



# **Snowy Mountains Hydro-electric Power Act 1949**

**Act No. 25 of 1949 as amended**

**[Note: This Act is repealed by Act No. 176 of 1997]**

This compilation was prepared on 28 June 2002  
taking into account amendments up to Act No. 159 of 2001

The text of any of those amendments not in force  
on that date is appended in the Notes section

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

## **Preamble**

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

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

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

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

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

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

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

## Part I—Preliminary

### 1 Short title [see Note 1]

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

### 2 Commencement [see Note 1]

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

### 4 Interpretation

In this Act, unless the contrary intention appears:

*Associate Commissioner* means an Associate Commissioner holding office under this Act.

*easement* includes a licence or a right in the nature of an easement.

*owner*, in relation to any land, includes any person having an estate or interest in that land.

*the Agreement* means the agreement between the Commonwealth, the State of New South Wales and the State of Victoria a copy of which is set out in Schedule 1 and, except in section 5A, includes any agreement relating to the Guthega project entered into in accordance with clause 22 of the Agreement.

*the Authority* means the Snowy Mountains Hydro-electric Authority.

*the Commissioner* means the Commissioner constituting the Authority.

*the Supplemental Agreement* means the agreement between the Commonwealth, the State of New South Wales and the State of Victoria a copy of which is set out in Schedule 2.

**5 Act to bind States**

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

**5A Approval of Agreements**

- (1) The Agreement is approved.
- (2) The Supplemental Agreement is approved.

**5B Certain rights of South Australia not affected**

Nothing in this Act shall be taken to affect the rights of the State of South Australia under the agreement a copy of which is set out in the Schedule to the *Murray-Darling Basin Act 1993*.

**6 The Snowy Mountains Area**

- (1) For the purposes of this Act, the Snowy Mountains Area shall be an area or areas of land in the south-eastern portion of the State of New South Wales and the north-eastern portion of the State of Victoria defined in accordance with this section.
- (2) The Governor-General may, by proclamation, define the boundaries of the Snowy Mountains Area and may, from time to time, by Proclamation, vary the boundaries as so defined.
- (3) A Proclamation under this section does not operate to vary the boundaries of the Snowy Mountains Area so as to include land which was not included in that Area on 6 November 1958 unless the variation is made with the prior approval of the Governor-in-Council of the State of New South Wales and the Governor-in-Council of the State of Victoria.
- (4) Where a Proclamation under this section making a variation in the boundaries of the Snowy Mountains Area recites the prior approval of the Governor-in-Council of the State of New South Wales and the Governor-in-Council of the State of Victoria to that variation, the recital is evidence of the approvals so recited.

## **Part II—The Snowy Mountains Hydro-electric Authority**

### **7 The Snowy Mountains Hydro-electric Authority**

- (1) For the purposes of this Act, there shall be an Authority to be known as the Snowy Mountains Hydro-electric Authority.
- (2) The Authority shall be constituted by a Commissioner, shall be a corporation sole with perpetual succession and an official seal, may acquire, hold and dispose of real and personal property and shall be capable of suing and being sued in its corporate name.  

Note: Subject to section 26, the *Commonwealth Authorities and Companies Act 1997* applies to the Authority. That Act deals with matters relating to Commonwealth authorities, including reporting and accountability, banking and investment, and conduct of officers.
- (3) All courts, judges and persons acting judicially shall take judicial notice of the seal of the Authority affixed to any document and shall presume that it was duly affixed.
- (4) The Commissioner shall be appointed by the Governor-General.

### **8 Associate Commissioners**

- (1) The Governor-General may appoint 1 or 2 Associate Commissioners to assist the Commissioner.
- (2) An Associate Commissioner shall give such advice and assistance to the Commissioner as the Commissioner requires and shall perform such duties as the Commissioner directs.

### **9 Tenure of office**

- (1) The Commissioner and each Associate Commissioner:
  - (a) shall be appointed for a period not exceeding 7 years; and
  - (b) may be appointed on a full-time basis or on a part-time basis.

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

## **10 Remuneration**

- (1) The Commissioner and each Associate Commissioner shall be paid such remuneration as is determined by the Remuneration Tribunal.
- (2) The Commissioner and each Associate Commissioner shall be paid such allowances as are prescribed.
- (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

## **11 Leave of absence**

- (1) A full-time Commissioner and a full-time Associate Commissioner has such recreation leave entitlements as are determined by the Remuneration Tribunal.
- (2) The Minister may:
  - (a) grant a full-time Commissioner and a full-time Associate Commissioner leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines; and
  - (b) grant a part-time Commissioner and a part-time Associate Commissioner leave to be absent from a meeting or meetings of the Authority.

### **11A Disclosure of Commissioner's interests**

If the Commissioner has a material personal interest in a matter that the Authority is considering or is about to consider, he or she must give written notice of the interest to the Minister.

## **12 Dismissal of Commissioner or Associate Commissioner**

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

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**13 Vacation of office**

The office of the Commissioner or of an Associate Commissioner shall be vacated:

- (a) if, being a full-time Commissioner or a full-time Associate Commissioner, he engages in any paid employment outside the duties of his office;
- (b) if he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his salary for their benefit;
- (c) if he resigns his office by writing under his hand addressed to the Governor-General and the resignation has been accepted;
- (d) if, being a full-time Commissioner or a full-time Associate Commissioner, he is absent from duty, except on leave of absence, for 14 consecutive days or for 28 days in any 12 months; or
- (e) if he, in any way, otherwise than as a member, and in common with the other members, of an incorporated company consisting of not less than 25 persons:
  - (i) becomes concerned or interested in any contract or agreement entered into by or on behalf of the Authority; or
  - (ii) participates or claims to participate in the profit of any such contract or agreement or in any benefit or emolument arising from any such contract or agreement; or
- (f) if the Commissioner contravenes section 11A without reasonable excuse.

**14 Acting Commissioner and Acting Associate Commissioner**

- (1) The Minister may appoint a person to act in the office of the Commissioner or the office of an Associate Commissioner:
  - (a) during a vacancy in the office; or
  - (b) during any period, or during all periods, when the holder of the office is absent from duty or from Australia or is, for any other reason, unable to perform the duties of the office.

- (1A) A person may be appointed under paragraph (1)(a) to act in an office for an indefinite period.
- (2) An appointment of a person under subsection (1) may be expressed to have effect only in such circumstances as are specified in the instrument of appointment.
- (3) The Minister may:
  - (a) determine the terms and conditions of appointment, including remuneration and allowances, of a person acting in an office in accordance with subsection (1); and
  - (b) terminate such an appointment at any time.
- (4) Where a person is acting in an office in accordance with paragraph (1)(b) and that office becomes vacant while that person is so acting, then, subject to subsection (2), that person may continue so to act until the Minister otherwise directs or the vacancy is filled, whichever first happens.
- (5) The appointment of a person under subsection (1) ceases to have effect if he resigns the appointment by writing signed by him and delivered to the Minister.
- (6) While a person is acting in an office in accordance with subsection (1), he has and may exercise all the powers, and shall perform all the functions, of that office.
- (7) The validity of anything done by a person purporting to act under subsection (1) shall not be called in question on the ground that the occasion for his appointment had not arisen, that there is a defect or irregularity in or in connection with his appointment, that the appointment had ceased to have effect or that the occasion for him to act had not arisen or had ceased.

## **15 Delegation**

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

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respect to the matter or class of matters, or to the place, specified in the instrument of delegation.

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

## **Part III—Functions and powers of the Authority**

### **16 Functions of the Authority**

- (1) The functions of the Authority are:
  - (a) with the object of assisting to ensure that adequate supplies of electricity are available, in time of war as well as in time of peace, in the States of New South Wales and Victoria and in the Australian Capital Territory for purposes necessary or conducive to the defence of the Commonwealth and for other purposes of the Commonwealth, to provide hydro-electric works in the Snowy Mountains Area for the generation of electricity; and
  - (b) with the object specified in paragraph (a), and as incidental to its functions related to that object, to generate, or permit the generation of, electricity in the works of the Authority and to supply, or permit the supply of, electricity generated in those works:
    - (i) to, or as directed by, the Commonwealth for purposes of the Commonwealth and for consumption in the Australian Capital Territory; and
    - (ii) to The Electricity Commission of New South Wales and the State Electricity Commission of Victoria or to a corporation succeeding either of those Commissions.
- (2) Except as otherwise directed by the Governor-General, the Authority may have, perform or exercise a capacity, function, power, authority or duty conferred or imposed upon it by an Act of the Parliament of the State of New South Wales or the State of Victoria.
- (3) The Authority shall comply in all respects with the provisions of the Agreement and of the Supplemental Agreement that are applicable to it.

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**17 General powers of the Authority**

- (1) For the purpose of performing its functions under section 16, the Authority shall have power to construct, maintain, operate, protect, manage and control works:
  - (a) for the collection, diversion and storage of water in the Snowy Mountains Area;
  - (b) for the generation of electricity in that area;
  - (c) for the transmission of electricity generated by the Authority; and
  - (d) incidental or related to the construction, maintenance, operation, protection, management or control of any works specified in the preceding paragraphs.
- (2) The Authority shall have power to construct, maintain, operate, protect, manage and control works which, in the opinion of the Authority, are necessary or desirable for the purpose of preventing or mitigating injurious effects of any works referred to in subsection (1).

**18 Particular powers of the Authority**

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

- (a) to purchase land;
- (b) to take land on lease;
- (c) to take easements over land;
- (d) to sell or otherwise dispose of land vested in the Authority but not required for the purposes of the Authority;
- (e) to lease land vested in the Authority the use of which is not for the time being required by the Authority;
- (f) to release any easement over land;
- (g) to purchase or take on hire plant, machinery, equipment or other goods;
- (h) to dispose of plant, machinery, equipment or other goods owned by the Authority but not required by the Authority;

- (i) to provide transport, accommodation, provisions, medical treatment, hospital facilities and amenities for officers and employees of the Authority and their families; and
- (j) to do anything incidental to any of its powers.

### **19 Power to enter land and take levels etc.**

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

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

### **20 Power to enter and occupy land**

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

- (a) after giving not less than 7 days' notice in writing to the occupier of land (including land owned or occupied by the Crown in right of a State), enter upon and occupy that land;
- (b) on or from land so occupied:
  - (i) construct, build or place any plant, machinery, equipment or goods;
  - (ii) take sand, clay, stone, earth, gravel, timber, wood or other materials or things;
  - (iii) make cuttings or excavations;
  - (iv) deposit sand, clay, stone, earth, gravel, timber, wood or other materials or things;
  - (v) erect workshops, sheds and other buildings;
  - (vi) make roads; and
  - (vii) manufacture and work materials of any kind; and

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- (c) demolish, destroy or remove, on or from land so occupied, any plant, machinery, equipment, goods, workshop, shed, building or road.

**21 Powers in respect of waters**

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

## **Part IV—Officers and employees of the Authority**

### **22 Officers and employees of Authority**

- (1) The Authority may appoint such officers and engage such employees as it thinks necessary for the purposes of this Act.
- (2) The terms and conditions of service of officers appointed under subsection (1) are such as are determined by the Authority.
- (3) The terms and conditions of employment of employees engaged under subsection (1) are such as are determined by the Authority.
- (4) In subsections (2) and (3), *terms and conditions* include conditions with respect to duration of service or employment or with respect to dismissal from service or employment.

### **24 Preservation of industrial awards**

Nothing in this Act prevents the making of an industrial award, order, determination or agreement under any other Act in relation to officers or employees of the Authority or affects the operation of such an award, order, determination or agreement in relation to officers or employees of the Authority.

## **Part V—Finances of the Authority**

### **25 Financial policy**

Subject to subsection 16(3), the Authority shall pursue a policy directed towards securing revenue sufficient to meet all its expenditure properly chargeable to revenue.

### **26 Application of the *Commonwealth Authorities and Companies Act 1997***

- (1) The *Commonwealth Authorities and Companies Act 1997* (except sections 27F to 27L) applies to the Authority as if:
  - (a) the Authority were a body corporate; and
  - (b) the Commissioner were a director of the Authority for the purposes of that Act.
- (2) For the purposes of the application of that Act to the Authority, the following persons are not directors of the Authority:
  - (a) Associate Commissioners;
  - (b) members of the Snowy Mountains Council referred to in clause 17 of the Agreement, except the Commissioner.

### **27 Borrowing from Commonwealth**

The Minister for Finance may, on behalf of the Commonwealth, out of money appropriated by the Parliament for the purpose, lend money to the Authority on such terms and conditions as the Minister for Finance, having regard to the provisions of clause 15 of the Agreement, in writing, determines.

### **28 Borrowings otherwise than from Commonwealth**

- (1) The Authority may, with the approval of the Treasurer:
  - (a) borrow money otherwise than from the Commonwealth; or
  - (b) raise money otherwise than by borrowing;on terms and conditions that are specified in, or consistent with, the approval.

- (2) Without limiting the generality of subsection (1), the Authority may, under that subsection, borrow money, or raise money otherwise than by borrowing, by dealing with securities.
- (3) A borrowing of money, or a raising of money otherwise than by borrowing, under subsection (1) may be made, in whole or in part, in a currency other than Australian currency.
- (4) An approval may be given under subsection (1) in relation to a particular transaction or in relation to transactions included in a class of transactions.
- (5) An approval under subsection (1) shall be given in writing.
- (6) In this section, *securities* includes stocks, debentures, debenture stocks, notes, bonds, promissory notes, bills of exchange and similar instruments or documents.
- (7) A reference in this section to dealing with securities includes a reference to:
  - (a) creating, executing, entering into, drawing, making, accepting, endorsing, issuing, discounting, selling, purchasing or re-selling securities;
  - (b) creating, selling, purchasing or re-selling rights or options in respect of securities; and
  - (c) entering into agreements or other arrangements relating to securities.
- (8) For the purposes of this section:
  - (a) the issue by the Authority of an instrument acknowledging a debt in consideration of:
    - (i) the payment or deposit of money; or
    - (ii) the provision of credit;otherwise than in relation to a transaction that is in the ordinary course of the day-to-day operations of the Authority shall be deemed to be a raising by the Authority, otherwise than by borrowing, of an amount of money equal to the amount of the money paid or deposited or the value of the credit provided, as the case may be; and
  - (b) the obtaining of credit by the Authority otherwise than in relation to a transaction that is in the ordinary course of the

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day-to-day operations of the Authority shall be deemed to be a raising by the Authority, otherwise than by borrowing, of an amount of money equal to the value of the credit so obtained.

**28A Guarantee of borrowings by Authority**

- (1) The Treasurer may, on behalf of the Commonwealth, enter into a contract:
  - (a) guaranteeing the repayment by the Authority of money borrowed under paragraph 28(1)(a) and the payment by the Authority of interest (including any interest on that interest) on money so borrowed; or
  - (b) guaranteeing the payment by the Authority of such amounts (which may be interest) that the Authority is liable to pay with respect to money raised under paragraph 28(1)(b) as are specified in the contract.
- (2) The Treasurer may, in writing, determine:
  - (a) that the repayment by the Authority of money borrowed under paragraph 28(1)(a), and the payment by the Authority of interest (including any interest on that interest) on money so borrowed, are guaranteed by the Commonwealth; or
  - (b) that the payment by the Authority of such money (which may be interest) that the Authority is liable to pay with respect to money raised under paragraph 28(1)(b) as is specified in the determination is guaranteed by the Commonwealth;and, where the Treasurer makes such a determination, the repayment of that money and the payment of that interest are, or the payment of that money is, by force of this subsection, guaranteed by the Commonwealth.
- (3) A contract may be entered into under subsection (1), and a determination may be made under subsection (2), in relation to a particular transaction or in relation to transactions included in a class of transactions.
- (4) A contract entered into under subsection (1) may include either or both of the following provisions:

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- (a) a provision agreeing, on behalf of the Commonwealth, that proceedings under the contract may be taken in the courts, or a specified court, of a country other than Australia;
  - (b) a provision waiving, on behalf of the Commonwealth, the immunity of the Commonwealth from suit in the courts, or a specified court, of a country other than Australia in relation to any proceedings that may be taken under the contract.
- (5) Where a borrowing under paragraph 28(1)(a) is by the issue of prescribed securities, the repayment by the Authority of the money so borrowed and the payment of interest on that money are, by force of this subsection, guaranteed by the Commonwealth.

**28B Authority may give security**

The Authority may give security over the whole or any part of its land or other assets for:

- (a) the repayment by the Authority of money borrowed by the Authority under section 27 or paragraph 28(1)(a) and the payment by the Authority of interest (including any interest on that interest) on money so borrowed;
- (b) the payment by the Authority of amounts (including any interest) that the Authority is liable to pay with respect to money raised by the Authority under paragraph 28(1)(b); or
- (c) the payment to the Commonwealth of amounts equal to any amounts that the Commonwealth may become liable to pay under a contract entered into under subsection 28A(1) or a determination made under subsection 28A(2).

**29 Borrowings not otherwise permitted**

The Authority shall not borrow money, or raise money otherwise than by borrowing, except in accordance with sections 27 and 28.

**29A Delegation by Treasurer**

- (1) The Treasurer may, either generally or as otherwise provided by the instrument of delegation, by writing signed by the Treasurer, delegate to a person holding or performing the duties of an office in the Department of the Treasury all or any of the powers of the Treasurer under sections 28 and 28A.

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- (2) A power so delegated, when exercised by the delegate, shall, for the purposes of this Part, be deemed to have been exercised by the Treasurer.
- (3) A delegate is, in the exercise of a power so delegated, subject to the directions of the Treasurer.
- (4) A delegation under subsection (1) does not prevent the exercise of a power by the Treasurer.

**30 Application of moneys**

- (1) Subject to subsection (2) and to section 19 of the *Commonwealth Authorities and Companies Act 1997*, the moneys of the Authority may be applied by the Authority:
  - (a) in payment or discharge of the costs, expenses or other obligations of the Authority; and
  - (b) in payment of remuneration and allowances payable to any person appointed under this Act or employed by the Authority under this Act or any other law;and not otherwise.
- (2) Moneys of the Authority to which paragraph (j) of sub-clause (2) of clause 15 of the Agreement applies may be invested in accordance with that paragraph and not otherwise.
- (3) The Treasurer may, on behalf of the Commonwealth, accept deposits made by the Authority in accordance with subsection (2), and pay or credit interest on those deposits to the Authority in accordance with the Agreement.

**30B Liability to taxation**

- (1) Except as otherwise provided by or under another Act (whether passed before or after the commencement of this Act), the Authority is subject to taxation under the laws of the Commonwealth.
- (2) Subject to subsection (3), the Authority is not subject to taxation under a law of a State or of a Territory.

- (3) The regulations may provide that subsection (2) does not apply in relation to taxation under a specified law of a State or Territory.
- (4) Stamp duty or any similar tax is not payable under a law of the Commonwealth or of a State or Territory in respect of:
  - (a) a security issued by the Authority;
  - (b) the issue, redemption, transfer, sale or purchase of such a security, not including a transaction entered into without consideration or for an inadequate consideration; or
  - (c) any document executed by or on behalf of the Authority, or any transaction, in relation to the borrowing of moneys by the Authority.

### **31 Contracts**

- (1) The Authority may not, without the approval of the Minister, enter into a contract involving the payment or receipt of an amount exceeding \$2,000,000.
- (2) Subsection (1) does not apply to investments of surplus money of the Authority under section 19 of the *Commonwealth Authorities and Companies Act 1997*.

## **Part VA—Reports**

## Part VI—Miscellaneous

### 33 Authority in execution of works to do as little damage as possible

- (1) In the exercise of its powers under this Act, the Authority shall cause as little detriment and inconvenience and do as little damage as possible.
- (2) Where the owner of land in the Snowy Mountains Area is injuriously affected by the exercise, in relation to that land, of any of the powers conferred by this Act, compensation shall be paid by the Authority.
- (3) Where land (whether within or without the Snowy Mountains Area) is entered or occupied in pursuance of section 20, the Authority shall be liable to pay compensation to the owner or occupier of the land, or to both, as the case requires, and the compensation so payable shall include compensation in respect of:
  - (a) damage of a temporary character as well as of a permanent character; and
  - (b) the taking of sand, clay, stone, earth, gravel, timber, wood, materials or things by the Authority.
- (3A) If the owner of land along the Upper Murray or along the Lower Tumut suffers loss by flooding from temporary works of the Authority in relation to that land, the Authority shall be liable to pay compensation to the owner.
- (3B) In subsection (3A), *loss by flooding from temporary works of the Authority* means loss directly resulting from the raising of the level of the Upper Murray or of the Lower Tumut by the discharge of waters from works of the Authority other than permanent works of the Authority.
- (3C) Expressions used in subsections (3A) and (3B) (other than the expression *loss by flooding*) which are defined in the Agreement or the Supplemental Agreement have the same meanings as in the Agreement or the Supplemental Agreement, as the case may be.

- (3D) For the purposes of rights to compensation under this section, where anything has been done by, or under the authority of, the Authority and the doing of that thing was authorized both by this Act and by a State Act, that thing shall be conclusively presumed, as against the Authority, to have been done in pursuance of this Act.
- (3E) Nothing in this section shall be construed as excluding or limiting any liability of the Authority apart from this section in respect of a matter in relation to which compensation is not payable under this section.
- (4) Part VIII of the *Lands Acquisition Act 1989* applies in relation to the determination of compensation under this Part as if anything done by the Authority under this Act had been done under Part III of the *Lands Acquisition Act 1989*.

### **36 Arrangements with States etc.**

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

### **37 Works of Authority not to be injuriously affected**

- (1) Except as prescribed, a person shall not, in the Snowy Mountains Area, carry out any work, or make any use of the water in a lake, river or stream, whereby any works, or proposed works, of the Authority, or the use, or proposed use, of water in the works of the Authority, is or may be injuriously affected or interfered with.
- (2) Without prejudice to any civil remedy available to the Authority, a person who contravenes subsection (1) is guilty of an offence against this section.
- (3) An offence against this section may be prosecuted either summarily or upon indictment.
- (4) The punishment for an offence against this section is:
- (a) where the offence is prosecuted summarily—a fine not exceeding \$200; or

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- (b) where the offence is prosecuted upon indictment—a fine not exceeding \$1,000 or imprisonment for a term not exceeding 1 year.
- (5) Nothing in this section shall be deemed to prevent or affect the operation of a provision in a law of a State prohibiting any acts which are also prohibited by this section.

**38 Discharge of water**

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

**41 Regulations**

The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which, by this Act, are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to this Act and, in particular, for prescribing penalties not exceeding a fine of \$100 or imprisonment for a period not exceeding 3 months, or both, for offences against the regulations.

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# The Schedules

## Schedule 1

### Section 4

AN AGREEMENT made this Eighteenth day of September One thousand nine hundred and fifty-seven BETWEEN THE COMMONWEALTH OF AUSTRALIA of the first part, THE STATE OF NEW SOUTH WALES of the second part, and THE STATE OF VICTORIA of the third part:

WHEREAS the Authority was constituted by the *Snowy Mountains Hydro-electric Power Act 1949* of the Commonwealth:

AND WHEREAS for the purpose of performing its functions under section 16 of the Act the Authority has power to construct, maintain, operate, protect, manage and control works for the collection, diversion and storage of water in the Area, for the generation of electricity in the Area, and for the transmission of electricity so generated:

AND WHEREAS one of the necessary results of the construction and operation of those works will be the diversion inland into the Murray or Murrumbidgee River systems or both of a substantial flow of water which has been flowing to the sea in the Snowy River in the State of Victoria:

AND WHEREAS much of the augmented flow of the Murray and Murrumbidgee River systems would be wasted unless storage works are constructed and operated so as to regulate further the flow of both rivers and make increased supplies of water available for irrigation:

AND WHEREAS the Governments of the States have set up Electricity Commissions with power to generate and supply electricity, and, inter alia, to purchase electricity:

AND WHEREAS at a conference between Ministers of the Commonwealth and of the States held in Canberra on the thirteenth day of July, One thousand nine hundred and forty-nine, certain resolutions were adopted with respect to the development and use of the water resources of the Area for the generation of electricity and, as consequential thereon, for the provision of water for irrigation and the sharing of the waters between the States:

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AND WHEREAS those resolutions contemplated, among other things, that the following works for the collection, storage and diversion of water would be carried out in their entirety, namely:—

- (a) a dam on the Eucumbene River (a tributary of the Snowy River), near Adaminaby, for the storage of waters of the Eucumbene River and of any waters conveyed from the catchments of other rivers to the storage provided by that dam;
- (b) a tunnel primarily for the diversion from the storage dam on the Eucumbene River to the Tumut River catchment of waters of the Eucumbene River (estimated at a net average volume of approximately 235,000 acre-feet of water per annum), but also for the diversion of such other waters as are conveyed, by that tunnel or by other means, to the storage provided by that dam;
- (c) a dam on the Snowy River, near Jindabyne, for the storage of waters of the Snowy River and of any waters conveyed from the catchments of other rivers to the storage provided by that dam;
- (d) a tunnel primarily for the diversion from the dam on the Snowy River to the River Murray catchment of waters of the Snowy River (estimated at a net average volume of approximately 730,000 acre-feet of water per annum), but also for the diversion of such other waters as are conveyed, by that tunnel or by other means, to the storage provided by that dam;
- (e) a tunnel and other associated works for the diversion to the Tumut River catchment of waters of the Tooma River, a tributary of the River Murray, (estimated at a net average volume of approximately 330,000 acre-feet of water per annum) and of such other waters as are conveyed to the Tooma River:

AND WHEREAS the States will require to construct works for the use of the water made available and the electricity produced by the works of the Authority:

AND WHEREAS the River Murray Commission has made certain recommendations regarding the location and capacity of additional storage required to regulate the waters diverted into the River Murray catchment from the Snowy River:

AND WHEREAS, as the result of conferences between them, Ministers of the Commonwealth and the States have agreed to the modification of the resolutions previously referred to, and to the provisions for the construction

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maintenance and operation of the works of the Authority, as set out in this agreement:

NOW IT IS HEREBY AGREED by and between the parties to this agreement as follows:—

## PART I—GENERAL

### Interpretation

1.—In this agreement, unless the contrary intention appears—

“the Act” means the *Snowy Mountains Hydro-electric Power Act 1949-1956* of the Commonwealth and, if that Act is amended after the date of the execution of this agreement, includes such amendments thereof as are made pursuant to sub-clause (5.) of clause 2 of this agreement and such further amendments as may be approved by the Governor-in-Council of each of the States;

“the Adaminaby storage” means the water storage on the Eucumbene River provided by the work known as the Adaminaby Dam;

“the Area” means, subject to clause 3 of this agreement, the Snowy Mountains Area as defined from time to time in accordance with section 6 of the Act;

“the Authority” means the Snowy Mountains Hydro-electric Authority constituted as a corporation sole by the Act and includes any corporation succeeding that corporation;

“the Commonwealth” means the Commonwealth of Australia;

“the Commonwealth requirements of electricity” means the electrical energy and power required from time to time by the Commonwealth—

- (i) for consumption in the Australian Capital Territory; and
- (ii) for use within the Area in an establishment, works or undertaking maintained or operated by or on behalf of the Commonwealth or an authority of the Commonwealth or for defence purposes within the Area;

“the cost of production of the Authority” and “the net cost of production of the Authority” shall have the meanings respectively assigned to them in clause 15 of this agreement;

“the Council” means the Snowy Mountains Council constituted in accordance with Part VI of this agreement;

“Electricity Commission” means the Electricity Commission of New South Wales or the Electricity Commission of Victoria, as the case may

require, and “the Electricity Commissions” means the Electricity Commission of New South Wales and the Electricity Commission of Victoria;

“the Electricity Commission of New South Wales” means the Electricity Commission of New South Wales constituted under the *Electricity Commission Act 1950* of that State, and includes any corporation succeeding that Commission;

“the Electricity Commission of Victoria” means the State Electricity Commission of Victoria constituted under the *State Electricity Commission Acts* of that State, and includes any corporation succeeding that Commission;

“financial year” means a period of twelve months ending on the thirtieth day of June;

“the Forestry Commission” means the Forestry Commission of New South Wales constituted under the *Forestry Act 1916-1951* of that State, including any corporation succeeding it, or the Forests Commission constituted under the *Forests Acts* of the State of Victoria, including any corporation succeeding it, as the case may require;

“generating stations” means power stations, switchyards and transmission facilities in the works of the Authority which are used for the generation and transmission of electricity, other than those works primarily intended for supply of power for its construction works;

“the Guthega agreement” and “the Guthega Project” shall have the meanings respectively assigned to them in clause 22 of this agreement;

“the Irrigation Authority of New South Wales” means The Water Conservation and Irrigation Commission constituted under the *Irrigation Act 1912-1954* of the State of New South Wales, and includes any corporation succeeding that Commission;

“the Kosciusko State Park” means the land permanently reserved for a State Park by section 3 of the *Kosciusko State Park Act 1944-1947* of the State of New South Wales as amended from time to time;

“the Kosciusko State Park Trust” means the Trust constituted by that name under the said *Kosciusko State Park Act 1944-1947* of the State of New South Wales as amended from time to time;

“the Minister” means the Minister of State of the Commonwealth for the time being administering the Act;

“net power” means the total power in kilowatts capable of being produced by the permanent works of the Authority or a stage of those works, as the

case may require, less the amount of power used pursuant to paragraph (a) of sub-clause (4.) of clause 14 of this agreement;

“net production of electrical energy” means the total production of electrical energy from the permanent works of the Authority or a stage of those works, as the case may require, less the amount of electrical energy used pursuant to paragraph (a) or supplied pursuant to paragraph (b) of sub-clause (4.) of clause 14 of this agreement;

“permanent works of the Authority” means works of the Authority other than works primarily required by the Authority for construction purposes, and “its permanent works” shall have a corresponding meaning;

“the reserved Commonwealth requirements of electricity” means that portion of the Commonwealth requirements of electricity which is notified as reserved pursuant to sub-clause (1.) of clause 14 of this Agreement from the production of the permanent works of the Authority or of a stage of those works, as the case may require, or that portion as varied from time to time pursuant to that clause;

“river” and “tributary” respectively include any affluent, effluent, creek, ana-branch or extension of the river or tributary, any lake, lagoon, swamp or marsh connected with the river or tributary, and any natural watercourse so connected in which water flows continuously, intermittently or occasionally;

“the River Murray Agreement” means “the Agreement” as defined in the *River Murray Waters Act 1915-1954* of the Commonwealth, and as that agreement is amended from time to time;

“the River Murray Commission” means the Commission appointed by that name for the purpose of the River Murray Agreement, and of the Acts ratifying that agreement, and includes any corporation succeeding that Commission;

“stage” in relation to the permanent works of the Authority means, unless otherwise agreed by the parties to this agreement, such work or mutually associated group of works the construction of which allows or will allow the total output of power available from the permanent works of the Authority to be increased by not less than 50,000 kilowatts or the total average annual output of electrical energy from those permanent works to be increased by not less than 100,000,000 kilowatt hours, but, notwithstanding anything contained in the foregoing provisions of this definition, each of the following works shall be deemed to constitute a stage:—

- (a) the project described in item 3 of the schedule to this agreement,
- (b) the project described in item 4 of the schedule to this agreement,
- (c) the Guthega Project,
- (d) any power station erected pursuant to sub-clause (2.) of clause 5 of this agreement, and
- (e) any power station erected pursuant to sub-clause (2.) of clause 6 of this agreement;

“surplus electrical energy” means the net production of electrical energy less the reserved Commonwealth requirements of electrical energy;

“surplus power” means net power less the power in kilowatts included in that part of the reserved Commonwealth requirements of electricity which is taken by the Commonwealth from the permanent works of the Authority pursuant to sub-clause (3.) of clause 14 of this agreement;

“the States” means the States of New South Wales and Victoria; and

“works of the Authority” means works (including the works included in the schedule to this agreement and the Guthega Project) the construction of which has been or is undertaken by or on behalf of the Authority for the purposes of this agreement, and “its works” shall have a corresponding meaning.

#### **Approval of agreement**

2.—(1.) This agreement, other than sub-clause (2.) of this clause, shall have no force or effect and shall not be binding on any of the parties hereto unless and until it is approved by the respective Parliaments of the Commonwealth and the State of New South Wales and the State of Victoria, but, upon being so approved by those Parliaments, it shall be of full force and effect and binding on the parties.

(2.) The Governments of the Commonwealth and the States hereby agree to submit this agreement for approval to their respective Parliaments as soon as practicable after the date of this agreement.

(3.) (a) The Commonwealth shall—

- (i) provide for the execution by it of its obligations;
- (ii) secure the execution by the Authority of its obligations—

arising pursuant to this agreement.

(b) Each of the States shall—

- (i) provide for the execution by it of its obligations;
- (ii) secure the execution by its instrumentalities of their obligations—

arising pursuant to this agreement.

(4.) The Government of each of the States agrees to include in the legislation submitted to its Parliament for the approval of this agreement—

- (a) a provision in such form as will enable the Authority for the purpose of giving effect to this agreement to do in that State all such matters and things as the Act permits, or purports to permit, the Authority to do, and to exercise all such powers and authorities in that State as may be necessary to enable the provisions of this agreement to be carried out in their entirety; and
- (b) a provision in such form as will enable the Council—
  - (i) to exercise all such powers and authorities in that State as may be necessary to enable the provisions of this agreement to be carried out in their entirety; and
  - (ii) to sue and be sued.

(5.) The Government of the Commonwealth agrees to include in the legislation submitted to its Parliament for the approval of this agreement provisions repealing or appropriately amending those sections of the Act which are inconsistent with this agreement.

3. No land of a State additional to that contained in the Area as defined at the date of this agreement shall be included in any proclamation by the Governor-General varying the boundaries of the Area in accordance with section 6 of the Act without the prior approval of the Governors-in-Council of the States.

## PART II—CONSTRUCTION OF WORKS

### **Construction of Works by the Authority**

4.—(1.) The Authority is authorized to construct or cause to be constructed those works for the collection, storage and diversion of waters in the Area and for the generation in the Area of electricity from those waters which together constitute the undertaking known as the Snowy Mountains Hydro-electric Scheme.

(2.) The Authority shall, in or in connexion with the construction of the works authorized by sub-clause (1.) of this clause provide for—

- (a) waters of the Eucumbene River (estimated at a net average volume of approximately 235,000 acre-feet of water per annum) to be diverted to the Tumut River catchment;
- (b) waters of the Snowy River (estimated at a net average volume of approximately 730,000 acre-feet of water per annum) to be diverted to the River Murray catchment; and
- (c) waters of the Tooma River a tributary of the River Murray (estimated at a net average volume of approximately 330,000 acre-feet of water per annum) to be diverted to the Tumut River catchment.

(3.) In the exercise of the powers conferred by sub-clause (1.) of this clause, the Authority shall in accordance with this agreement determine what works for the collection, storage and diversion of waters in the Area and for the generation in the Area of electricity from those waters shall be constructed.

(4.) Where notification of the details of electricity from a stage of the permanent works of the Authority has been given to the Electricity Commissions pursuant to clause 14 of this agreement, the Authority shall proceed with the construction of that stage so as to ensure as far as reasonably practicable that electricity will be produced of the amounts and at the times estimated by the Authority as so notified.

(5.) (a) Subject to sub-clause (4.) of this clause, the Authority shall if it so elects be relieved of its obligations under sub-clause (2.) of this clause if—

- (i) either of the States has made default in complying with its obligations under this agreement and fails to remedy that default within a reasonable time after being required by the Commonwealth by notice in writing to do so; or
- (ii) the provisions of paragraph (c) of sub-clause (3.) of clause 15 are operating in favour of an Electricity Commission; or
- (iii) it is estimated by the Authority that, if works projected by the Authority are constructed, then the provisions of paragraph (c) of sub-clause (3.) of clause 15 of this agreement would operate in favour of an Electricity Commission.

(b) Notwithstanding anything in sub-clause (4.) of this clause, but subject to sub-clause (7.) of this clause, the Authority shall be relieved of its obligations (whether arising under sub-clause (2.) or sub-clause (4.) of this clause or under both those sub-clauses) in respect of particular works if the Commonwealth notifies the States in writing of its intention to direct the Authority not to proceed with the construction of those works. Where any such direction is given, interest shall cease to accrue on the capital invested in those

works (whether the same is capital expenditure directly chargeable to those works or is an appropriate allocation of capital expenditure not directly chargeable in full to those works) during the period for which construction of those works is suspended.

(6.) The Authority shall not exercise its election under sub-paragraph (ii) or sub-paragraph (iii) of paragraph (a) of sub-clause (5.) of this clause if both Electricity Commissions have pursuant to paragraph (d) of sub-clause (3.) of clause 15 permanently waived or agreed with the Authority to modify their rights under paragraph (c) of the sub-clause last-mentioned.

(7.) The Commonwealth shall not, pursuant to paragraph (b) of sub-clause (5.) of this clause, notify the States of its intention to direct the Authority not to proceed with the construction of a stage of its permanent works under this agreement if the result of not constructing that stage would be that the amount of electrical energy and power that the Electricity Commissions might reasonably expect to receive from the production of that stage of the permanent works of the Authority in the period of six years commencing on the date of that notification would be reduced.

(8.) An Electricity Commission shall, if requested by the Authority at any time so to do, furnish to the Authority such information as is reasonably necessary to enable the Authority to estimate whether the net cost of production of the Authority will be fully met having regard to the operation of paragraph (c) of sub-clause (3.) of clause 15 of this agreement.

(9.) Nothing contained in this clause shall extend to authorize the discontinuance of the operation and maintenance of the completed permanent works of the Authority.

(10.) (a) Nothing contained in this agreement shall be construed as derogating from, or as adding to or extending, the right of the Commonwealth (apart from this agreement and the State legislation contemplated by it) in the exercise of its legislative and other powers, to procure the Authority to construct or cause to be constructed, or to arrange otherwise for the construction of, any works in the Area for the collection, storage or diversion of water, for the generation of hydro-electric power or for the transmission of the electrical energy so generated.

(b) To the extent to which any such works are constructed under the authority of clause 10 of the agreement ratified and confirmed by the *Seat of Government Acceptance Act 1909-1955* of the Commonwealth and the *Seat of Government Surrender Act 1909* of the State of New South Wales, they shall be a satisfaction pro tanto of the rights of the Commonwealth under that clause.

### **Construction of Works on the River Murray**

5.—(1.) After the completion of works of the Authority which provide for the diversion of approximately 730,000 acre-feet of water annually from the Snowy River to the River Murray catchment, the Authority shall, at its option—

- (a) for the purpose of regulating the diverted water before it enters the Hume Reservoir, provide, as soon as practicable, between the Hume Reservoir and the point where the diverted water is discharged from the works of the Authority (other than the works constructed pursuant to this sub-clause and sub-clause (2.) of this clause) into a stream feeding or joining the River Murray, a balancing storage work for the storage of not less than 250,000 acre-feet of water; or
- (b) within five years after the completion of that diversion, contribute to the River Murray Commission an amount equal to one-half the cost of increasing the capacity of the Hume Reservoir from 2,000,000 to 2,500,000 acre-feet of water.

(2.) The Authority shall have the right to install, at any storage constructed in accordance with paragraph (a) of sub-clause (1.) of this clause, a generating station of such capacity as it may determine.

(3.) Except as provided in this clause and in clause 13 of this agreement, the Commonwealth and the Authority shall not be under any responsibility for regulating the waters diverted by the works first referred to in this clause after their discharge into a stream feeding or joining the River Murray above the Hume Reservoir.

### **Construction of Works by the State of New South Wales**

6.—(1.) The State of New South Wales shall for the purpose of regulating waters of the Tumut River and the waters diverted thereto from the Eucumbene, Tooma or Murrumbidgee River catchments—

- (a) as soon as is practicable construct, or cause to be constructed, storage works on the Tumut River at Blowering or at such other site on that river, and of such capacity, as that State determines;
- (b) at all times maintain and keep those works in good order and condition.

(2.) The Authority shall have the right to install at this storage a generating station of such capacity as it may determine.

(3.) If requested by the Authority before the State commences the construction of the said storage works so to do, the State shall, in the

construction of works under this clause, make provision for the installation by the Authority of a generating station pursuant to the last preceding sub-clause.

(4.) The Authority shall contribute such proportion of the cost of the works to be constructed under this clause as is agreed upon, after the site and capacity of the storage works and the capacity of the generating station referred to in this clause have been determined, by the Commonwealth and the State of New South Wales.

### PART III—CONTROL, DIVERSION AND STORING OF WATERS

#### **Discharge of waters from Storage Works in Upper Murray catchment**

7. The discharge of waters from a balancing storage work constructed in accordance with sub-clause (1.) of clause 5 of this agreement shall at all times be under the control of the River Murray Commission.

#### **Operation of Storage Works on Tumut River**

8. The operation of, and the discharge of water from, the storage works referred to in clause 6 of this agreement shall at all times be under the control of the State of New South Wales.

#### **Restriction on diversions from Tumut River**

9. Where, after the construction (in whole or in part) of the works known as the Murrumbidgee-Eucumbene Diversion, waters of the Murrumbidgee River are stored in those works or those waters are diverted to the Eucumbene River, then, until such time as the storage referred to in clause 6 of this agreement has been completed, if the Burrinjuck Reservoir has not at some time during the six months preceding the first day of October in a particular year reached ninety-five per centum of its full capacity, the Council shall, if and as required by the Irrigation Authority of New South Wales, provide for the release into the Tumut River of such amounts of water that—

- (a) after the completion of the work known as the T.1. Project and until the completion of the work known as the T.2. Project, the flow of water in the Tumut River immediately below the point where the water from the work known as the T.1. Project joins the Tumut River shall, during the period commencing on the first day of October of that year and ending on the thirtieth day of the succeeding April, be not less than 10,000 acre-feet per week; and
- (b) after the completion of the work known as the T.2. Project, the flow of water in the Tumut River immediately below the point where the water from that work joins the Tumut River shall, during the period

commencing on the first day of October of that year and ending on the thirtieth day of the succeeding April, be not less than 10,000 acre-feet per week, and the total amount of water released shall be not less than the amount required to provide an average flow during the whole of the said period of not less than 15,000 acre-feet per week.

**Diversions from the Tooma and Snowy Rivers**

10.—(1.) The States agree that the quantity of water diverted from the Tooma River to the Adaminaby storage and to the Tumut River by the works of the Authority shall—

- (a) for the purposes of clause 45 of the River Murray Agreement be deemed to be water diverted by works of the States from a tributary of the River Murray above Albury and to have been so diverted as to one-half of that quantity by each of the States; and
- (b) for the purposes of clause 51 of that agreement be deemed to be water used as to one-half of that quantity by each of the States.

(2.) Until such time as the necessary works have been constructed to enable water diverted from the Tooma River to the Adaminaby storage and to the Tumut River to be replaced by water diverted from the Snowy River to a stream feeding or joining the River Murray above Hume Reservoir—

- (a) the State of Victoria shall be entitled in each month to divert and use from the River Murray a volume of water equal to one-half of the quantity of water so diverted from the Tooma River in the preceding month. In order to enable that diversion and use, the State of New South Wales shall provide from the Murrumbidgee River a volume of water equivalent to one-half of the quantity so diverted from the Tooma River which volume shall, for the purpose of meeting the obligations of the State of Victoria under the River Murray Agreement, be treated in all respects as if it had been contributed by a tributary of the River Murray in the territory of Victoria joining that River below Albury;
- (b) if so required by the Irrigation Authority of New South Wales, the Council shall, during a declared period of restriction within the meaning of clause 51 of the River Murray Agreement, provide for the release into the Tumut River of such amounts of water that the flow of the Tumut River immediately below the point where the water from the work known as the T.1. Project joins the Tumut River shall be not less than 70,000 acre-feet per month, provided

that the total quantity of water so released shall not exceed the quantity which has been diverted from the Tooma River by works of the Authority since the Hume Reservoir last previously overflowed or, if it did not overflow within a period of eighteen months immediately before the commencement of the declared period of restriction, the quantity which has been so diverted during the said period of eighteen months.

(3.) As soon as the necessary works have been constructed to enable water diverted from the Tooma River to the Adaminaby storage and to the Tumut River to be replaced by water diverted from the Snowy River to a stream feeding or joining the River Murray above the Hume Reservoir, sub-clause (2.) of this clause shall cease to have any effect and thereafter the amount of water so diverted in any year from the Snowy River shall not be less than the amount of water diverted from the Tooma River to the Adaminaby storage and to the Tumut River in that year, and so much of the water so diverted from the Snowy River in any year as is required to replace the water diverted from the Tooma River to the Adaminaby storage and to the Tumut River in that year shall be accepted by each of the States as replacing the water so diverted from the Tooma River to the Adaminaby storage and to the Tumut River in that year.

**Regulation of Discharge from Storage Works**

11.—When the necessary works have been constructed to enable water diverted from the Tooma River to the Adaminaby storage and to the Tumut River to be replaced by water diverted from the Snowy River to a stream feeding or joining the River Murray above the Hume Reservoir, the Council shall, unless it is otherwise agreed with the River Murray Commission, provide for the release into the River Murray from the works of the Authority during a declared period of restriction within the meaning of clause 51 of the River Murray Agreement an amount of water, in addition to the quantities of water released into the River Murray to replace the water diverted from the Tooma River to the Adaminaby storage and to the Tumut River during the declared period of restriction pursuant to sub-clause (1.) of clause 10 of this agreement, not less than 40,000 acre-feet multiplied by the number of months of the declared period of restriction up to a maximum amount of 280,000 acre-feet.

**Sharing of waters**

12.—(1.) As consideration for accepting the responsibility specified in sub-clause (3.) of this clause, the State of Victoria shall, as provided by sub-clause (2.) of this clause, receive a share of the water diverted from the Snowy River catchment to the River Murray catchment.

(2.) The quantity of water diverted from the Snowy River catchment to the River Murray catchment shall, subject to the provisions of clause 10 of this agreement and to any further agreement that may be made between the States, be shared equally between the States.

(3.) On the State of Victoria becoming entitled to receive a share of water pursuant to this clause, that State shall not require any water to be released down the Snowy River from any storage under the control of the Authority, and will accept sole responsibility for the construction, operation and maintenance of any works within that State on the Snowy River or in the Snowy River catchment which are found necessary by reason of the diversion of water from the Snowy River catchment into either or both of the Murrumbidgee and Murray Valleys and for any consequences within that State of the loss of water or stream flow due to that diversion, and will indemnify the Authority against all claims in respect of or arising out of the loss of water or stream flow in Victoria due to that diversion.

#### PART IV—PROTECTION OF CATCHMENT AREAS

##### **Protection of catchment areas and of timber**

13.—(1.) In investigating, planning, locating and constructing works in the Area for the conservation and storage of water and for the generation and transmission of electricity, and for purposes incidental thereto, the Authority shall—

- (a) in consultation with the appropriate authorities of the States, and having regard to the effects of the operation of the permanent works of the Authority—
  - (i) take reasonable precautions for the prevention of any resultant erosion of soil, or resultant erosion of the bed and banks of, or deposit of silt in the bed of, any river or stream in the Area or of the River Murray between the point where the diverted water enters the River Murray and the Hume Reservoir, or the storage constructed in accordance with paragraph (a) of sub-clause (1.) of clause 5 of this agreement if that storage is constructed, and in particular, unless the Authority pursuant to the said paragraph constructs a storage which, in the opinion of the Council, fulfils the obligations of the Authority under this sub-paragraph, provide works for the regulation of diurnal fluctuations of discharge from its works to the Swampy Plain River and the River Murray within limits agreed upon

- between the Authority and the riparian States or in default of agreement determined by the Council; and
- (ii) if any such harmful erosion or deposit of silt should occur, take appropriate action with respect thereto;
  - (b) so locate buildings, camps, construction townships and works to provide services to those buildings, camps and townships, and so operate those services, that the rivers within the Area are not seriously affected by erosion, siltation or pollution of the waters;
  - (c) so far as it is within its power, cause its officers, employees and servants and all persons transacting business with it, including its contractors and their employees, to occupy for residential purposes, including camping, only such sites as are allotted by the Authority as sites for residential purposes;
  - (d) so far as it is within its power, prevent the erection on any site allotted by the Authority as a site for residential purposes of any permanent building that does not conform with the standard determined by the Authority as the standard in accordance with which buildings in the Area shall be erected;
  - (e) take precautions, in conformity with the Acts and Regulations applicable in the State for the prevention of damage to, or destruction of, forests, trees, shrubs or grasses by fire from any works or camps under its control or operated by any contractor engaged on work for or on behalf of the Authority;
  - (f) make arrangements to ensure that a properly equipped bush-fire fighting organization is available to operate where any work of a major character is being performed under this agreement in the Area and at each township and camp (other than a temporary camp of a minor character) therein;
  - (g) not destroy or remove trees, timber or scrub to any greater extent than is necessary for the effective exercise of its powers or performance of its duties under the Act and this agreement;
  - (h) take steps to ensure that its officers, employees and servants, and its contractors and their employees and persons conducting any business on behalf of, or with the permission of, the Authority will obtain timber for firewood only from such sites as are allotted by the Authority as sites from which firewood may be obtained;
  - (i) exercise all proper care in the preservation of natural assets in all areas where timber for works, buildings, townships or camps or for any other purpose of the Authority is obtained otherwise than from a

sawmiller licensed by the Forestry Commission or other proper authority of the State concerned;

- (j) prior to commencement of timber-getting operations in New South Wales or Victoria, confer with the Forestry Commission of the appropriate State or, where timber is required from within the Kosciusko State Park, with the Kosciusko State Park Trust, with a view to reaching agreement as to areas to be worked;
- (k) keep the Kosciusko State Park Trust fully informed of such work to be carried out within the boundaries of the Kosciusko State Park as may affect the Park, and in carrying out of any such work exercise all proper care to preserve natural assets, including trees, scrub, grasses and beauty spots in the Park;
- (l) confer with the appropriate Forestry Commission as to fees or royalties to be paid for timber or for use of sites, timber areas to be worked, sites to be used or allotted for works or residential purposes, in any proclaimed forest in New South Wales or Victoria; and
- (m) make provision for access and crossings over race-lines for extraction of timber, fire protection and the like as may reasonably be required by the appropriate State authorities.

(2.) The Council, in directing and controlling the operation and maintenance of the permanent works of the Authority, the Authority in manning its works other than the generating stations, and the Electricity Commissions in manning the generating stations, shall observe the requirements, *mutatis mutandis*, which the Authority is required to observe under sub-clause (1.) of this clause, so far as they are relevant.

#### PART V—GENERATION AND SUPPLY OF ELECTRICITY

##### **Generation and supply of electricity**

14.—(1.) (a) As soon as practicable, but in any event not less than five years prior to the estimated date of production of electricity from a stage of its permanent works (not being one included in the works set out in the Schedule to this agreement), the Authority shall give the Electricity Commissions details of—

- (i) the estimated net production of electrical energy and the estimated net power available from that stage of its permanent works;
- (ii) the part of the Commonwealth requirements of electricity which the Commonwealth reserves from the production of that stage of the permanent works of the Authority; and

(iii) the estimated amount of surplus electrical energy and surplus power which will be available to the Electricity Commissions from the production of that stage of the permanent works of the Authority.

(b) Within a reasonable time after the commencement of this agreement, the Authority shall in respect of each of those stages of the permanent works of the Authority which comprise the projects described in items 3 and 4 of the schedule to this agreement and that stage which comprises the Guthega Project, give to the Electricity Commissions the same details of electricity as those specified in the last preceding paragraph and those details shall be deemed to have been given pursuant to the preceding paragraph in relation to the respective stages of the permanent works.

(c) The details of electrical energy and power to be notified by the Authority in accordance with this sub-clause shall include estimates by the Authority of—

- (i) the amounts of the respective shares of the Electricity Commissions pursuant to paragraphs (a) and (b) of sub-clause (5.) of this clause in the surplus electrical energy, in terms of minimum, average and maximum electrical energy, and in the surplus power, in terms of kilowatts, which will be available per annum, and in each month of the year, from the stage of the permanent works of the Authority when in full operation, and during the period from the commencement of operation until full operation is attained;
- (ii) the cost of construction of, and the net cost of the production of electricity from, that stage of the permanent works of the Authority; and
- (iii) the date of first production of electricity from, and the date of full operation of, that stage of the permanent works.

(d) The amount of the reserved Commonwealth requirements of electricity may, at any time, with the written consent of the Electricity Commission or Electricity Commissions affected by the alteration, be altered by the Commonwealth, and those reserved requirements for purposes of this clause and the estimated amounts of surplus electrical energy and surplus power which the Electricity Commissions are entitled to receive pursuant to sub-clause (5.) of this clause, shall be deemed to be altered appropriately from that time.

(e) Ten years after a stage of the permanent works of the Authority comes into full operation, and at intervals of ten years thereafter, the Authority may amend its estimates of the net production of electrical energy and net power which will be available from that stage and of the amounts of the shares of the

Electricity Commissions in the surplus electrical energy and in the surplus power which will be available from that stage in which event the amounts of those shares shall be deemed to be amended accordingly.

(2.) (a) The Commonwealth shall, at the time when the Authority, pursuant to sub-clause (1.) of this clause, notifies the Electricity Commissions of the reserved Commonwealth requirements of electricity from a stage of the permanent works of the Authority, and at the times when the reserved Commonwealth requirements of electricity are altered pursuant to paragraph (d) of the last preceding sub-clause, request an Electricity Commission or the Electricity Commissions to supply the reserved Commonwealth requirements of electricity in nominated proportions.

(b) Unless within three months after the receipt of a request from the Commonwealth under the last preceding paragraph to supply the nominated part of the reserved Commonwealth requirements of electricity an Electricity Commission informs the Commonwealth that it is impracticable for that Commission to do so, that Electricity Commission shall supply, and the Commonwealth shall take, that electricity at the point or points within the Australian Capital Territory or within or near the Area nominated by the Commonwealth and at the cost of transmission, in which event that Electricity Commission shall be entitled to receive free of charge from the electrical energy produced from the works of the Authority, in addition to that Electricity Commission's share of surplus electrical energy and any energy supplied in accordance with paragraph (b) of sub-clause (4.) of this clause, the same amount of electrical energy as that supplied by the Commission pursuant to this paragraph.

(c) For the purposes of this sub-clause, "the cost of transmission" means the cost which would be incurred by the Electricity Commission concerned in transmitting through its transmission system to the nominated points from the point or points of supply from the permanent works of the Authority to that Commission an amount of electrical energy equivalent to that supplied to the Commonwealth under the last preceding paragraph, including the cost of the electricity lost in that transmission.

(3.) (a) If an Electricity Commission has notified the Commonwealth in accordance with paragraph (b) of sub-clause (2.) of this clause that it is not practicable to comply with the Commonwealth's request to supply the nominated part of the reserved Commonwealth requirements of electricity, or if the Commonwealth and the States so agree, the Commonwealth shall have the right to arrange for the generation of the whole or a part of that nominated part of the reserved Commonwealth requirements of electricity from works of the Authority, and for the transmission of that electricity direct to the

Commonwealth in or near the Area or in the Australian Capital Territory, in which event—

- (i) the Council shall issue the necessary directions to that end;
- (ii) the cost of transmission shall be borne by the Commonwealth; and
- (iii) the estimated amounts of surplus power which the Electricity Commissions are entitled to receive, pursuant to sub-clause (5.) of this clause shall be deemed to be altered appropriately from the time when the Commonwealth takes the electricity so transmitted.

(b) If, because of a notification by an Electricity Commission under the last preceding paragraph, the Commonwealth obtains the right to arrange for the generation and transmission of an amount of electricity direct to the Commonwealth, the reserved Commonwealth requirements of electricity may be reduced by the Commonwealth to the extent of such part of that amount as the Commonwealth does not arrange to be so generated and transmitted, and the estimated amounts of surplus electrical energy and surplus power which the Electricity Commissions are entitled to receive, pursuant to sub-clause (5.) of this clause, shall be deemed to be altered appropriately from the time of notification by the Commonwealth to the Authority of that reduction.

(4.) (a) Any electricity generated from the permanent works of the Authority may be used for the purposes of the construction, maintenance or operation of the works of the Authority, and the Council shall issue the necessary directions to that end.

(b) The Authority may, from time to time, request an Electricity Commission to supply electricity for use by the Authority or its contractors for the establishment or extension of the works of the Authority within the Area, and that Electricity Commission shall be entitled to receive free of charge in addition to its share of the surplus electrical energy and any energy supplied in accordance with paragraph (b) of sub-clause (2.) of this clause the same amount of electrical energy as that supplied by the Commission pursuant to this paragraph.

(5.) (a) Subject to the next two succeeding paragraphs, the Electricity Commissions shall be entitled to share surplus electrical energy in the proportion of two-thirds to the Electricity Commission of New South Wales and one-third to the Electricity Commission of Victoria, and to share surplus power in proportion to their respective total entitlements of electrical energy pursuant to this paragraph and to paragraph (b) of sub-clause (2.) of this clause and paragraph (b) of sub-clause (4.) of this clause.

(b) Until the construction of the works for the collection, storage and diversion of waters in the Area associated with the diversions referred to in

paragraphs (a), (b) and (c) of sub-clause (2.) of clause 4 of this agreement and the works for the generation of electricity from those waters has been completed, each Electricity Commission shall be entitled to share surplus electrical energy and surplus power in the proportions set out in the preceding paragraph, unless that sharing would, in the opinion of the Council, result in a significant adverse effect on the overall economy of electricity supply, in which event the proportions will, subject to the next succeeding paragraph, and without prejudice to paragraph (b) of sub-clause (2.) and paragraph (b) of sub-clause (4.) of this clause, be determined by the Council, but the proportions will not be altered by reason of a determination of the Council under this paragraph except at a time when the Authority gives to the Electricity Commissions details of the production of electricity from a stage of its works pursuant to sub-clause (1.) of this clause.

(c) The entitlement of an Electricity Commission to its share of the surplus electrical energy and surplus power under paragraph (a) of this sub-clause shall not be reduced by a determination of the Council pursuant to the last preceding paragraph during any period in respect of which that Commission has, pursuant to paragraph (d) of sub-clause (3.) of clause 15 of this agreement, waived or agreed with the Authority to modify its rights under paragraph (c) of that sub-clause.

(d) The Electricity Commissions shall be entitled to take during each month not less than their respective shares of the estimated minimum amount of surplus electrical energy notified to the Electricity Commissions by the Authority pursuant to sub-clause (1.) of this clause as available to them respectively during that month and, if more electrical energy is available during that month, the whole of their respective shares of that extra energy up to but not exceeding the estimated maximum amount notified to the Electricity Commissions as aforesaid, and shall for the purpose of sub-clause (1.) of clause 15 of this agreement be deemed to have taken their respective shares of the estimated average surplus electrical energy notified as aforesaid.

(e) If the Council is satisfied that the interests of none of the parties to this agreement or their respective instrumentalities will be prejudiced thereby, the Council shall arrange for the generation of the combined requirements of the Electricity Commissions of electricity from the permanent works of the Authority at whatever rate and over whatever periods the respective Electricity Commissions may desire to take the electricity.

(f) Subject to sub-clause (1.) of clause 16 of this agreement, the Electricity Commissions may, from time to time, agree between themselves, either generally or in particular circumstances, to share the surplus electricity in such proportions as they may desire, but when any such agreement is made then for

the purpose of the calculations pursuant to sub-clause (3.) of clause 15, account shall be taken of the benefits to that Electricity Commission resulting from the sharing of electricity pursuant to this paragraph and any dispute as to the value of the said benefits to an Electricity Commission for the purpose of the said calculations shall, in default of agreement between the Authority and that Electricity Commission, be determined by arbitration in accordance with the laws in force in the State in which that Electricity Commission is incorporated.

(g) In order to meet an emergency, an Electricity Commission may take more or less electrical energy than it is entitled to take under paragraph (d) of this sub-clause and more power than the share of the surplus power to which it is entitled under paragraph (a) or (b) of this sub-clause if the Council determines that that can be done without prejudicing the interests of the parties to this agreement and subject to subsequent appropriate adjustment of the entitlements to electricity of the Electricity Commissions.

(6.) The electricity to be supplied to each Electricity Commission under this clause will be supplied at a voltage or voltages, and at a point or points within or adjacent to the Area, to be agreed upon between the Authority and the respective Electricity Commissions, or in default of agreement to be determined by the Council.

(7.) If at any time the Commonwealth requires for defence or research purposes abnormally large amounts of electricity intermittently for short periods, in addition to the reserved Commonwealth requirements of electricity, the Council and the Electricity Commissions shall make arrangements to meet those additional requirements as expeditiously and economically as practicable, and as far as possible at times of minimum demand by the Commissions, and shall make electricity available for those purposes under special conditions to be agreed upon having regard to the circumstances existing from time to time or in default of agreement to be determined as fair by the Council.

(8.) (a) Nothing in this agreement shall be construed as derogating from the rights conferred upon the Commonwealth as against the State of New South Wales by the agreement ratified and confirmed by the *Seat of Government Acceptance Act 1909-1955* of the Commonwealth and nothing in this agreement shall affect the rights of the State of Victoria in the waters of the Snowy River except as to storages and diversions authorized pursuant to this agreement.

(b) The Commonwealth will not exercise its rights under clause 10 of the agreement ratified and confirmed by the *Seat of Government Acceptance Act 1909-1955* while the reserved Commonwealth requirements of electricity are being fully supplied by the Electricity Commissions under sub-clause (2.)

of this clause except so far as it is necessary to do so to enable the Commonwealth to exercise its legislative and other powers in accordance with sub-clause (10.) of clause 4 of this agreement.

(c) The supply of the reserved Commonwealth requirements of electricity under and in accordance with this clause shall, to the extent of such supply, be accepted by the Commonwealth as a satisfaction, *pro tanto*, of the rights of the Commonwealth under clause 10 of the agreement ratified and confirmed by the *Seat of Government Acceptance Act 1909-1955* of the Commonwealth and the *Seat of Government Surrender Act 1909* of the State of New South Wales.

### **Charges for electricity**

15.—(1.)(a) In this agreement “the net cost of production of the Authority” in a financial year means the cost of production of the Authority in that year, determined in accordance with sub-clause (2.) of this clause, less the value, determined in accordance with paragraph (za) of sub-clause (2.) of this clause, of the electrical energy used or supplied in that year pursuant to sub-clause (4.) of clause 14 of this agreement for the establishment or extension (but not the maintenance or operation) of the permanent works of the Authority.

(b) The Commonwealth shall pay to the Authority in respect of each financial year an amount which bears the same proportion to the net cost of production of the Authority for that year as the reserved Commonwealth requirements of electricity for that year in terms of electrical energy bear to the estimated average net production of electrical energy from the permanent works of the Authority notified pursuant to clause 14 of this agreement and appropriate to that year.

(c) Subject to sub-clause (3.) of this clause, each Electricity Commission shall pay to the Authority in respect of each financial year an amount which bears the same proportion to the net cost of production of the Authority for that year as the share of the estimated average surplus electrical energy for that year which that Electricity Commission is deemed to have taken pursuant to paragraph (d) of sub-clause (5.) of clause 14 of this agreement bears to the estimated average net production of electrical energy from the permanent works of the Authority notified pursuant to clause 14 of this agreement and appropriate to that year.

(d) An Electricity Commission may, on terms to be agreed upon between it and the Authority, increase the amount payable in respect of a financial year pursuant to the last preceding paragraph.

(e) Accounts based on the estimated net cost of production of the Authority for the relevant year, in respect of the amounts due by the Electricity

Commissions pursuant to paragraph (c) of this sub-clause shall be rendered monthly and shall be paid within thirty days after receipt of the account. An annual adjustment account shall be rendered to each Electricity Commission upon completion of the annual accounts of the Authority to take account of the difference (credit or debit) between the total of the monthly charges and the net cost of production of the Authority for that year.

(2.) (a) In this agreement, “the cost of production of the Authority” in a financial year shall consist of—

- (i) interest in respect of that year on the net amount invested in each stage of the permanent works of the Authority from which stage electricity is generated in that year; plus
- (ii) an instalment (calculated as provided in paragraph (p) of this sub-clause) in respect of that year of the amount of accumulated interest attributable to each such stage; plus
- (iii) depreciation attributable to each such stage in respect of that year calculated as provided in paragraphs (q), (r), (s) and (u) of this sub-clause; plus
- (iv) maintenance charges (assessed as provided in paragraph (z) of this sub-clause) attributable to each such stage in respect of that year; plus
- (v) costs attributable to the operation in that year of each such stage; minus
- (vi) any miscellaneous credits of a current nature accruing to the Authority in respect of that year and attributable to each such stage.

(b) In respect of advances made by the Commonwealth to the Authority prior to the date of this agreement and such other advances as are made up to a date (in this sub-clause referred to as “the change-over date”) to be determined by the Commonwealth after consultation with the States having regard to the economics of the Snowy Mountains Hydro-electric Scheme at the second-mentioned date in the next succeeding paragraph—

- (i) interest will be calculated on the basis that on each advance made by the Commonwealth simple interest will accrue until such time as the stage of the works to which that advance is charged or allocated first commences the production of electricity; and
- (ii) interest will not be charged upon the accrued interest on advances charged or allocated to a stage of the works nor shall that accrued interest be included in the net capital expenditure of the Authority but, when that stage commences the production of electricity, that accrued interest shall be payable as provided in this sub-clause.

(c) The change-over date shall not be before the date which is the mid-point of the first twelve-monthly period in which the permanent works of the Authority have been so far completed that the total of the amounts of the estimated average monthly net production of electrical energy from those permanent works as so far completed, in accordance with the notifications of the Authority pursuant to clause 14 of this agreement relating to the production of electricity from those permanent works, exceeds 3,000,000,000 kilowatt hours for that twelve-monthly period

PROVIDED that if the construction of the permanent works of the Authority takes place at a different rate or in a different sequence to the rate or sequence upon which the notifications are based or if the works are brought into operation in phases different from the phases upon which the notifications are based the date second-mentioned in this paragraph will be appropriately adjusted.

(d) The net amount invested at any time in a stage of the permanent works of the Authority shall consist of the gross amount invested in that stage at that time less the amount repaid by the Authority to the Commonwealth up to that time in respect of that gross amount (including any amount so repaid prior to the date of this agreement).

(e) The amounts received by the Authority in respect of the depreciation charges referred to in sub-paragraph (iii) of paragraph (a) of this sub-clause shall be paid to the Commonwealth by the Authority as soon as reasonably possible after receipt thereof and shall, for the purposes of paragraph (d) of this sub-clause, be deemed to be amounts repaid by the Authority to the Commonwealth in respect of the gross amount invested.

(f) The gross amount invested at any given time up to and including the change-over date in a stage of the permanent works of the Authority shall, subject to paragraphs (v), (w) and (x) of this sub-clause, consist of:—

- (i) that part of the net capital expenditure (whether incurred before or after the commencement of this agreement) of the Authority up to that given time, excluding accumulated interest on that expenditure, which is directly chargeable in full to that stage; and
- (ii) an appropriate allocation of that part of the net capital expenditure (whether incurred before or after the commencement of this agreement) of the Authority up to that given time, excluding accumulated interest on that expenditure, which is not directly chargeable in full to a stage of the permanent works of the Authority, after having regard, for the purpose of determining the appropriate allocation, to the effect of accumulated interest accrued up to that given time and accruing after that given time on so much

of that expenditure as is not allocated to the stage first-mentioned in this paragraph.

(g) The gross amount invested at any given time after the change-over date in a stage of the permanent works of the Authority shall, subject to paragraphs (v), (w) and (x) of this sub-clause, consist of:—

- (i) the gross amount invested in that stage at the change-over date as determined in accordance with paragraph (f) of this sub-clause;
- (ii) that part of the net capital expenditure, if any, of the Authority incurred between the change-over date and the given time, including capitalised interest accrued up to that given time on that part, which is directly chargeable in full to that stage; and
- (iii) an appropriate allocation, if any, of that part of the net capital expenditure of the Authority between the change-over date and the given time, including capitalised interest accrued up to that given time on that part, which is not directly chargeable in full to a stage of the permanent works of the Authority, after having regard, for the purpose of determining that appropriate allocation, to the effect of any capitalised interest accruing after that time on so much of that expenditure as is not allocated to that first-mentioned stage.

(h) In determining the appropriate allocations referred to in paragraphs (f) and (g) of this sub-clause, the Authority shall have regard to the views of the Council concerning the principles that should be followed in allocating capital expenditure amongst stages of the permanent works of the Authority.

(i) For the purpose of ascertaining the rate of interest on and the period of the loans which rate and period are to be taken into account in determining—

- (i) the interest referred to in sub-paragraph (i) of paragraph (a) of this sub-clause attributable to any year;
- (ii) the amount of accumulated interest referred to in sub-paragraph (ii) of paragraph (a) of this sub-clause; and
- (iii) the amount of capitalised interest accrued and accruing on expenditure of the Authority after the change-over date,

there shall be observed, subject to this sub-clause, the general principle that each advance made by the Commonwealth to the Authority (including each advance so made prior to the date of this agreement) is a loan by the Commonwealth to the Authority for a period corresponding to the period of the long-term public loan last raised in Australia by the Commonwealth prior to the date on which that advance was made and at a rate of interest not greater than the interest rate of that last-mentioned loan.

(j) Any funds to the credit of the maintenance equalization account referred to in paragraph (z) of this sub-clause which are not immediately required to meet maintenance costs may be invested by the Authority in any securities in which trustees may lawfully invest trust funds or by deposit with the Commonwealth Treasurer.

(k) The interest allowed on funds deposited with the Treasurer in accordance with the last preceding paragraph, whilst they remain so deposited and until such time as it appears to the Commonwealth Treasurer, on the advice of the Authority, that no further advances will be required by the Authority from the Commonwealth for the construction of new permanent works of the Authority, shall be at a rate ascertained in accordance with the general principle set out in paragraph (i) of this sub-clause applying to an advance by the Commonwealth to the Authority. After that time the interest allowed on funds so deposited shall be as agreed between the parties to this agreement but if the parties cannot reach agreement as to the rate to be allowed the amount so deposited shall, if so required by either or both of the States, be refunded to the Authority.

(l) Capitalised interest on net capital expenditure of the Authority comprising advances made after the change-over date shall be determined in accordance with the principle that any amount due as interest on an advance made by the Commonwealth to the Authority to meet expenditure of the Authority after that date if not paid shall on the due date be added to the advance and for the purposes of this sub-clause be treated in all respects as part of that advance.

(m) For the purposes of sub-paragraph (i) of paragraph (a) of this sub-clause, interest in respect of a financial year on the net amount invested in a stage of the permanent works of the Authority from which stage electricity is generated in that year shall be chargeable on the net amount invested in that stage from time to time during that year, provided that in the case of a stage of the permanent works of the Authority which last-mentioned stage first comes into operation for the generation of electricity after the commencement of that year interest shall not be chargeable in respect of the period before the time when the last-mentioned stage first comes into operation for the generation of electricity.

(n) For the purposes of this sub-clause, the amount of accumulated interest attributable to a stage of the permanent works of the Authority from which stage electricity is generated in a financial year shall consist of the amount of accumulated interest accrued on so much of the gross amount invested in that stage as represents expenditure of the Authority comprising advances made prior to the change-over date.

(o) Accumulated interest accrued and accruing on expenditure of the Authority comprising advances made prior to the change-over date shall be calculated in accordance with the principle that interest is not chargeable on interest accrued or accruing on advances to meet expenditure of the Authority made by the Commonwealth to the Authority prior to the change-over date.

(p) The instalment referred to in sub-paragraph (ii) of paragraph (a) of this sub-clause shall be calculated in accordance with the principle that the amount of accumulated interest attributable to a stage of the permanent works of the Authority, determined in accordance with paragraphs (n) and (o) of this sub-clause, is to be written off in seventy equal annual instalments.

(q) Depreciation will be charged in respect of a financial year on the gross amount invested in each stage of the permanent works of the Authority which is in operation for the generation of electricity, excluding that part of that gross amount which comprises investment by the Authority in replacement assets.

(r) The depreciation charged pursuant to the last preceding paragraph in respect of each stage shall be the sum of—

- (i) the amount which if invested annually over a period of 70 years from the time when that stage first comes into operation for the generation of electricity at compound interest calculated at the average rate payable on the amount owing by the Authority to the Commonwealth (excluding accumulated interest on expenditure prior to the change-over date) at that time would amount to the gross amount invested in that stage at that time;
- (ii) the respective amounts which if invested annually over periods of 70 years from the respective times when the gross amount invested in that stage is increased because of the construction by the Authority after the time when that stage first comes into operation for the generation of electricity of additional assets, other than replacement assets, at compound interest calculated at the rate referred to in sub-paragraph (i) of this paragraph would amount to the respective amounts of those increases;
- (iii) an amount equal to the compound interest which would accrue with respect to that financial year calculated at the rate referred to in sub-paragraph (i) of this paragraph on the balance of depreciation with respect to that stage, which balance shall be the sum of the amounts of depreciation charged in previous years with respect to that stage pursuant to this paragraph and the next succeeding paragraph less that portion of the gross amount invested in that stage which comprises the cost of assets which have been replaced up to the beginning of that year by replacement assets.

(s) When the cost of a replacement asset is different from the cost of the asset which it replaces, an adjustment will be made to the depreciation chargeable in respect of the appropriate stage or stages of the permanent works of the Authority on the general principle that additions or deductions shall, as the case may require, be made to or from the amount or amounts referred to in sub-paragraphs (i) and (ii) of paragraph (r) of this sub-clause, as the case may require, with regard to that stage or those stages of amounts the total of which, if invested annually over a period of years to be determined by the Council at compound interest calculated at the average rate payable on the amount owing by the Authority to the Commonwealth (excluding accumulated interest on expenditure of the Authority prior to the change-over date) at the time of such replacement would equal the difference between the cost of the replacement asset and the cost of the asset which it replaces.

(t) For the purposes of this sub-clause, replacement assets are assets which replace assets forming part of the permanent works of the Authority from which electricity is being generated and the cost of which is not debited against the maintenance equalization account.

(u) When as a result of the operation of paragraphs (d), (e), (q), (r) and (s) of this sub-clause the total depreciation calculated with respect to a financial year would have the result that the net amount invested in a stage of the permanent works of the Authority would be decreased to zero, the parties to this agreement will confer and determine the principles on which depreciation will be calculated in respect of that year and subsequent years.

(v) In respect of a stage of its permanent works which stage is brought into operation for the generation of electricity in two or more phases the Authority may if it thinks fit having regard to the views of the Council determine that the gross amount invested in that stage shall be brought into account in separate sums, and the sums which are for that purpose to be deemed appropriate to each such phase other than the final phase.

The sum so determined in respect of any such phase other than the final phase shall be an amount which is not less than the amount which bears the same proportion to the amount which the Authority estimates will be the gross amount invested in that stage up to and including the final phase as the annual production of electricity from the phase concerned, at the time to which the determination relates, bears to the estimated average annual production of electrical energy from that stage at the final phase.

(w) Where a determination is made in accordance with paragraph (v) of this sub-clause, the sum determined in respect of each phase other than the final phase shall, for the purposes of this sub-clause, be brought into account in all respects as if such phase constituted a separate stage.

(x) Where a determination is made in accordance with paragraph (v) of this sub-clause then for the purpose of bringing the sum determined in respect of a phase other than the final phase into account as the gross amount invested in that phase, that sum shall be deemed to consist of the appropriate proportions of each of the advances invested in the permanent works of the Authority (including, in the case of advances to the Authority after the change-over date, capitalised interest) which advances would comprise the gross amount invested in the stage at the time when the phase came into operation for the generation of electricity.

The principles outlined in this paragraph shall be applied in determining in respect of a phase—

- (i) the interest referred to in sub-paragraph (i) of paragraph (a) of this sub-clause; and
- (ii) the amount of accumulated interest referred to in sub-paragraph (ii) of the same paragraph.

(y) A determination made by the Authority in accordance with paragraph (v) of this sub-clause shall not cause the net cost of production in any year to be greater than it would have been if no such determination had been made.

(z) (i) The Authority shall keep in its books a maintenance equalization account to which shall be credited the maintenance charges referred to in sub-paragraph (iv) of paragraph (a) of this sub-clause and to which shall be debited the maintenance expenditure from year to year.

(ii) The maintenance charges referred to in the said sub-paragraph (iv) will be assessed on the basis of substantially equal charges in respect of the relevant stage from year to year and with the object of avoiding as far as practicable, excessive charges in any particular year or years.

(iii) If and when the maintenance equalization account is in credit to the extent of approximately £300,000, the maintenance charges will be reviewed with the object of limiting those charges in such manner as to maintain the credit at approximately £300,000.

(iv) At the expiration of five years from the date of this agreement and thereafter at intervals of five years or at such shorter periods as the Council may determine, the Council shall review the amount mentioned in sub-paragraph (iii) of this paragraph and in that event the maintenance charges shall be adjusted having regard to the amount fixed consequent upon such review.

(v) Interest paid or received by or allowed to the Authority on the amount to the debit or credit, as the case may be, of the maintenance equalization

account from time to time shall be debited or credited, as the case may be, to that account.

(za) The value of the electrical energy referred to in paragraph (a) of sub-clause (1.) of this clause shall be calculated as an amount which bears the same proportion to the cost of production of the Authority in the financial year concerned as that electrical energy bears to the sum of that electrical energy and the estimated average net production of electrical energy from the permanent works of the Authority notified pursuant to clause 14 of this agreement and appropriate to that year, such permanent works being works then completed and ready for use.

(zb) A certificate by the Auditor-General of the Commonwealth as to the net cost of production of the Authority in a financial year calculated in accordance with sub-clauses (1.) and (2.) of this clause shall be conclusive as to all numerical calculations involved in determining that cost.

(3) (a) In respect of every financial year for which an Electricity Commission is required to pay an amount to the Authority pursuant to sub-clause (1.) of this clause, the following amounts may be calculated:—

- (i) the cost to that Electricity Commission of all its electricity including all amounts payable by it under sub-clause (1.) of this clause; and
- (ii) the cost to that Electricity Commission of all its electricity if additional generating plant other than nuclear plant had from time to time been installed by that Electricity Commission to provide a total amount of generating plant sufficient to supply the same total requirements of electricity during that year without receiving any electricity from the works of the Authority, and assuming that such additional generating plant had been installed at the same time as the equivalent stages of the plant installed by the Authority.

Without restricting the generality of the expression “the cost to that Electricity Commission of all its electricity”, transmission and transformation costs to load centres will be included therein for the purposes of the calculations required by sub-paragraphs (i) and (ii) of this paragraph.

(b) The calculation of costs pursuant to the last preceding paragraph will be on the basis that for the purpose of arriving at the cost of electricity generated by the generating plant of the Electricity Commission—

- (i) the charges on account of interest on capital on the plant that has not been, but would have been, installed, in lieu of the equivalent stages of the plant installed by the Authority are at the same rates as the charges on account of interest upon the amount invested in those stages made pursuant to sub-clause (2.) of this clause;

- (ii) the charges for depreciation on that generating plant (whether that referred to in sub-paragraph (i) or not) will be calculated as equal annual instalments which, upon a sinking fund basis with interest accumulating at the rate determined pursuant to the last preceding sub-paragraph, will be sufficient to yield the total capital invested in these assets in 33 years in the case of thermal plant, and 70 years in the case of hydro plant; and
- (iii) at the expiration of the period mentioned in the last preceding sub-paragraph, the generating plant will be deemed to have been retired, and costs related thereto will be excluded.

(c) If as a result of the calculations made pursuant to paragraph (a) of this sub-clause the cost mentioned in sub-paragraph (i) exceeds the cost mentioned in sub-paragraph (ii) of that paragraph then the amount which an Electricity Commission is required to pay to the Authority pursuant to paragraph (c) of sub-clause (1.) of this clause shall be reduced by a sum equivalent to such excess.

(d) An Electricity Commission may at any time notify the Authority in writing that it permanently waives its rights under the last preceding paragraph in respect of its share of surplus electrical energy, or agree with the Authority to modify those rights in a manner and in respect of a period which are mutually satisfactory, and those rights shall thereupon be waived or modified accordingly, as the case may be.

(e) If the amount payable by an Electricity Commission in a financial year pursuant to paragraph (c) of sub-clause (1.) of this clause is reduced by the operation of paragraph (c) of this sub-clause, the sum by which it is so reduced will be entered in a suspense account in the name of that Electricity Commission together with interest accruing from time to time on the balance of that account. While any amount is showing in the suspense account of that Electricity Commission, that Electricity Commission will, for each financial year in respect of which the amount calculated for that Electricity Commission under sub-paragraph (ii) of paragraph (a) of this sub-clause exceeds the relevant amount calculated under sub-paragraph (i) of that paragraph, be required to pay, in addition to the other amounts payable by it under this agreement, either an amount equal to the amount of that excess or such other amount as may be agreed upon between that Electricity Commission and the Authority, and the amounts so paid will be applied in reduction of the amount in the suspense account aforesaid.

(f) Interest payable on the sums entered in the suspense account pursuant to the last preceding paragraph shall be treated in the same manner as the interest on advances to the Authority is being treated at that time pursuant to

sub-clause (2.) of this clause and be charged at the same rate as the average rate of that interest. If, after the change-over date referred to in paragraph (b) of sub-clause (2.) of this clause, interest on advances made to the Authority after that date charged or allocated to stages of its permanent works from which stages electricity is generated is being treated in a manner other than that described in the said paragraph (b), interest on sums entered in the suspense account in respect of the corresponding period will be similarly treated.

**Operation of works**

16.—(1.) Subject to clauses 7 and 8 of this agreement, the operation and maintenance of the permanent works of the Authority shall be under the direction and control of the Council which, in the exercise of these functions, shall be subject to any directions of the Minister.

(2.) (a) For the purpose of implementing its directions under sub-clause (1.) of this clause, the Council will appoint an Operations Engineer, who shall be a person nominated by the Authority, and two Assistant Operations Engineers, one of whom shall be a person nominated by the Electricity Commission of New South Wales and one of whom shall be a person nominated by the Electricity Commission of Victoria.

(b) The Operations Engineer shall be remunerated by the Authority and an Assistant Operations Engineer shall be remunerated by the Electricity Commission which nominated him, but the Operations Engineer and the Assistant Operations Engineers shall be the servants, and subject to the orders and directions, of the Council.

(3.) Subject to sub-clause (1.) of this clause, the generating stations shall be manned by the Electricity Commissions, and the Council shall determine, from time to time, which generating stations are to be manned by the respective Electricity Commissions.

(4.) Subject to sub-clause (1.) of this clause, the works of the Authority, other than the generating stations, shall be manned by the Authority.

(5.) The Authority and each of the Electricity Commissions will ensure that its respective officers, agents, servants and employees manning the permanent works of the Authority pursuant to this clause will carry out and comply with the directions of the Council given pursuant to this clause.

(6.) As between the parties to this agreement, the Council shall be responsible for any directions given by it (whether on the directions of the Minister or not) or by the Operations Engineer or an Assistant Operations Engineer, and for the acts and omissions, in or in connexion with the operation

and maintenance of the permanent works of the Authority, of the Council, the Operations Engineer, the Assistant Operations Engineers, the Authority and the Electricity Commissions, and of the officers, agents, servants and employees of the Council, the Authority and the Electricity Commissions.

(7.) The Authority shall, on being requested by the Council to do so, provide the Council with the funds necessary to meet any expenses incurred by the Council in or in connexion with the operation and maintenance of the permanent works of the Authority, or to enable the Council to pay any amounts which it shall become liable to pay pursuant to the last preceding sub-clause, and the amounts so provided by the Authority shall be deemed to be part of the net cost of production of the Authority for purposes of clause 15 of this agreement.

(8.) (a) If any claim for damages is made, or if any legal proceedings are instituted, against the Council, the Council shall immediately notify the Authority of that fact, and the Authority shall be entitled, if it so desires, to take over and conduct in the name of the Council the defence or settlement of that claim or those legal proceedings.

(b) The Authority shall have full discretion in the settlement of any claim, or in the conduct of any proceedings, referred to in the last preceding paragraph, and the Council shall give all such information and assistance for that purpose as the Authority may require.

(9.) The expenses incurred by the Electricity Commissions in manning the generating stations in accordance with the directions of the Council shall be reimbursed by the Authority at such intervals and in such manner as may be agreed between the Authority and the respective Electricity Commissions, or in default of agreement determined by the Council, and the expenses so reimbursed shall be deemed to be part of the net cost of production of the Authority for purposes of clause 15 of this agreement.

## PART VI—SNOWY MOUNTAINS COUNCIL

### **Constitution**

17.—(1.) There shall be a Council to be known as the Snowy Mountains Council.

(2.) The Council shall consist of—

(a) two members appointed by the Minister to represent the Commonwealth, one of whom shall be appointed by the Minister as the Chair and the other as the Deputy Chair of the Council;

- (b) two members appointed by the State of New South Wales to represent that State;
- (c) two members appointed by the State of Victoria to represent that State;
- (d) the Commissioner constituting the Authority, or, during any absence of the Commissioner, an Associate Commissioner appointed under the Act; and
- (e) an Associate Commissioner or an officer of the Authority appointed by the Minister on the recommendation of the Authority.

(3.) Whenever a duly appointed member of the Council is unable to attend a meeting of the Council, a deputy appointed by the Minister or State which appointed that member may attend as a member in his place.

(4.) The Minister shall appoint a person to be the Secretary to the Council.

### **Meetings**

18.—(1.) The Chair, or in his absence, the Deputy Chair, shall preside at meetings of the Council.

(2.) Meetings of the Council shall be summoned as and when considered desirable by the Chair, or, in his absence, by the Deputy Chair, and at such other times as are requested by any two members, but the meetings shall in any event be summoned and held at least once in every six months from the date of the commencement of this agreement.

(3.) No resolution may be adopted unless a representative of each of the Governments and of the Authority is present.

(4.) Subject to the next succeeding sub-clause, questions shall be decided by a majority of votes of the members present and voting and, in the event of an equality of votes, the presiding member shall have a casting as well as a deliberative vote.

(5.) The Associate Commissioner or officer of the Authority appointed by the Minister pursuant to paragraph (e) of sub-clause (2.) of clause 17 of this agreement shall not vote on questions arising in the performance by the Council of its duties and functions under paragraph (b) of sub-clause (2.) or under sub-clause (3.) of clause 19 of this agreement.

(6.) When decisions are not unanimous and a question is decided by a majority vote, the views of the minority shall be recorded, if so requested, and any report or advice on that question shall state the views of the minority.

**Duties and functions of the Council**

19.—(1.) The Council shall have and may exercise all the duties and functions imposed on it by this agreement and shall be subject to all the responsibilities and liabilities specifically conferred upon it by clauses 13, 14 and 16 of this agreement.

(2.) The duties of the Council shall be—

(a) to direct and control—

- (i) the operation and maintenance of the permanent works of the Authority for the control of water and the production of electricity; and
- (ii) the allocation of loads to generating stations;

(b) to advise on—

- (i) the co-ordination of the works carried out or to be carried out by the Authority with the works carried out or to be carried out by the States for—
  - (A) the generation and transmission of electricity; and
  - (B) irrigation; and
- (ii) the principles referred to in paragraph (h) of sub-clause (2.) of clause 15 of this agreement; and

(c) to determine the respective periods referred to in paragraph (s) of sub-clause (2.) of clause 15 of this agreement.

(3.) The Council shall if so required by the Government of the Commonwealth or of either of the States make a report on any matter referred to it by that Government and may of its own motion make reports with respect to—

- (a) the nature, order, sequence and rate of construction of works of the Authority;
- (b) matters affecting the States in respect of the diversion, storage and release of waters by the Authority;
- (c) matters affecting the States in respect of the generation, transmission, allocation and use of the electricity generated by the Authority; and
- (d) matters affecting the States in respect of catchment areas.

(4.) In carrying out its duties and functions, the Council shall at all times act consistently with the provisions of this agreement.

(5.) All reports or advice under this clause shall be made to the Minister who shall immediately on receipt of any such report or advice arrange for copies of it to be forwarded to the Premiers of the States.

(6.) The Council shall inform the Minister of all decisions made pursuant to its duties specified under paragraph (a) of sub-clause (2.) of this clause.

**Information for Council**

20. To enable the Council to carry out its duties and functions, the Authority shall keep the Council fully informed with respect to—

- (a) the nature and costs of all proposed works for the collection, diversion and storage of water and for the generation of electricity in pursuance of the Act or of this agreement;
- (b) the sequence, rate and progress of construction of those works;
- (c) its proposals for the diversion of waters and the operating procedures;
- (d) the position in respect of the waters held or proposed to be held from time to time in storages under the control of the Authority; and
- (e) all matters which may affect the interests of the States in respect of the use of those waters and in respect of the generation, transmission, allocation and use of the electricity generated by means of the use of those waters.

**Report by Council**

21. The Council shall present annually to the three Governments not later than the thirty-first day of October in each year a report on its activities for the period of twelve months ending on the preceding thirtieth day of June.

PART VII—THE GUTHEGA PROJECT

**Separate agreement as to Guthega Project**

22.—(1.) Notwithstanding anything contained in this agreement, the Authority and the Electricity Commission of New South Wales may enter into an agreement (in this clause called “the Guthega agreement”) with regard to the generation and supply to that Commission of the whole of the electricity from that part of the works of the Authority, being the pondage, tunnel, penstock, power station and works ancillary thereto, known as the Guthega Project (in this agreement called “the Guthega Project”).

(2.) (a) During the period of the Guthega agreement, the provisions of sub-clauses (1.) to (7.) both inclusive of clause 14, clause 15, clause 16 and

paragraph (a) of sub-clause (2.) of clause 19 of this agreement shall not apply to and in respect of the Guthega Project except as hereinafter provided.

(b) The Guthega agreement may incorporate or apply all or any of the provisions referred to in paragraph (a) of this sub-clause either with or without modification provided that those provisions shall not be so incorporated or applied as to impose in respect of the period of the Guthega agreement any financial obligations on the State of Victoria or on the Electricity Commission of Victoria in respect of the Guthega Project.

(c) Any determination made pursuant to paragraph (v) of sub-clause (2.) of clause 15 of this agreement as incorporated or applied in the Guthega agreement shall be accepted by the parties to this agreement as having been properly made for all purposes of this agreement.

(d) On the date upon which the generating stations included in those parts of the works of the Authority known as the T.1. and T.2. Projects come into full operation, or on such other date (whether before or after the first-mentioned date) as the parties to this agreement may decide, the Guthega agreement shall cease to operate and the provisions referred to in paragraph (a) of this sub-clause shall thereupon apply to and in respect of the Guthega Project.

(3.) (a) Any debt which is owing by or to the Electricity Commission of New South Wales to or by the Authority at the end of the period of the Guthega agreement and which was incurred under that agreement shall be discharged by action of the parties to that agreement and shall not after the said period affect the cost of production of the Authority.

(b) In each financial year after the end of the period of the Guthega agreement, the cost of production of the Authority determined in accordance with this agreement shall be so determined on the basis that the Guthega Project forms part of the permanent works of the Authority. Without prejudice to the generality of the foregoing provisions of this paragraph:

- (i) the net amount invested as at the end of the period of the Guthega agreement in the stage which comprises the Guthega Project shall be calculated as provided in paragraphs (d), (e), (f) and (h) of sub-clause (2.) of clause 15 of this agreement; and for the purposes of such calculation the amounts which in accordance with paragraph (c) of this sub-clause are deemed to be received by the Authority in respect of charges for depreciation shall be deemed to have been so received from the Commonwealth and both Electricity Commissions;

(ii) appropriate allocations made during the period of the Guthega agreement shall be accepted by the parties to this agreement as having been properly made for all purposes of this agreement.

(c) Amounts paid or payable under the Guthega agreement by the Electricity Commission of New South Wales in respect of the period of the Guthega agreement shall be deemed to exactly recoup the net cost of production of the Authority attributable to the Guthega Project for every financial year or odd fraction of a financial year during the period of the Guthega agreement and so far as required for the purpose of an odd fraction of a year those costs shall be deemed to accrue from day to day. Without prejudice to the foregoing provisions of this paragraph, the amounts paid by the Electricity Commission of New South Wales to the Authority under the Guthega agreement shall be deemed to include—

(i) instalments of accumulated interest and charges for depreciation on behalf of the Commonwealth and both Electricity Commissions attributable to the Guthega Project for the period of the Guthega agreement; and

(ii) all expenditure for maintenance of the Guthega Project during the period of the Guthega agreement.

(d) The amount of the expenditure for maintenance referred to in the last preceding paragraph shall be deemed to have been paid into and expended from the maintenance equalization account.

(4.) At the time when the Authority notifies the Electricity Commissions pursuant to clause 14 of this agreement of its estimates of electricity produced from the stage of the works known as the T.2. Project, or at the expiration of the period of the Guthega agreement, whichever is the earlier, the Authority shall notify the Commissions of its estimates of production of electricity from the Guthega Project, and that notification shall be deemed to have been given pursuant to sub-clause (1.) of clause 14 of this agreement.

#### PART VIII—MISCELLANEOUS

##### **Legislation as to acquisition of lands and easements etc. for transmission of electricity**

23. The State of New South Wales agrees with the State of Victoria that it will include in the legislation submitted to its Parliament for the approval of this agreement a provision that the Government of New South Wales shall appropriate resume acquire or otherwise make available to and vest in the Electricity Commission of Victoria at the expense of that Commission such lands and easements over lands in the State of New South Wales as are required

for the purpose of or incidental to erecting using and maintaining the facilities necessary for the transmission from the Area to Victoria of the electricity to which the Electricity Commission of Victoria is entitled under this agreement.

SCHEDULE

1. The water storage works on the Eucumbene River known as Adaminaby Dam, and works ancillary thereto.
2. The tunnel for the diversion of the Eucumbene River to the Tumut River known as the Eucumbene Tumut Tunnel, and works ancillary thereto.
3. The Tumut Pond Dam, the tunnel, pressure shafts, power station, tailrace tunnel and works ancillary thereto known as T.1. Project.
4. The pondage, tunnel, pressure shafts, power station, tailrace tunnel and works ancillary thereto known as T.2. Project.
5. The works known as the Tooma Diversion.
6. The works known as the Murrumbidgee-Eucumbene diversion.

IN WITNESS WHEREOF the parties have executed this agreement the day and year first hereinbefore written.

SIGNED BY THE RIGHT HONOURABLE  
ROBERT GORDON MENZIES, Prime  
Minister of the Commonwealth of Australia,  
for and on behalf of the Commonwealth, in  
the presence of—

W. H. SPOONER  
Minister for National Development  
Canberra  
A.C.T.

} ROBERT G.  
MENZIES

SIGNED BY THE HONOURABLE JOHN  
JOSEPH CAHILL, Premier of the State of  
New South Wales, for and on behalf of that  
State, in the presence of—

K. N. COMMENS

} J. J. CAHILL

SIGNED BY THE HONOURABLE HENRY  
EDWARD BOLTE, Premier of the State of  
Victoria, for and on behalf of that State, in the  
presence of—

J. C. MACGIBBON

} HENRY E. BOLTE

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## Schedule 2

### Section 4

A SUPPLEMENTAL AGREEMENT made this fourteenth day of December One thousand nine hundred and fifty-seven BETWEEN THE COMMONWEALTH OF AUSTRALIA of the first part, THE STATE OF NEW SOUTH WALES of the second part and THE STATE OF VICTORIA of the third part, and intended to be supplemental to the agreement (in this agreement called “the Principal Agreement”) entered into on the eighteenth day of September One thousand nine hundred and fifty-seven between the parties to this agreement to provide for the construction, operation and maintenance of the undertaking known as the Snowy Mountains Hydro-electric Scheme:

WHEREAS it is necessary, in order to give effect to certain arrangements between the parties to this agreement with respect to the possibility of flooding of lands along the Upper Murray and along the Lower Tumut, that certain provisions affecting the Principal Agreement should be made:

NOW IT IS HEREBY AGREED by and between the parties to this agreement as follows:—

#### **Interpretation**

1.—(1.) In this agreement—

“loss by flooding” means loss directly resulting from the raising of the level of the Upper Murray by water diverted into the River Murray catchment by the permanent works of the Authority or of the Lower Tumut by the discharge of waters from the permanent works of the Authority into the Tumut River, as the case may be;

“the Upper Murray” means that portion of the River Murray, including any tributary through which water discharged from the permanent works of the Authority enters that river, which is between the lowest point of discharge of water by the Authority or the Council and the highest point on that river reached by the waters of the Hume Reservoir when that reservoir is at maximum flood level;

“the Lower Tumut” means that portion of the Tumut River which is between the point where the boundary of the Snowy Mountains area crosses that river and a point downstream from the town of Tumut and distant seven miles in a direct line from the point where the Tumut-Wee Jasper road crosses the Tumut River.

(2.) Expressions used in this agreement which are defined in the Principal Agreement have the same meanings as in the Principal Agreement.

**Approval of Agreement**

2.—(1.) This agreement, other than sub-clause (2.) of this clause, shall have no force or effect and shall not be binding on any of the parties hereto unless and until it is approved by the respective Parliaments of the Commonwealth and the State of New South Wales and the State of Victoria, but, upon being so approved by those Parliaments, it shall be of full force and effect and binding on the parties.

(2.) The Governments of the Commonwealth and the States hereby agree to submit this agreement for approval to their respective Parliaments as soon as practicable after the date of this agreement.

**Authority to avoid flooding on Upper Murray**

3. The Authority shall—

- (a) in investigating, planning, locating and constructing its works, take reasonable precautions for the prevention of loss by flooding in relation to land along the Upper Murray and along the Lower Tumut; and
- (b) take all reasonable measures to prevent loss by flooding in relation to land along the Upper Murray and along the Lower Tumut as a result of the operation of the permanent works of the Authority.

**Liability of Council for flooding on Upper Murray**

4.—(1.) In directing and controlling the operation and maintenance of the permanent works of the Authority, the Council shall cause to be taken all reasonable precautions to prevent loss by flooding in relation to land along the Upper Murray and along the Lower Tumut.

(2.) If the owner of land along the Upper Murray or along the Lower Tumut suffers loss by flooding in relation to that land, the Council shall be liable to pay to that person such compensation as is determined by agreement between that person and the Council or, in the absence of agreement, by action against the Council in a court of competent jurisdiction.

(3.) The Authority shall, on being requested by the Council to do so, provide the Council with the funds necessary to meet the expenses incurred by the Council in pursuance of this clause.

(4.) The provisions of sub-clause (8.) of clause 16 of the Principal Agreement shall apply in relation to claims and proceedings against the Council arising out of this clause.

**Commonwealth legislation**

5. The Government of the Commonwealth of Australia agrees to include in the legislation submitted to its Parliament for the approval of this agreement a provision requiring the Authority to carry out its obligations under this agreement.

**State legislation**

6. The Government of each of the States agrees to include in the legislation submitted to its Parliament for the approval of this agreement—

- (a) a provision requiring the Council to carry out its obligations under this agreement;
- (b) a provision imposing liability on the Council in accordance with sub-clause (2.) of clause 4 of this agreement; and
- (c) a provision in such form as will enable the Authority for the purpose of giving effect to this agreement to do in that State all such matters and things as the Act permits, or purports to permit, the Authority to do, and to exercise all such powers and authorities in that State as may be necessary to enable the provisions of this agreement to be carried out.

**Treatment of expenditure**

7. Expenditure incurred by the Authority in pursuance of this agreement shall, for the purposes of the Principal Agreement—

- (a) if it is of a capital nature—be deemed to be part of the net capital expenditure of the Authority in respect of the relevant stage or stages of the permanent works of the Authority; and
- (b) in any other case—be deemed to be part of the net cost of production of the Authority in the year in which it is incurred.

8. The provisions of this agreement will cease to apply in relation to land along the Lower Tumut when the storage works referred to in clause 6 of the Principal Agreement are so far constructed and brought into operation as to commence to control the waters of the Tumut River.

9. In all other respects, the Principal Agreement is confirmed.

IN WITNESS WHEREOF the parties have executed this agreement the day and year first hereinbefore written.

SIGNED BY THE RIGHT HONOURABLE  
ROBERT GORDON MENZIES, Prime Minister  
of the Commonwealth of Australia, for and on  
behalf of the Commonwealth, in the presence  
of—

W. HESELTINE

} ROBERT G. MENZIES

SIGNED BY THE HONOURABLE JOHN  
JOSEPH CAHILL, Premier of the State of New  
South Wales, for and on behalf of that State, in  
the presence of—

G. M. GRAY

} J. J. CAHILL

SIGNED BY THE HONOURABLE HENRY  
EDWARD BOLTE, Premier of the State of  
Victoria, for and on behalf of that State, in the  
presence of—

W. HESELTINE

} HENRY E. BOLTE

**Table of Acts****Notes to the *Snowy Mountains Hydro-electric Power Act 1949*****Note 1**

The *Snowy Mountains Hydro-electric Power Act 1949* as shown in this compilation comprises Act No. 25, 1949 amended as indicated in the Tables below.

All relevant information pertaining to application, saving or transitional provisions prior to 1 October 2001 is not included in this compilation. For subsequent information *see* Table A.

The *Snowy Mountains Hydro-electric Power Act 1949* was modified by the A.C.T. Self-Government (Consequential Provisions) Regulations as amended *see* Table B.

**Table of Acts**

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Snowy Mountains Hydro-electric Power Act 1949</i>	25, 1949	7 July 1949	7 July 1949	
<i>Snowy Mountains Hydro-electric Power Act 1951</i>	47, 1951	8 Dec 1951	5 Jan 1952	—
<i>Snowy Mountains Hydro-electric Power Act 1952</i>	35, 1952	17 June 1952	27 June 1951 (see <i>Gazette</i> 1956, p. 2977)	—
<i>Lands Acquisition Act 1955</i>	69, 1955	4 Nov 1955	16 Feb 1956 (see <i>Gazette</i> 1956, p. 472)	S. 67(3)
<i>Snowy Mountains Hydro-electric Power Act 1956</i>	45, 1956	30 June 1956	14 Aug 1956 (see s. 2 and <i>Gazette</i> 1956, p. 2489)	—
<i>Snowy Mountains Hydro-electric Power Act 1958</i>	31, 1958	21 May 1958	6 Nov 1958 (see <i>Gazette</i> 1958, p. 3657)	—
<i>Statute Law Revision (Decimal Currency) Act 1966</i>	93, 1966	29 Oct 1966	1 Dec 1966	—
<i>Statute Law Revision Act 1973</i>	216, 1973	19 Dec 1973	31 Dec 1973	Ss. 9(1) and 10

**Table of Acts**

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Snowy Mountains Hydro-electric Power Act 1975</i>	29, 1975	24 Apr 1975	24 Apr 1975	—
<i>Administrative Changes (Consequential Provisions) Act 1978</i>	36, 1978	12 June 1978	12 June 1978	S. 8
<i>Snowy Mountains Hydro-electric Power Amendment Act 1979</i>	156, 1979	28 Nov 1979	28 Nov 1979	Ss. 8(2), (3) and 10(2)
<i>River Murray Waters Act 1983</i>	86, 1983	14 Nov 1983	1 Feb 1984 (see <i>Gazette</i> 1984, No. S34)	S. 17(2)
<i>Statute Law (Miscellaneous Provisions) Act (No. 1) 1985</i>	65, 1985	5 June 1985	S. 3: 3 July 1985 (a)	—
<i>Statute Law (Miscellaneous Provisions) Act (No. 1) 1986</i>	76, 1986	24 June 1986	S. 3: Royal Assent (b)	S. 9
<i>Lands Acquisition (Repeal and Consequential Provisions) Act 1989</i>	21, 1989	20 Apr 1989	9 June 1989 (see s. 2 and <i>Gazette</i> 1989, No.S185)	—
<i>Primary Industries and Energy Legislation Amendment Act 1990</i>	134, 1990	28 Dec 1990	Part 7 (ss. 34-37): 1 Oct 1990 Remainder: Royal Assent	—
<i>Industrial Relations Legislation Amendment Act 1991</i>	122, 1991	27 June 1991	Ss. 4(1), 10(b) and 15-20: 1 Dec 1988 Ss. 28(b)-(e), 30 and 31: 10 Dec 1991 (see <i>Gazette</i> 1991, No. S332) Remainder: Royal Assent	S. 31(2)
<i>Prime Minister and Cabinet Legislation Amendment Act 1991</i>	199, 1991	18 Dec 1991	18 Dec 1991	—
<i>Primary Industries and Energy Legislation Amendment Act (No.2) 1992</i>	59, 1992	22 June 1992	22 June 1992	—
<i>Murray-Darling Basin Act 1993</i>	38, 1993	20 Sept 1993	6 Oct 1993 (see <i>Gazette</i> 1993, No. GN39)	—
<i>Primary Industries and Energy Legislation Amendment Act 1993</i>	94, 1993	16 Dec 1993	Parts 11 and 12 (ss. 47-65): 1 Jan 1994 S. 69(1)(b): 1 July 1989 Remainder: Royal Assent	—

**Table of Acts**

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Primary Industries and Energy Legislation Amendment Act 1994</i>	94, 1994	29 June 1994	29 June 1994	S. 2(2)-(7)
<i>Statute Law Revision Act 1996</i>	43, 1996	25 Oct 1996	Schedule 4 (item 135): Royal Assent (c)	—
<i>Audit (Transitional and Miscellaneous) Amendment Act 1997</i>	152, 1997	24 Oct 1997	Schedule 2 (items 1198-1206): 1 Jan 1998 (see <i>Gazette</i> 1997, No. GN49) (d)	—
<i>Snowy Hydro Corporatisation Act 1997</i>	176, 1997	21 Nov 1997	Ss. 1-9, 11-22, 25, 47-50, 56-58, 63(1) and Schedule 2 (Part 1): Royal Assent Ss. 53-55 and Schedule 1: 3 Apr 2001 (see <i>Gazette</i> 2001, No. GN16) Remainder: 28 June 2002 (see <i>Gazette</i> 2002, No. S216)	—
<i>Public Employment (Consequential and Transitional) Amendment Act 1999</i>	146, 1999	11 Nov 1999	Schedule 1 (item 821): 5 Dec 1999 (see <i>Gazette</i> 1999, No. S584) (e)	—
<i>Corporate Law Economic Reform Program Act 1999</i>	156, 1999	24 Nov 1999	Schedule 10 (item 118): 13 March 2000 (see <i>Gazette</i> 2000, No. S114) (f)	—
<i>Abolition of Compulsory Age Retirement (Statutory Officeholders) Act 2001</i>	159, 2001	1 Oct 2001	29 Oct 2001	Sch 1 (item 97) [see Table A]

## Act Notes

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- (a) The *Snowy Mountains Hydro-electric Power Act 1949* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act (No. 1) 1985*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act shall come into operation on the twenty-eighth day after the day on which it receives the Royal Assent.
- (b) The *Snowy Mountains Hydro-electric Power Act 1949* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act (No. 1) 1986*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act shall come into operation on the day on which it receives the Royal Assent.
- (c) The *Snowy Mountains Hydro-electric Power Act 1949* was amended by Schedule 4 (item 135) only of the *Statute Law Revision Act 1996*, subsection 2(1) of which provides as follows:
- (1) Subject to subsections (2) and (3), this Act commences on the day on which it receives the Royal Assent.
- (d) The *Snowy Mountains Hydro-electric Power Act 1949* was amended by Schedule 2 (items 1198-1206) only of the *Audit (Transitional and Miscellaneous) Amendment Act 1997*, subsection 2(2) of which provides as follows:
- (2) Schedules 1, 2 and 4 commence on the same day as the *Financial Management and Accountability Act 1997*.
- (e) The *Snowy Mountains Hydro-electric Power Act 1949* was amended by Schedule 1 (item 821) only of the *Public Employment (Consequential and Transitional) Amendment Act 1999*, subsections 2(1) and (2) of which provides as follows:
- (1) In this Act, **commencing time** means the time when the *Public Service Act 1999* commences.
  - (2) Subject to this section, this Act commences at the commencing time.
- (f) The *Snowy Mountains Hydro-electric Power Act 1949* was amended by Schedule 1 (item 118) only of the *Corporate Law Economic Reform Program Act 1999*, subsection 2(2) of which provides as follows:
- (2) The following provisions commence on a day or days to be fixed by Proclamation:
    - (a) section 3;
    - (b) the items in Schedules 1 to 7 (other than item 18 of Schedule 7);
    - (c) the items in Schedules 10, 11 and 12.

**Table of Amendments****Table of Amendments**

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

Provision affected	How affected
S. 3 .....	am. No. 47, 1951 rs. No. 45, 1956 am. No. 31, 1958 rep. No. 216, 1973
S. 4 .....	am. No. 47, 1951; No. 31, 1958; No. 156, 1979
S. 5A.....	ad. No. 31, 1958
S. 5B.....	ad. No. 31, 1958 am. No. 156, 1979; No. 86, 1983; No. 38, 1993
S. 6 .....	am. No. 31, 1958; No. 156, 1979
S. 7 .....	am. No. 152, 1997
S. 8 .....	am. No. 29, 1975
S. 9 .....	am. No. 216, 1973; No. 29, 1975; No. 159, 2001
S. 10 .....	rs. No. 156, 1979 am. No. 43, 1996
S. 11 .....	rs. No. 122, 1991 am. No. 146, 1999
S. 11A.....	ad. No. 152, 1997
S. 13.....	am. No. 29, 1975; No. 156, 1979; No. 122, 1991; No. 152, 1997
S. 14.....	am. No. 29, 1975 rs. No. 156, 1979 am. No. 94, 1994
S. 16.....	rs. No. 31, 1958 am. No. 156, 1979
S. 17.....	am. No. 156, 1979
Ss. 18, 19.....	am. No. 47, 1951; No. 156, 1979
S. 20.....	am. No. 156, 1979
S. 22.....	am. No. 31, 1958; No. 93, 1966; No. 216, 1973 rs. No. 156, 1979 am. No. 199, 1991
S. 22A.....	ad. No. 47, 1951 rep. No. 156, 1979
S. 23.....	rs. No. 47, 1951 am. No. 45, 1956 rep. No. 156, 1979
S. 24.....	rs. No. 47, 1951 am. No. 156, 1979
Part IVA ..... (ss. 24A-24J)	ad. No. 47, 1951  rep. No. 45, 1956
Ss. 24A, 24B.....	ad. No. 47, 1951 am. No. 35, 1952 rep. No. 45, 1956
S. 24C.....	ad. No. 47, 1951 rep. No. 45, 1956

**Table of Amendments**

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

Provision affected	How affected
Ss. 24CA-24CC .....	ad. No. 35, 1952 rep. No. 45, 1956
S. 24D.....	ad. No. 47, 1951 rep. No. 45, 1956
S. 24E.....	ad. No. 47, 1951 rep. No. 35, 1952
S. 24F.....	ad. No. 47, 1951 rep. No. 45, 1956
Ss. 24G, 24H .....	ad. No. 47, 1951 am. No. 35, 1952 rep. No. 45, 1956
S. 24J .....	ad. No. 47, 1951 rep. No. 45, 1956
S. 24K.....	ad. No. 35, 1952 rep. No. 45, 1956
S. 25 .....	rs. No. 31, 1958 am. No. 216, 1973; No. 36, 1978 rs. No. 156, 1979
S. 26 .....	am. No. 31, 1958; No. 216, 1973 rs. No. 156, 1979; No. 152, 1997 am. No. 156, 1999
S. 27 .....	rs. No. 31, 1958 am. No. 216, 1973; No. 36, 1978 rs. No. 156, 1979; No. 76, 1986
S. 28 .....	rs. No. 31, 1958; No. 156, 1979; No. 76, 1986
S. 28A.....	ad. No. 31, 1958 rep. No. 156, 1979 ad. No. 76, 1986
S. 28B.....	ad. No. 76, 1986
S. 29 .....	rs. No. 156, 1979; No. 76, 1986
S. 29A.....	ad. No. 76, 1986
S. 30 .....	rep. No. 31, 1958 ad. No. 156, 1979 am. No. 152, 1997
S. 30A.....	ad. No. 156, 1979 rep. No. 152, 1997
S. 30B.....	ad. No. 156, 1979
S. 31 .....	am. No. 93, 1966; No. 156, 1979 rs. No. 134, 1990; No. 59, 1992 am. No. 94, 1993; No. 152, 1997
Part VA .....	ad. No. 31, 1958
(ss. 32, 32A, 32B)	
S. 32 .....	rs. No. 31, 1958 rep. No. 152, 1997
S. 32A.....	ad. No. 31, 1958 rep. No. 152, 1997
S. 32B.....	ad. No. 31, 1958 am. No. 36, 1978

**Table of Amendments**


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 ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted
 

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Provision affected	How affected
	rep. No. 156, 1979
S. 33 .....	am. No. 69, 1955; No. 31, 1958; No. 156, 1979; No. 21, 1989
S. 34 .....	am. No. 47, 1951; No. 216, 1973 rs. No. 156, 1979 rep. No. 65, 1985
S. 35 .....	am. No. 47, 1951 rep. No. 216, 1973
S. 37 .....	rs. No. 31, 1958 am. No. 93, 1966; No. 156, 1979
Ss. 39, 40.....	rep. No. 31, 1958
S. 41 .....	am. No. 93, 1966; No. 156, 1979
Heading to First Schedule.....	rep. No. 156, 1979
First Schedule.....	ad. No. 31, 1958
Heading to Schedule 1.....	ad. No. 156, 1979
Schedule 1	am. No. 152, 1997
Heading to Second Schedule....	rep. No. 156, 1979
Heading to Schedule 2.....	ad. No. 156, 1979
Second Schedule .....	ad. No. 31, 1958

**Note 2**

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**Note 2**

Section. 6(2)—The Governor-General by Proclamation dated 28 April, 1954, defined the boundaries of the Snowy Mountains Area (*see Gazette 1954*, p. 1357).

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**Table A**

**Table A**

**Application, saving or transitional provisions**

*Abolition of Compulsory Age Retirement (Statutory Officeholders) Act 2001*  
(No. 159, 2001)

**Schedule 1**

**97 Application of amendments**

The amendments made by this Schedule do not apply to an appointment if the term of the appointment began before the commencement of this item.

**Table B**

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**Table B**

**Modifications**

A.C.T. Self-Government (Consequential Provisions) Regulations

Section 16—The *Snowy Mountains Hydro-electric Power Act 1949* was modified by regulation 2 and Schedule 1 of the A.C.T. Self-Government (Consequential Provisions) Regulations as amended. The provisions of Schedule 1 applicable to the abovementioned Act quoted below are not incorporated in this compilation.

**Subparagraph 16(1)(b)(i):**

After “Commonwealth” (second occurring) insert “or the Australian Capital Territory”.