



# Electricity Act 1947

## 1947 CHAPTER 54

### PART II

#### ACQUISITION OF ELECTRICITY UNDERTAKINGS.

##### *Supplementary Provisions.*

#### **31 Establishment of Electricity Arbitration Tribunal.**

- (1) For the purpose of determining any question or dispute which under any provision of this Part of this Act or any regulations made thereunder is to be determined by arbitration under this Act, or any matter in respect of which jurisdiction is given to the arbitration tribunal under this Part of this Act, there shall be established a tribunal called the Electricity Arbitration Tribunal (in this Act referred to as " the arbitration tribunal ") and the arbitration tribunal shall subject to the provisions of this section, hear and determine every such question, dispute or matter as aforesaid.
- (2) The arbitration tribunal shall, as the Lord Chancellor may direct, either sit as a single tribunal or sit in two or more divisions, and shall, for the hearing of any proceedings, be constituted as follows:—
  - (a) one member shall be a person of legal experience and he shall be the president of the tribunal;
  - (b) there shall be two other members of whom one shall be a person of experience in business and the other shall be a person of experience in finance:

Provided that, in relation to any proceedings which, under the provisions of subsection (5) of this section, are required to be held in Scotland, the member who is a person of legal experience shall be a person of legal experience in Scotland.

- (3) The members of the tribunal shall be appointed by the Lord Chancellor, except that any member or members appointed as being a person or persons of legal experience in Scotland shall be appointed by the Lord President of the Court of Session, and any member appointed by the Lord President shall only act in relation to proceedings which are required as aforesaid to be held in Scotland.

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- (4) The members of the arbitration tribunal shall hold office for such period as may be determined at the time of their respective appointments and shall be eligible for reappointment:

Provided that—

- (a) a member may at any time by not less than one month's notice in writing to the Lord Chancellor, or the Lord President of the Court of Session, as the case may be, resign his office ;
  - (b) the Lord Chancellor, or the Lord President of the Court of Session, as the case may be, may declare the office of any member vacant on the ground that he is unfit to continue in his office ;
  - (c) if any member becomes bankrupt or makes a composition with his creditors, his office shall thereupon become vacant.
- (5) Where any such question, dispute or matter as aforesaid arises out of or in connection with the vesting by virtue of this Act of the property, rights, liabilities and obligations of any body, or in connection with any transaction of any body, and the principal place of business of the body is in Scotland, the tribunal shall sit in Scotland.
- (6) If any member of the arbitration tribunal becomes, by reason of illness or other infirmity, temporarily incapable of performing the duties of his office, the Lord Chancellor, or the Lord President of the Court of Session, as the case may be, shall appoint some other, fit person to discharge his duties for any period not exceeding six months at one time, and the person so appointed shall, during that period, have the same powers as the person in whose place he was-appointed.
- (7) The arbitration tribunal may, at any stage in any proceedings before them, refer to a person or persons appointed by them for the purpose, any question arising in the proceedings, for inquiry and report, and the report of any such person or persons may be adopted wholly or partly by the tribunal and, if so adopted, may be incorporated in an order of the tribunal.

### **32 Procedure and enforcement of orders of arbitration tribunal.**

- (1) The arbitration tribunal shall be a court of record and have an official seal, which shall be judicially noticed, and any order of the tribunal shall be enforceable in England and Wales as if it were an order of the High Court.
- (2) The provisions of the Arbitration Acts, 1889 to 1934, with respect to—
- (a) the administration of oaths and the taking of affirmations; and
  - (b) the correction in awards of mistakes and errors; and
  - (c) the summoning, attendance and examination of witnesses and the production of documents; and
  - (d) the costs of the reference and award,
- shall, with any necessary modifications, apply in respect of any proceedings before the arbitration tribunal, but, save as aforesaid, the said Acts shall not apply to any such proceedings.
- (3) The arbitration tribunal may, and if so ordered by the Court of Appeal shall, state in the form of a special case for determination by the Court of Appeal any question of law which may arise before them, and an appeal shall lie to the Court of Appeal on any question of law or fact from any determination or order of the arbitration tribunal on a claim under section twenty-six of this Act against the directors of a body to whom

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Part II of this Act applies or on an application under section twenty-nine of this Act in respect of any transaction.

- (4) The Minister shall have a right to be heard in all proceedings before the arbitration tribunal and proceedings on a case stated by or an appeal from that tribunal.
- (5) Subject to the provisions of this section, the procedure in or in connection with any proceedings before the arbitration tribunal shall be such as may be determined by rules to be made by the tribunal with the approval of the Lord Chancellor.
- (6) In relation to proceedings which, under the last foregoing section, are required to be held in Scotland, this section shall have effect subject to the following modifications—
  - (a) for subsections (2) and (3) there shall be substituted the following subsections—
    - “(2) The arbitration tribunal shall have the like powers for securing the attendance of witnesses and the production of documents, and with regard to the examination of witnesses on oath and the awarding of expenses as if the arbitration tribunal were an arbiter under a submission.
    - (3) The arbitration, tribunal may, and if so directed by the Court of Session shall, state a case for the opinion of that Court on any question of law arising in the proceedings, and an appeal shall lie to the Court of Session on any question of law or fact from any determination or order of the arbitration tribunal on a claim under section twenty-six of this Act against the directors of a body to whom Part II of this Act applies or on an application under section twenty-nine of this Act in respect of any transaction.  
  
An appeal shall lie, with the leave of the Court of Session or of the House of Lords, from any decision of the Court of Session under this subsection, and such leave may be given on such terms as to costs or otherwise as the Court of Session or the House of Lords may determine;”
  - (b) in subsection (6) for the reference to the Lord Chancellor there shall be substituted a reference to the Secretary of State.
- (7) The Secretary of State shall have a right to be heard in all proceedings before the arbitration tribunal and proceedings on a case stated by or an appeal from that tribunal, being proceedings to which the North of Scotland Board is a party.

### **33 Staff and expenses of arbitration tribunal.**

- (1) The arbitration tribunal may, subject to the consent of the Treasury as to numbers, appoint such officers as they consider necessary for assisting them in the proper execution of their duties.
- (2) There shall be paid to the members of the arbitration tribunal and to any such officer as aforesaid such remuneration (whether by way of salaries or fees) and such allowances as the Minister may, with the approval of the Treasury, determine.
- (3) There shall be paid to any person to whom proceedings are referred by the arbitration tribunal under the last but one foregoing section for hearing and determination such

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remuneration (whether by way of salaries or fees) and such allowances as the tribunal may, with the approval of the Treasury, determine.

- (4) Any such remuneration and allowances as aforesaid and any other expenses of the arbitration tribunal shall be defrayed in the first instance by the Minister out of moneys provided by Parliament, but the amounts from time to time so paid by the Minister shall be repaid on demand to the Minister by the Central Authority :

Provided that such proportion of the amounts so paid by the Minister in respect of proceedings to which the North of Scotland Board is a party as the Minister and the Secretary of State may determine shall be repaid to the Minister by the North of Scotland Board.

### **34 Determination of questions as to application of Part II of this Act.**

- (1) The Minister shall, within the prescribed period, serve a notice on every body who in his opinion are a power station company or electricity holding company to whom this Part of this Act applies and, unless that body serves on the Minister, within such period (not being less than twenty-eight days) after the service of the notice as may be prescribed, a counter notice in the prescribed form (which is not withdrawn) stating that in their opinion this Part of this Act does not apply to them, this Part of this Act shall be deemed to apply to the body.
- (2) Where any body on whom the Minister has not served a notice under the last foregoing subsection within the period prescribed therefor, are of opinion that they are a power station company or electricity holding company to whom this Part of this Act applies, they may within such further period (not being less than twenty-eight days) as may be prescribed after the expiration of the period aforesaid, serve a notice on the Minister in the prescribed form, and unless the Minister serves on that body, within such period as may be prescribed, a counter notice in the prescribed form (which is not withdrawn) stating that in his opinion this Part of this Act does not apply to them, this Part of this Act shall be deemed to apply to the body.
- (3) Where, in the case of any body, other than authorised undertakers, no notice has been served by the Minister or the body under the foregoing provisions of this section within the periods prescribed therefor, this Part of this Act shall be deemed not to apply to the body.
- (4) Where a counter notice is served under the foregoing provisions of this section and is not withdrawn, the question whether this Part of this Act applies to the body by or on whom the counter notice was served shall be determined by arbitration under this Act.
- (5) Where a question has been referred to arbitration in accordance with the last foregoing subsection and the arbitration tribunal determine that this Part of this Act applies to the body, the tribunal may and, if the vesting date has already occurred, shall, fix a later date which, in relation to that body shall be, and be deemed always to have been, the vesting date for the purposes of this Act.

### **35 Power to obtain information.**

- (1) Regulations may require any body who is or may be a body to whom this Part of this Act applies to produce such books of account, records and documents, to supply copies of and extracts from such books, records and documents, and to furnish such other information as may reasonably be required—

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- (a) by the Minister or the Secretary of State for the purpose of ascertaining whether or not the body is one to whom this Part of this Act applies;
- (b) by any Electricity Board for the purpose of facilitating the taking over of the business of the body by them on the vesting date; or
- (c) by the Minister, the Secretary of State or any Electricity Board for other purposes arising out of the provisions of this Part of this Act;

and to provide facilities for the examination of any such books, records and documents, and the taking of copies thereof and extracts therefrom, and facilities for the verification of other information furnished under the regulations; and such regulations may make provision as to the manner, time and place in or at which any requirement under the regulations is to be complied with. :

- (2) Regulations made under this section shall make provision for the payment to any such body of expenses reasonably incurred by them in complying with any requirements made by or under the regulations.