see whether the matter of the dealing is within any such power, and all acts, matters and things done in the exercise or purported exercise of any such power are, in the absence of bad faith in the other party, valid and effectual as against the Commission.

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APPENDIX.

SOURCE OF THE ELECTRICITY COMMISSION (PRODUCTIVE USE OF LAND)
ACT.

Part A.—Previous Legislation.

Electricity Commission (Productive Use of Land) Act 1971 (No. 1 of 1972)

as amended by—

Electricity Commission Productive Use of Land) (Amendment) Act 1972 (No. 3 of 1973).

Part B.—Cross References.

Section, etc. in Revised Edition.	Previous Reference. ¹
1	4
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¹ Unless otherwise indicated, references are to the Act set out in Part A.

