

ENERGY AUTHORITY (AMENDMENT) ACT, 1982, No. 73

New South Wales



ANNO TRICESIMO PRIMO

ELIZABETHÆ II REGINÆ

Act No. 73, 1982.

An Act to amend the Energy Authority Act, 1976, to enable the Energy Authority of New South Wales to hold shares in certain companies and to confer certain powers on inspectors during an emergency relating to the supply of energy. [Assented to, 21st May, 1982.]

Energy Authority (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as the "Energy Authority (Amendment) Act, 1982".

Principal Act.

2. The Energy Authority Act, 1976, is referred to in this Act as the Principal Act.

Schedules.

3. This Act contains the following Schedules:—

SCHEDULE 1.—AMENDMENT TO THE PRINCIPAL ACT RELATING TO THE ACQUISITION AND HOLDING OF SHARES IN CERTAIN COMPANIES.

SCHEDULE 2.—AMENDMENTS TO THE EMERGENCY PROVISIONS OF THE PRINCIPAL ACT.

Amendment of Act No. 69, 1976.

4. The Principal Act is amended in the manner set forth in Schedules 1 and 2.

Energy Authority (Amendment).

SCHEDULE 1.

(Sec. 4.)

AMENDMENT TO THE PRINCIPAL ACT RELATING TO THE
ACQUISITION AND HOLDING OF SHARES IN
CERTAIN COMPANIES.

Section 13A—

After section 13, insert:—

Purchase, etc., of certain shares.

13A. (1) Subject to subsection (2), the Authority may, on behalf of the Crown, negotiate and enter into agreements for the purposes of, or in connection with, the acquisition, holding, dealing with and disposal of shares in any company having (whether expressly or otherwise) among its objects the carrying out of investigations or research into or the locating, development, extraction, provision, transportation, distribution, conservation, utilisation, acquisition or disposal of energy or energy resources.

(2) An agreement may be entered into by the Authority under subsection (1) only with the approval of the Governor given on the recommendation of the Minister with the concurrence of the Treasurer, and may be executed, on behalf of the Authority, only by 2 or more persons authorised for the purpose by the Governor on that recommendation and with that concurrence.

(3) The Authority may do all things authorised or required by an agreement entered into by it under subsection (1) to be done and all things incidental thereto, and may also do such things as are necessary or convenient to be done for the purpose of carrying into effect and implementing the terms of any such agreement.

(4) Without affecting the generality of subsection (3), the Authority may acquire, hold, deal with and dispose of shares in a company to which an agreement entered into by it under subsection (1) relates, and may do all such things as are appropriate by reason of its being a holder of any such shares, including the appointment of any director or directors of any such company.

(5) Any appointment of a director as referred to in subsection (4) shall not be made except with the approval of the Minister and the Treasurer.

Energy Authority (Amendment).

SCHEDULE 1—*continued.*

AMENDMENT TO THE PRINCIPAL ACT RELATING TO THE
ACQUISITION AND HOLDING OF SHARES IN
CERTAIN COMPANIES—*continued.*

(6) The fact that any director of a company appointed as referred to in subsection (5) is accustomed to act in accordance with the directions or instructions of a Minister of the Crown does not constitute that Minister a director of the company.

SCHEDULE 2.

(Sec. 4.)

AMENDMENTS TO THE EMERGENCY PROVISIONS OF THE
PRINCIPAL ACT.

(1) Section 29—

Omit the section, insert instead:—

Interpretation: Pt. VI.

29. In this Part—

“inspector” means a person authorised, for the time being, under section 36A (1);

“place” includes building, structure and mine;

“proclaimed form of energy” means a form of energy or energy resources specified in an unrevoked proclamation referred to in section 31 (2).

(2) Section 33 (3)—

Omit “7”, insert instead “28”.

Energy Authority (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE EMERGENCY PROVISIONS
OF THE PRINCIPAL ACT—*continued.*

(3) Sections 36A–36C—

After section 36, insert:—

Appointment of inspectors.

36A. (1) The Minister may authorise a person to carry out inspections and tests for the purposes of this Part.

(2) The Minister shall provide an inspector with a certificate of his authority in the prescribed form.

(3) An inspector, in exercising or performing in any place any function conferred or imposed on him under this Part, shall, if so required by a person apparently in charge of that place, produce the certificate of his authority to that person.

Functions of inspectors.

36B. (1) The functions conferred or imposed under this section on an inspector shall not be exercised or performed except—

(a) where a proclamation has been made by the Governor under section 31—

(i) during the period for which the proclamation remains in force; and

(ii) in relation to the form of energy or energy resources specified in the proclamation; or

(b) where the Governor has by order under section 33 declared that a state of emergency exists—

(i) during the period for which the order remains in force; and

(ii) in relation to the form of energy or energy resources specified in the order.

Energy Authority (Amendment).

SCHEDULE 2—continued.**AMENDMENTS TO THE EMERGENCY PROVISIONS
OF THE PRINCIPAL ACT—continued.**

(2) An inspector may—

- (a) enter and inspect any land or place on, in or from which a form of energy or energy resource is or may reasonably be believed by the inspector to be extracted, developed, produced, provided, supplied, stored, transported, distributed or utilised;
- (b) inspect and test any plant or equipment on or in any such land or place, being plant or equipment which is or may reasonably be believed by the inspector to be used for or in connection with the extraction, development, production, provision, supply, storage, transportation, distribution or utilisation of a form of energy or energy resource;
- (c) conduct such tests as he considers appropriate to determine any matter relating to the extraction, development, production, provision, supply, storage, transportation, distribution or utilisation of a form of energy or energy resource;
- (d) take samples of a form of energy or energy resource or any substance used in connection with the extraction, development, production, provision, supply, storage, transportation, distribution or utilisation of a form of energy or energy resource;
- (e) require any person on any such land or place to produce any accounts, records, books or other documents relating to the extraction, development, production, provision, supply, storage, transportation, distribution or utilisation of a form of energy or energy resource;
- (f) take copies of, or extracts or notes from, any such accounts, records, books or other documents;
- (g) require any person on any such land or place to answer questions or otherwise furnish information relating to the extraction, development, production, provision, supply,

Energy Authority (Amendment).

SCHEDULE 2—*continued.***AMENDMENTS TO THE EMERGENCY PROVISIONS
OF THE PRINCIPAL ACT—*continued.***

storage, transportation, distribution or utilisation of a form of energy or energy resource on, in or from the land or place; and

(h) require the owner or occupier of any such land or place to provide him with such assistance and facilities as are reasonably necessary to enable him to exercise or perform his functions under this section.

(3) The functions conferred or imposed under this section are in aid of and not in derogation from any other functions exercisable apart from this section.

Obstruction, etc., of inspectors.

36C. (1) A person shall not—

- (a) prevent an inspector from exercising or performing any function conferred or imposed on him under section 36B;
- (b) hinder or obstruct an inspector in the exercise or performance of any such function;
- (c) refuse or fail to comply with any requirement or answer any question of an inspector under section 36B;
- (d) furnish an inspector with information knowing that it is false or misleading in a material particular; or
- (e) impersonate an inspector.

Penalty: \$1,000.

(2) It is a sufficient defence to a prosecution for an offence under subsection (1) (c) by reason of the failure of the defendant to answer a question of an inspector under section 36B if he proves that he did not know, and could not with reasonable diligence ascertain, the answer to the question.

Energy Authority (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE EMERGENCY PROVISIONS OF THE
PRINCIPAL ACT—*continued.*

(3) A person is not excused from answering any question of an inspector under section 36B on the ground that the answer might tend to incriminate him or make him liable to a penalty but the information furnished by him shall not be admissible against him in any proceedings, civil or criminal, except in proceedings for an offence under subsection (1).

(4) Where an answer to a question of an inspector under section 36B or any information whatsoever is given to an inspector by an officer of a corporation within the meaning of the Companies Act, 1961, the answer and information are, for the purposes of any proceedings against the corporation under any of the provisions of this Act, binding upon and admissible in evidence against the corporation unless it is proved that the answer or information was given in relation to a matter in respect of which the officer had no authority to bind the corporation.
