

New South Wales



ANNO VICESIMO QUINTO

ELIZABETHÆ II REGINÆ

Act No. 69, 1976.

An Act to constitute the Energy Authority of New South Wales; to confer and impose on the Authority certain responsibilities, powers, authorities, duties and functions with respect to energy and energy resources; to authorise emergency action to be taken during shortages of energy or energy resources; and to amend the Gas and Electricity Act, 1935, and the Electricity Commission Act, 1950. [Assented to, 17th November, 1976.]

BE

Energy Authority.

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 :—

PART I.

PRELIMINARY.

1. This Act may be cited as the "Energy Authority Act, Short title. 1976".

2. (1) This section and section 1 shall commence on the Commence-
date of assent to this Act. ment.

(2) Except as provided in subsection (1), the several provisions of this Act shall commence on such day or days as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

3. This Act is divided as follows :—

Division
of Act.

PART I.—PRELIMINARY—ss. 1–5.

**PART II.—CONSTITUTION OF THE AUTHORITY—ss.
6–11.**

**PART III.—FUNCTIONS OF THE AUTHORITY—ss. 12–
19.**

PART IV.—FINANCE—ss. 20–26.

PART V.—INQUIRIES—ss. 27, 28.

PART

Energy Authority.

PART VI.—EMERGENCY PROVISIONS—*ss.* 29–37.

PART VII.—GENERAL—*ss.* 38–49.

SCHEDULE 1.—MISCELLANEOUS MATTERS RELATING TO CONSTITUTION AND PROCEDURE OF THE AUTHORITY.

SCHEDULE 2.—MODIFICATION OF THE PUBLIC WORKS ACT, 1912.

SCHEDULE 3.—PROVISIONS RELATING TO LOANS.

Operation
of certain
other Acts.

4. (1) Nothing in this Act (section 49 excepted) limits or otherwise affects the provisions of the Electricity Development Act, 1945, the Electricity Commission Act, 1950, or the State Emergency Services and Civil Defence Act, 1972.

(2) Nothing in this Act affects the operation of the Mining Act, 1973, or the Coal Mining Act, 1973, and the Authority is bound by each of those Acts.

Interpre-
tation.

5. In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

“appointed member” means a person referred to in section 7 (1) (d);

“Authority” means the Energy Authority of New South Wales constituted under this Act;

“chairman” means chairman of the Authority;

“deputy chairman” means deputy chairman of the Authority;

“Electricity Authority” means The Electricity Authority of New South Wales constituted under the Electricity Development Act, 1945;

“Electricity

Energy Authority.

“Electricity Commission” means the Electricity Commission of New South Wales constituted under the Electricity Commission Act, 1950;

“energy” means energy, power or fuel;

“functions” includes responsibilities, powers, authorities and duties;

“member” means a member of the Authority;

“public authority” means any public or local authority constituted by or under an Act other than this Act;

“regulation” means a regulation made under this Act.

PART II.

CONSTITUTION OF THE AUTHORITY.

6. (1) There is hereby constituted a corporation under the corporate name of the “Energy Authority of New South Wales”. Constitution of Authority.

(2) The Authority shall, for the purposes of any Act, be deemed to be a statutory body representing the Crown.

(3) In the exercise or performance of its functions (except in relation to the contents of a report or recommendation made by it to the Minister), the Authority shall be subject in all respects to the control and direction of the Minister.

7.

Energy Authority.

Provisions relating to constitution of Authority.

7. (1) The Authority shall consist of 7 part-time members of whom—

- (a) one shall be the person for the time being holding the office of Chairman of the Electricity Commission, who shall be the chairman of the Authority;
- (b) one shall be the person for the time being holding, or acting in, the office of chairman of the Electricity Authority;
- (c) one shall be the person for the time being holding, or acting in, the office of Under Secretary of the Department of Mines; and
- (d) 4 shall be appointed by the Governor.

(2) Each appointed member shall be nominated by the Minister and the appointed members shall be—

- (a) a person who has, in the opinion of the Minister, special knowledge of the oil industry;
- (b) a person who has, in the opinion of the Minister, special knowledge of the gaseous fuel and coal industry;
- (c) a person who is a member of the Labor Council of New South Wales; and
- (d) a person who has, in the opinion of the Minister, special knowledge of the nuclear energy industry.

Miscellaneous matters relating to constitution and procedure of the Authority.

8. Schedule 1 has effect.

Officers and employees of Authority.

9. Except as provided in section 10 (2), such officers, including an executive officer of the Authority, and such employees as may be necessary to enable the Authority to exercise and perform its functions shall be appointed and employed under and subject to the Public Service Act, 1902.

10.

Energy Authority.

10. (1) For the purpose of exercising and performing its functions, the Authority may, with the approval of the Minister and of the Department or public authority concerned and on such terms as may be arranged, make use of the facilities, or the services of any officers, employees or servants, of any Department of the Government or of any public authority.

Authority
may make
use of
facilities
and
employees
of Crown,
etc.

(2) The Authority may appoint and employ on such terms and conditions as it thinks fit and for any particular purpose specified in a resolution of the Authority any person, body or organisation considered capable of providing services, information or advice required by the Authority in exercising and performing its functions.

11. (1) The Authority may, with the approval of the Minister, establish standing or special committees for the purpose of advising the Authority in the exercise or performance of its functions under this or any other Act and may appoint as a member of any such committee any person who, in its opinion, appears to be qualified to be a member of that committee, whether or not he is a member of the Authority.

Committees.

(2) The Authority shall appoint one of the members of a committee established under subsection (1) to be chairman of the committee and any such committee may, subject to subsection (3) and to any directions of the Authority, regulate its procedure in such manner as it thinks fit.

(3) The Authority may specify the number of persons who shall constitute a quorum of a committee established under this section.

PART

Energy Authority.

PART III.

FUNCTIONS OF THE AUTHORITY.

Functions
of
Authority.**12.** (1) The functions of the Authority are—

- (a) to carry out such investigations relating to the locating and the development, extraction, provision, transportation, distribution, conservation and utilisation of energy and energy resources as it considers appropriate or as the Minister directs;
- (b) to plan the locating and the development, extraction, provision, transportation, distribution, conservation and utilisation of energy and energy resources in such manner as it considers appropriate or as the Minister directs;
- (c) to assist and advise, and make reports and recommendations to, the Minister in respect of matters relevant to this Act; and
- (d) in accordance with this Act, to acquire and dispose of energy and energy resources or operations connected with the locating and the development, extraction, provision, transportation, distribution or utilisation of energy and energy resources.

(2) Nothing in this Act authorises the Authority to engage in the generation of electricity or the supply of electricity except in connection with its own undertakings.

(3) Except as provided in section 14, nothing in this Part authorises anything to be compulsorily acquired.

General
powers
of
Authority.

13. (1) The Authority may, subject to this Act, do all such things and engage in all such activities as are reasonably required for it to carry out its functions under this or any other Act.

(2)

Energy Authority.

(2) Without limiting the generality of subsection (1), the Authority may, in addition to any other functions conferred and imposed on the Authority by or under this or any other Act—

- (a) investigate the extent of the energy resources available within the State;
- (b) carry out, or commission the carrying out of, such inspections, tests, investigations, surveys, experiments, boring, drilling and exploration as it considers necessary or desirable to enable it effectively to carry out its functions under this or any other Act;
- (c) evaluate the future demands for energy and energy resources within the State and the capacity of the State to meet those demands, whether from internal resources or otherwise, and assess the impact of any lack of energy or energy resources on the development of the State or any part of the State;
- (d) maintain a central pool of information concerning the extent and availability of energy and energy resources within the State;
- (e) promote and co-ordinate the locating and the development, extraction, provision, transportation, distribution, conservation and utilisation of energy and energy resources;
- (f) carry out, or commission the carrying out and the co-ordination of, research into any matter relating to energy or energy resources;
- (g) assist and co-operate with authorities of the Commonwealth and other States in the planning and co-ordination of policies related to energy and energy resources;

(h)

Energy Authority.

- (h) have consultations, and make arrangements, with any public authority in respect of the performance or undertaking by that authority of anything within that authority's powers that may affect energy or energy resources;
- (i) undertake negotiations on behalf of, or in co-operation with, persons who are interested in making energy or energy resources available for use by the community;
- (j) formulate proposals to assist with the provision by a gas producing, extracting or transporting undertaking, of a bulk supply of gas to a gas distributing undertaking including a scheme to enable that gas to be provided;
- (k) acquire a gas producing or distributing undertaking by agreement;
- (l) undertake, or cause to be undertaken, the construction of works or apparatus to be used for or in connection with the locating or the development, extraction, provision, transportation, distribution, conservation or utilisation of energy or energy resources;
- (m) maintain and operate any undertaking constructed or acquired by it under this or any other Act; and
- (n) recommend to the Minister such amendments of existing laws, and such proposals for future laws, as it considers appropriate in connection with matters relevant to this Act.

Energy Authority.

14. (1) The Authority may, for the purposes of this Act, acquire land (including land previously appropriated or resumed for any purpose) by lease, purchase or exchange or by resumption or appropriation in accordance with this Act. Acquisition of land.

(2) Resumption or appropriation for the purposes of this Act shall be effected by the Governor under the Public Works Act, 1912, and, without affecting the generality of the foregoing provisions of this section, appropriation under that Act may be effected in respect of any land vested in Her Majesty or any person in trust for Her Majesty.

(3) A resumption or appropriation for the purposes of this Act shall be deemed to be for an authorised work and the Authority shall be deemed to be the Constructing Authority.

(4) Notwithstanding subsection (2), sections 34, 35, 36 and 37 of the Public Works Act, 1912, do not apply in respect of the expenditure on any works constructed in pursuance of this Act, but section 38 of that Act applies in respect of that expenditure.

(5) For the purposes of this section and not otherwise, Schedule 2 has effect.

15. (1) The Authority may acquire by gift, bequest or devise any property for any of the purposes of this Act and may agree to and carry out the conditions of the gift, bequest or devise. Power to accept gifts, etc., of property.

(2) The rule of law relating to remoteness of vesting does not apply to any condition of a gift, bequest or devise to which the Authority has agreed.

16.

Energy Authority.

Disposal
of and
dealings
with land
vested in
Authority.

16. (1) Subject to subsection (2), the Authority shall not sell, lease, exchange or otherwise deal with or dispose of land acquired by or vested in the Authority except with the approval of the Minister and subject to such terms and conditions as the Minister may impose.

(2) The Minister's approval is not required to a lease of land referred to in subsection (1) where the term of the lease is less than 3 years.

Authority
may enter
into
contracts.

17. (1) The Authority may make and enter into contracts with any person for the carrying out of works or the performance of services or the supply of goods or materials in connection with the exercise or performance by the Authority of its functions.

(2) A contract under this section shall be deemed for the purposes of the Constitution Act, 1902, to be a contract for or on account of the Public Service of New South Wales.

Authority
may enter
into
arrange-
ments with
public
authorities.

18. (1) The Authority may enter into an arrangement or agreement with any public authority that—

- (a) the public authority shall act as agent of the Authority for the purposes of this Act; or
- (b) the Authority shall act as agent of the public authority for the purposes of this Act,

on such terms and conditions as are agreed upon between the Authority and the public authority.

(2)

Energy Authority.

(2) Notwithstanding anything in any other Act, any public authority is hereby authorised and empowered to enter into arrangements or agreements referred to in subsection (1) and may do or suffer anything necessary or expedient for carrying out any such arrangements or agreements.

- 19.** The Authority may enter into arrangements with—
- (a) a Minister of the Crown of any State, a Minister of State of the Commonwealth or a Department or instrumentality of the Commonwealth or of any State;
 - (b) a university or another tertiary institution; or
 - (c) any other body or person,

Arrangements for investigation and research.

with respect to the conduct of any investigation, study or research that may be necessary or desirable for the purposes of this Act.

PART IV.

FINANCE.

20. (1) There shall be established in the Special Deposits Account in the Treasury an Energy Authority Account into which shall be deposited all money received by the Authority and from which shall be paid all amounts required to meet expenditure incurred in accordance with the provisions of this Act.

Energy Authority Account.

(2) The Treasurer may, out of money provided by Parliament, from time to time make such contributions to the funds of the Authority as may be determined by the Treasurer.

21.

Energy Authority.

Accounts
to be kept
by the
Authority.

21. (1) The Authority shall cause to be kept proper books of account and records in relation to all of its operations, and shall, as soon as practicable after 30th June in each year, prepare and submit to the Minister for presentation to Parliament a statement of accounts in a form approved by the Auditor-General exhibiting a true and correct view of the financial position and transactions of the Authority.

(2) The Minister shall lay the statement of accounts, or cause it to be laid, before each House of Parliament as soon as practicable after the receipt by him of the statement.

Audit of
accounts.

22. The accounts of the Authority shall be audited by the Auditor-General who shall have, in respect thereof, all the powers conferred on him by any law for the time being in force relating to the audit of public accounts.

Application
of Audit
Act, 1902.

23. (1) The Audit Act, 1902, shall apply to the members, the executive officer and the other officers and employees of the Authority in the same way as it applies to accounting officers of public Departments.

(2) The Auditor-General shall report to the Authority and the Minister—

(a) whether in his opinion—

- (i) due provision has been made for the repayment of loans;
- (ii) the value of assets has (so far as he can judge) been in all cases fairly stated;
- (iii) due diligence and care have been shown in the collection and banking of income;

(iv)

Energy Authority.

- (iv) expenditure incurred has been duly authorised, vouched and supervised;
 - (v) proper account has been kept of plant, stores and materials; and
 - (vi) any of the money or other property of the Authority or over which it has control has been misappropriated or improperly or irregularly dealt with; and
- (b) as to any other matters which in his judgment call for special notice or which are prescribed.

(3) Towards defraying the costs and expenses of any audit under section 22, the Authority shall pay to the Consolidated Revenue Fund such amounts, at such times, as the Treasurer determines.

24. The Authority may invest money held by it in Gov- Investment.
ernment securities of the Commonwealth or of the State of New South Wales or in any securities guaranteed by the Government of that State, or on call or on fixed deposit, or partly on call and partly on fixed deposit, with the Treasurer or with any bank or in such other securities as the Governor approves or as are prescribed.

25. (1) For the temporary accommodation of the Temporary
Authority, it may obtain advances by overdraft of current accommo-
account in any bank or banks upon the credit of the Autho- dation.
rity's funds to such extent as may, from time to time, be approved by the Governor.

(2)

Energy Authority.

(2) The Treasurer may advance such money to the Authority, on such terms and conditions as to repayment and interest as may be agreed upon.

Borrowing. **26.** (1) The Authority may from time to time, with the concurrence of the Treasurer and the approval of the Governor, borrow money for—

- (a) the purpose of exercising or performing any of its functions;
- (b) the renewal of loans;
- (c) the discharge or partial discharge of any loan or any indebtedness to the Treasurer or to any bank;
or
- (d) any other purpose of this Act.

(2) Schedule 3 has effect.

PART V.

INQUIRIES.

**Inquiries
into
energy
matters.**

27. (1) An inquiry into any matter relating to the locating or the development, extraction, provision, transportation, distribution, conservation or utilisation of energy or energy resources may, and if required by the Minister shall, be conducted by the Authority.

(2)

Energy Authority.

(2) The Authority may, by order in writing, authorise, subject to the terms of the authorisation—

- (a) a committee established under section 11; or
- (b) with the approval of the Minister, any other person, to examine, and report to the Authority on, any matter in connection with an inquiry (including an inquiry that the Minister has required to be conducted).

(3) Nothing in this section shall be construed as limiting the power of the Authority to conduct an examination in connection with an inquiry under this section and the Authority may conduct such an examination notwithstanding that it has authorised another body or person to do so.

28. (1) A body or person conducting an inquiry or examination under section 27 may, by notice in writing served on any person, require that person—

- (a) within such reasonable time as may be specified in the notice, to furnish to that body or person such information and to produce to that body or person such books, documents or other papers in his possession or under his control as may be required for the purpose of the inquiry or examination, as the case may be, and as may be specified in the notice, whether generally or otherwise; or
- (b) to attend at a time and place specified in the notice before that body or person and thereafter from time to time as required by that body or person to give evidence concerning any matter the subject of the inquiry or examination, as the case may be, and to produce all such books, documents or other papers in his possession or under his control as may be required for the purpose of that inquiry or examination and as may be specified in the notice, whether generally or otherwise.

(2)

Energy Authority.

(2) A body or person conducting an inquiry or examination under section 27 may, subject to section 13 of the Oaths Act, 1900, require any evidence referred to in subsection (1) (b) to be given on oath, and either in writing or orally, and for that purpose—

- (a) where the inquiry or examination is being conducted by a body, the person presiding at the inquiry or examination; or
- (b) where the inquiry or examination is being conducted by a person, that person,

may administer an oath.

(3) A person shall not neglect or refuse to comply with the requirements of a notice served on him under this section.

Penalty : \$1,000.

(4) A person shall not—

- (a) furnish any information referred to in subsection (1) (a) required of him pursuant to a notice served on him under subsection (1) that is false or misleading in a material particular; or
- (b) give any evidence referred to in subsection (1) (b) that is false or misleading in a material particular.

Penalty : \$1,000.

(5) It is a sufficient defence to a prosecution arising under subsection (4) if the defendant proves that he believed the truth of the information or evidence given by him and that it was given in good faith.

PART

Energy Authority.

PART VI.

EMERGENCY PROVISIONS.

29. In this Part, "proclaimed form of energy" means a form of energy or energy resources specified in an unrevoked proclamation referred to in section 31 (2). Interpretation.

30. This Part binds the Crown.

Part binds the Crown.

31. (1) Subject to this Part, whenever it appears to the Governor that from any cause the available supply of any form of energy or energy resources is or is likely to become less than is sufficient for the reasonable requirements of the community, the Governor may exercise all or any of the powers conferred on him by or under this section and do and perform all such acts, matters and things as are necessary or expedient for carrying into effect the purposes of this section. Proclamation in respect of a form of energy.

(2) The Governor may from time to time by proclamation published in the Gazette declare that on and after the date of publication of the proclamation or a later date specified therein the provisions of this section have effect in respect of the form of energy or energy resources specified in the proclamation.

(3) A proclamation made under this section shall take effect from the making thereof or from a later date specified therein and shall unless sooner revoked continue in force for a period not exceeding 30 days from the date of its being made.

(4) A proclamation made under this section may be amended, varied or revoked by a later proclamation.

32.

Energy Authority.

Regulations in respect of emergencies. 32. (1) So long as a proclamation referred to in section 31 (2) remains in force the Governor may make a regulation—

- (a) controlling, directing, restricting or prohibiting the sale, supply, use or consumption of the proclaimed form of energy, whether generally or for any purpose or purposes specified in the regulation;
- (b) authorising the Authority or a person specified in the regulation to exercise and discharge such functions as to the Governor appear to be necessary or expedient to carry into effect the purposes of this section or the regulation and in particular but without limiting the generality of the foregoing provisions of this subsection authorising the Authority or that person—
 - (i) to control, direct, restrict and prohibit the sale, supply, use or consumption of the proclaimed form of energy, whether generally or for any purpose or purposes specified in the regulation;
 - (ii) to direct a person who extracts, provides, transports or distributes the proclaimed form of energy to extract it for or provide, transport or distribute it to a person specified in the regulation;
 - (iii) to specify the terms and conditions on which the proclaimed form of energy shall be extracted, provided, transported or distributed;
 - (iv) to direct that a person to whom the proclaimed form of energy is provided or transported accept the proclaimed form of energy so provided or transported; and
 - (v) to make such orders, take such measures, give such directions and do such things as are in the opinion of the Authority or the person specified in the regulation necessary

or

Energy Authority.

or expedient to carry into effect the purposes of this section and any regulation made under this section; or

- (c) generally, prescribing all such matters or things as are necessary or expedient to be prescribed for carrying into effect the purposes of this section and the regulation.

(2) Any such regulation and any order or direction made or given under the authority of the regulation—

- (a) may be made or given so as to apply to or have operation throughout the whole or any specified part of the State;
- (b) may be made or given so as to operate for any period or periods or for any time or times or for any occasion or occasions specified therein;
- (c) may be of general operation or of specially limited operation according to any specified times, places, circumstances, conditions or restrictions; or
- (d) may authorise a person specified in the regulation, order or direction—
- (i) to enter any land, building or structure; or
 - (ii) to take possession or control of or use any property, undertaking, equipment, goods, vehicles, articles or things of any kind,
- used for or in connection with the extraction, provision, transportation or distribution of the proclaimed form of energy.

(3) Any order or direction referred to in subsection (2)—

- (a) shall if published in the Gazette be deemed to have been sufficiently served upon or brought to the notice of all persons concerned or affected thereby; and

(b)

Energy Authority.

- (b) may be made or given so as to apply to any particular person and may be served upon that person by delivering a copy thereof to him by hand, or by sending the copy to him by post,

or in the case of a direction may be given orally or by telegram.

(4) A regulation made under this section shall, unless it sooner expires or is revoked, continue in operation until the proclamation under the authority of which it was made is revoked or ceases to remain in force.

(5) Section 43 of the Interpretation Act, 1897, applies to and in respect of a regulation made under this section that expires and so applies as if it had been revoked.

(6) A regulation made under this section may provide that a person who contravenes or fails to comply with a provision of the regulation is guilty of an offence against the regulation.

(7) An order or direction referred to in subsection (2) shall, unless it sooner expires or is revoked, continue in operation until the regulation under the authority of which it was made or given is revoked.

State of
emergency
in respect
of certain
forms of
energy.

33. (1) This section applies in respect of a form of energy or energy resources other than gas or electricity.

(2) Whenever it appears to the Governor that from any cause the available supply of a form of energy or energy resources to which this section applies is or is likely to become less than is sufficient for the reasonable requirements of the community, and that an emergency situation exists or is likely to exist in relation to that form of energy or energy resources, the Governor may by order in writing declare that a state of emergency exists in relation to that form of energy or energy resources, either in the whole State, or in any part of the State specified or described in the declaration, in respect of the emergency.

(3)

Energy Authority.

(3) An order under this section shall take effect from the making thereof or from a later date specified therein and shall, unless sooner revoked, continue in force for such period not exceeding 7 days as is specified therein, but more than one order may be made under this section in respect of an emergency.

(4) An order under this section shall be published in the Gazette as soon as practicable.

34. (1) Where an order is in force under section 33 (2) in respect of a form of energy or energy resources the Minister may, by notice in writing— **Minister's powers in respect of state of emergency.**

- (a) give such directions as are necessary to control, direct, restrict, or prohibit the sale, supply, use or consumption of that form of energy or energy resources;
- (b) direct a person who extracts, provides, transports or distributes that form of energy or energy resources to extract it for or provide, transport or distribute it to a person specified in the direction;
- (c) direct a person to comply with such terms and conditions as the Minister determines relating to the extracting, providing, transporting or distributing of that form of energy or energy resources; and
- (d) direct that a person to whom that form of energy or energy resources is provided or transported accept the energy or energy resources so provided or transported.

Energy Authority.

(2) A direction referred to in subsection (1)—

- (a) may apply to or have operation throughout the whole or any specified part of the State;
- (b) may, while an order referred to in section 33 (2) is in force, operate for any period or periods or for any time or times or for any occasion or occasions specified in the direction; or
- (c) may be of general operation or of specially limited operation according to any times, places, circumstances, conditions or restrictions specified in the direction.

(3) A notice referred to in subsection (1) may authorise a person specified in the notice to enter any land, building or structure used for or in connection with the extraction, provision, transportation or distribution of the form of energy or energy resources in respect of which an order referred to in section 33 (2) is in force.

(4) A notice referred to in subsection (1)—

- (a) may be published in the Gazette and when so published any direction contained therein shall be deemed to have been sufficiently served upon or brought to the notice of all persons concerned or affected thereby; and
- (b) may, without affecting the provisions of paragraph (a), where it applies to any particular person, be served upon that person by delivering a copy thereof to him by hand, or by sending a copy to him by post or telegram.

Energy Authority.

35. A person who is guilty of an offence against a regulation made under section 32 or who refuses or fails to comply with an order or direction made or given under such a regulation, or a direction given under section 34, or an order or direction made or given under section 36, is guilty of an offence against this Act. Offence and penalty.

Penalty: \$1,000.

- 36.** (1) Where a person is convicted— Discontinuance of supply.
- (a) of an offence against a regulation made under section 32 or of failing to comply with an order or direction made or given under such a regulation—the person authorised in the regulation or in the order or direction; or
 - (b) of failing to comply with a direction given by the Minister under section 34—the Minister,

may make such orders or give such directions in respect of the discontinuance of supply of the proclaimed form of energy or the form of energy or energy resources, as the case may be, to that firstmentioned person, during such period as that authorised person or the Minister, as the case may be, thinks fit.

(2) An order made or direction given under subsection (1) has no further force or effect if the regulation, order or direction referred to in subsection (1) (a) or (b) is no longer in force.

37. (1) This Part shall have effect notwithstanding anything whether expressed or implied in any other Part of this Act or in any other Act or in any judgment or order or in any contract or agreement, whether oral or written, or in any deed, document, security or writing. Miscellaneous matters.

(2)

Energy Authority.

(2) All powers given by or under this Part or in any proclamation or regulation made or any notice or direction given under this Part shall be in aid of and not in derogation from any other powers exercisable apart from this Part.

(3) No action, claim or demand shall lie or be made or allowed by or in favour of any person against Her Majesty or any responsible Minister or any person acting in the execution of this Part or any proclamation, regulation, notice, order or direction made or given thereunder for or in respect of any damage, loss or injury sustained or alleged to be sustained by reason of the enactment of this Part or of its operation or of anything done or purporting to be done under this Part or under any such proclamation, regulation, notice, order or direction.

(4) Section 43 of the Interpretation Act, 1897, applies to and in respect of an order or direction made or given under this Part, and, without affecting the generality of the foregoing provisions of this subsection, so applies as if such an order or direction that expires or that has no further force or effect had been revoked.

 PART VII.

GENERAL.

Power of
entry.

38. (1) In this section, "place" includes building, structure and mine.

(2)

Energy Authority.

(2) For the purpose of enabling the Authority to exercise and perform its functions under this or any other Act the Authority may—

(a) by a person authorised in writing by the Authority for the purpose, enter—

(i) any land or any place (not being a dwelling-house) on any land used in connection with the locating or the development, extraction, provision, transportation, distribution or utilisation of energy or energy resources, at any time when that land or place is being used for any of those purposes; and

(ii) any other land or any other place (not being a dwelling-house) on any land at any reasonable time,

and may therein carry out such inspections, tests, investigations, surveys, experiments, boring, drilling and exploration, and take such samples and such photographs, as he considers necessary in connection with the administration of this Act; and

(b) by its officers, employees or agents, enter any land and do all such things as are required—

(i) for the purpose of maintaining and operating any undertaking acquired by it under this or any other Act;

(ii) for the purpose of investigating any matter in respect of which it intends to make a proposal referred to in section 13 (2); or

(iii)

Energy Authority.

- (iii) for any other purpose connected with or related or incidental to the exercise or performance of its functions under this or any other Act,

notwithstanding that an easement to enter the land or a right to enter the place may not have been granted or acquired.

(3) The Authority shall not, in relation to any land or any place on any land, exercise any of the powers conferred by subsection (2) unless it gives, or causes to be given, at least 7 days notice in writing to the owner or occupier of the land of its intention to exercise those powers.

(4) In the exercise of a power conferred by subsection (2), the Authority shall ensure that no more damage than is necessary in the circumstances is inflicted and shall fully compensate any person who sustains damage in the course of the exercise of that power.

(5) A power conferred by subsection (2) is in addition to any other power relating to entry on to land conferred by or under this or any other Act.

**Persons
may be
required
to
furnish
informa-
tion.**

39. (1) The Authority may by notice in writing require any person to furnish to it such information in connection with any matter relating to its functions as may be specified in the notice.

(2) A person shall not neglect or fail to comply with a requirement made under this section.

Penalty : \$1,000.

(3)

Energy Authority.

(3) Any information furnished pursuant to a requirement made under subsection (1) shall not, if the person furnishing the information objected, at the time of furnishing it, to doing so on the ground that it might tend to incriminate him, be admissible in evidence in any prosecution against that person for any offence, not being the offence of neglecting or failing to comply with a requirement made under that subsection.

40. A person shall not disclose any information obtained in connection with the administration or execution of this Act unless that disclosure is made—

- (a) with the consent of the person from whom the information was obtained;
- (b) in connection with the administration or execution of this Act;
- (c) for the purposes of any legal proceedings arising out of this Act or of any report of any such proceedings; or
- (d) with other lawful excuse.

Penalty : \$1,000.

41. (1) The Authority may, by resolution, delegate to a member or an officer or employee of the Authority the exercise or performance of such of the Authority's functions (other than this power of delegation) as are specified in the resolution, and may, by resolution, revoke wholly or in part any such delegation.

Energy Authority.

(2) A function, the exercise or performance of which has been delegated under this section, may, while the delegation remains unrevoked, be exercised or performed from time to time in accordance with the terms of the delegation.

(3) A delegation under this section may be made subject to conditions or limitations as to the exercise or performance of any of the functions delegated, or as to time or circumstance.

(4) Notwithstanding any delegation under this section, the Authority may continue to exercise or perform all or any of the functions delegated.

(5) Any act or thing done or suffered by a delegate while acting in the exercise of a delegation under this section shall have the same force and effect as if the act or thing had been done or suffered by the Authority and shall be deemed to have been done or suffered by the Authority.

(6) An instrument purporting to be signed by a delegate of the Authority in his capacity as such a delegate shall in all courts and before all persons acting judicially be received in evidence as if it were an instrument executed by the Authority under seal and, until the contrary is proved, shall be deemed to be an instrument signed by a delegate of the Authority under this section.

Authentica-
tion of
process.

42. Every summons, process, demand, order, notice, statement, direction or document requiring authentication by the Authority may be sufficiently authenticated without the seal of the Authority if signed by the chairman.

43.

Energy Authority.

43. Any notice, summons, writ or other proceeding to be served on the Authority may be served— Service of process.

(a) by being left; or

(b) in the case of a notice, by posting it addressed to the Authority,

at its office or, if it has more than one office, at one of its offices.

44. Any charge, fee or money due to the Authority may be recovered as a debt or liquidated demand in a court of competent jurisdiction. Recovery of money.

45. Any penalty imposed by this Act or the regulations may be recovered in a summary manner before a court of petty sessions constituted by a stipendiary magistrate sitting alone. Penalties.

46. (1) The Authority shall, as soon as practicable after 30th June in each year, prepare and forward to the Minister a report of its work and activities for the 12 months preceding that date. Annual report.

(2) The Minister shall lay the report, or cause it to be laid, before each House of Parliament as soon as practicable after the receipt by him of the report.

47.

Energy Authority.

Regulations.

47. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, for or with respect to—

- (a) the procedure for the calling of, and for the conduct of business at, meetings of the Authority;
- (b) the travelling expenses and the compensation to be paid to persons attending or giving evidence at an inquiry or examination referred to in section 28; and
- (c) the fees or travelling or other allowances to be paid to members, not being members of the Authority, of a committee established under section 11.

(2) A regulation made under this section may be made so as to apply differently according to such factors as may be specified in the regulation.

(3) A regulation made under this section may impose a penalty not exceeding \$500 for any offence against the regulation.

**Amendment
of Act No.
42, 1935.**

48. The Gas and Electricity Act, 1935, is amended—

Sec. 1.
(Short title,
commence-
ment, and
division
into Parts.)

(a) by omitting from section 1 (3) the matter relating to Part VII;

Part VII.
(Emergency
Provisions.)

(b) by omitting Part VII.

Energy Authority.

- 49.** The Electricity Commission Act, 1950, is amended—
- | | |
|--|--|
| | Amendment
of Act No.
22, 1950. |
| (a) (i) by omitting from section 1 (2) the words
“other than Part VII”; | Sec. 1
(Short title,
and com-
mencement.) |
| (ii) by omitting section 1 (3); | |
| (b) by omitting from section 2 the matter relating to
Part VII; | Sec. 2.
(Division
into Parts.) |
| (c) by omitting Part VII. | Part VII.
(Emergency
Provisions.) |

SCHEDULE 1.

Sec. 8.

MISCELLANEOUS MATTERS RELATING TO CONSTITUTION AND
PROCEDURE OF THE AUTHORITY.

1. A person who is of or above the age of 65 years shall not be appointed as an appointed member or to act in the office of an appointed member under clause 6. Age of
appointed
member.
2. (1) An appointed member shall, subject to this Act, be appointed for such term, not exceeding 4 years, as is specified in the instrument of his appointment. Term of
office of
appointed
member.
- (2) An appointed member shall, if otherwise qualified, be eligible for re-appointment from time to time for such term, not exceeding 4 years, as is specified in the instrument of his re-appointment.
3. (1) Where, by or under any Act, provision is made requiring the holder of an office specified therein to devote the whole of his time to the duties of his office, that provision shall not operate to disqualify him from holding that office and also the office of a member or from accepting and retaining any remuneration, travelling or subsistence allowance payable to a member under clause 4. Member
holding
office
under other
Acts.
- (2) The office of a member shall not, for the purposes of any Act, be deemed to be an office or place of profit under the Crown.

SCHEDULE

*Energy Authority.*SCHEDULE 1—*continued.*MISCELLANEOUS MATTERS RELATING TO CONSTITUTION AND
PROCEDURE OF THE AUTHORITY—*continued.*

Remuneration
of and
allowances
for
members.

4. Each appointed member is entitled to be paid such remuneration, and each member is entitled to be paid such travelling and subsistence allowances, as the Minister may from time to time determine in respect of him.

Public
Service
Act, 1902,
not to
apply in
respect of
appointed
members.

5. The provisions of the Public Service Act, 1902, shall not apply to or in respect of the appointment of an appointed member and an appointed member shall not, in his capacity as an appointed member, be subject to the provisions of that Act during his term of office.

Appoint-
ment of
substitutes
to act
during
period of
absence of
appointed
member.

6. (1) The Minister may appoint any person to act in the office of an appointed member while the appointed member is absent from his office through illness or any other cause, and that person while so acting—

(a) shall have and may exercise and perform the functions of the appointed member in whose office he is appointed to act; and

(b) shall be deemed to be the appointed member.

(2) An appointed member is, for the purposes of subclause (1), deemed to be absent from his office if there is a vacancy in that office which has not been filled in accordance with clause 9.

(3) No person shall be concerned to inquire whether or not any occasion has arisen requiring or authorising a person to act in the office of an appointed member, and all things done or omitted to be done by that person while so acting shall be as valid and effectual and shall have the same consequences as if they had been done or omitted to be done by that appointed member.

Deputy
chairman.

7. (1) A deputy chairman of the Authority shall be elected by the members at the first meeting held after 1st January in each year, or whenever there is a vacancy in the office of the deputy chairman, and the deputy chairman shall hold office until the first meeting in the year following that in which he was elected.

SCHEDULE

Energy Authority.

SCHEDULE 1—*continued.*

MISCELLANEOUS MATTERS RELATING TO CONSTITUTION AND
PROCEDURE OF THE AUTHORITY—*continued.*

(2) A deputy chairman is eligible for re-election from time to time.

(3) Where the chairman is absent from his office through illness or any other cause the deputy chairman shall act as the chairman.

(4) Where a member who is deputy chairman is absent from his office through illness or any other cause the Minister may appoint some other member to act as deputy chairman during that absence.

8. (1) An appointed member shall be deemed to have vacated his office— **Vacation of office.**

- (a) if he dies;
- (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 remuneration, allowances or estate for their benefit;
- (c) if he is absent from 4 consecutive ordinary meetings of the Authority of which reasonable notice has been given to him, either personally or in the ordinary course of post, unless on leave granted by the Minister or, unless before the expiration of 4 weeks after the last of those meetings, he is excused by the Minister for his absence from those meetings;
- (d) if he becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;
- (e) if he is convicted in New South Wales of a felony or misdemeanour which is punishable by imprisonment for 12 months or upwards, or if he is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be a felony or misdemeanour so punishable;

SCHEDULE

Energy Authority.

SCHEDULE 1—*continued.*
**MISCELLANEOUS MATTERS RELATING TO CONSTITUTION AND
PROCEDURE OF THE AUTHORITY—*continued.***

- (f) if he resigns his office by writing under his hand addressed to the Governor;
- (g) if he declines office;
- (h) if he is removed from office by the Governor;
- (i) upon his attaining the age of 65 years; or
- (j) if, being the member holding the qualification referred to in section 7 (2) (c), he ceases to hold that qualification.

(2) The Governor may, for any cause which to him seems sufficient, remove any appointed member from office.

**Filling
of casual
vacancies.**

9. (1) On the occurrence of a vacancy in the office of an appointed member, the Governor may appoint a person to the vacant office for the balance of his predecessor's term of office.

(2) A person appointed under subclause (1) shall be a person who holds the same qualifications, and is nominated in the same manner, as the appointed member whose office has become vacant was qualified and nominated.

Quorum.

10. The number of members which shall constitute a quorum at any meeting of the Authority is 4, of whom one shall be the chairman or the deputy chairman.

Meetings.

11. (1) Any duly convened meeting of the Authority at which a quorum is present shall be competent to transact any business of the Authority.

(2) Questions arising at a meeting of the Authority shall be determined by a majority of votes of the members present and voting.

(3) The chairman shall preside at all meetings of the Authority at which he is present.

(4) If the chairman is not present at a meeting of the Authority, the deputy chairman shall preside.

SCHEDULE

Energy Authority.

SCHEDULE 1—*continued.*

MISCELLANEOUS MATTERS RELATING TO CONSTITUTION AND
PROCEDURE OF THE AUTHORITY—*continued.*

(5) The person presiding at a meeting of the Authority has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

12. The Authority shall cause full and accurate minutes to be kept of its proceedings at meetings, and submit to the Minister a copy of the minutes of each meeting within 14 days after the date on which the meeting is held.

13. The procedure for the calling of, and for the conduct of business at, meetings of the Authority shall, subject to any procedure that is specified in this Act or is prescribed, be as determined by the Authority.

14. (1) No matter or thing done, and no contract entered into, by the Authority, and no matter or thing done by a member or by any other person acting under the direction or as delegate of the Authority shall, if the matter or thing was done, or the contract was entered into, in good faith for the purposes of executing this Act, subject the member or person personally to any action, liability, claim or demand.

(2) Nothing in subclause (1) exempts any member or other person from liability to be surcharged with the amount of any payment which is disallowed by the Auditor-General in the accounts of or relating to the Authority, and which the member or other person authorised or joined in authorising.

15. In proceedings by or against the Authority no proof shall be required (until evidence is given to the contrary) of—

- (a) the constitution of the Authority;
- (b) any resolution of the Authority;
- (c) the appointment of any member; or
- (d) the presence of a quorum at any meeting of the Authority.

Energy Authority.

Sec. 14.**SCHEDULE 2.****MODIFICATION OF THE PUBLIC WORKS ACT, 1912.**

The Public Works Act, 1912, shall, for the purposes referred to in section 14, be deemed to be amended—

- (a) (i) by omitting from section 53 the words “so seised, possessed or entitled as aforesaid”;
 - (ii) by omitting from section 53 the words “as in the preceding section mentioned” and by inserting instead the words “and may claim compensation in respect of the land resumed and agree to, settle and determine with the Constructing Authority the amount of such compensation”;
 - (iii) by inserting in section 53 (3) after the word “release” the words “and to claim, agree to, settle and determine with the Constructing Authority the amount of compensation”;
 - (iv) by omitting section 53 (5);
- (b) (i) by inserting in section 102 after the word “time” where secondly occurring the words “as the Constructing Authority allows or, in default of any such allowance of further time, within such time”;
 - (ii) by omitting from section 102 the words “and upon the Crown Solicitor”;
 - (iii) by inserting at the end of section 102 the following subsection:—
 - (2) Upon receipt of such notice of claim, the Constructing Authority shall obtain from its solicitor, the Crown Solicitor, or the solicitor to any body corporate acting as agent for the Constructing Authority or a solicitor retained by such a body corporate, a report on the title of the land in respect of which the claim has been served by the claimant.
- (c) by omitting from section 103 the words “Crown Solicitor he shall forward the same, together with his report thereon to the Constructing Authority, who” and by inserting instead the words “Constructing Authority it”;

SCHEDULE

Energy Authority.

SCHEDULE 2—*continued.*

MODIFICATION OF THE PUBLIC WORKS ACT, 1912—*continued.*

- (d) by omitting section 124 and by inserting instead the following section:—

124. (1) For the purpose of ascertaining the compensation to be paid, regard shall in every case be had by the Court not only to the value of the land taken but also to the damage (if any) caused by the severing of the lands taken from other lands of the owner or by the exercise of any statutory powers by the Constructing Authority otherwise injuriously affecting such other lands and the Court shall assess the compensation according to what it finds to have been the value of such lands, estate or interest at the time the notification was published in the Gazette and without being bound in any way by the amount of the valuation notified to such claimant and without reference to any alteration in such value arising from the construction of any works on the lands taken.

(2) Notwithstanding subsection (1), the Court in ascertaining such compensation shall take into consideration and give effect to, by way of set-off or abatement, any enhancement in the value of the interest of any such owner in any land adjoining the land taken or severed therefrom by the construction of any works on the land taken, but in no case does this subsection operate so as to require any payment to be made by such owner to the Constructing Authority in consideration of such enhancement in value as aforesaid.

(3) Notwithstanding subsection (1), in the case of land under the surface taken or acquired by notification in the Gazette for the purpose of constructing a subterranean tunnel no compensation shall be allowed or awarded unless—

- (a) the surface of the overlying soil is disturbed;
- (b) the support of such surface is destroyed or injuriously affected by the construction of such tunnel; or
- (c) any mines or underground workings in or adjacent to such land are thereby rendered unworkable or are so affected as aforesaid.

SCHEDULE

Energy Authority.

SCHEDULE 2—*continued.*MODIFICATION OF THE PUBLIC WORKS ACT, 1912—*continued.*

- (e) by omitting section 126 (3);
- (f) (i) by omitting from section 135 (1) the words “such conveyances” and by inserting instead the words “conveyances or assurances of lands taken”;
- (ii) by omitting from section 135 (2) the words “incurred on the part as well of the vendor as of the purchaser.”.

Sec. 26.

SCHEDULE 3.

PROVISIONS RELATING TO LOANS.

Reserves for repayments. 1. (1) The Authority shall establish a reserve for loan repayment fund in respect of each loan or renewal loan raised by the Authority.

(2) The Authority shall, during each year, transfer from the revenue of the Authority to each such fund a sum not less than the sum that the Authority, in its application for approval of the loan, specified that it proposed to transfer to that fund.

(3) Money held as a reserve for loan repayment may be invested in Government securities of the Commonwealth or the State of New South Wales or in debentures, bonds, inscribed stock or other prescribed securities in any loan of the Authority or in any securities guaranteed by the Government of that State or in such other securities as the Governor may approve or as may be prescribed, in each case at their current market price.

(4) Any interest or profits realised on any such investment shall be added to and form part of the reserve for loan repayment fund from which the investments were made.

(5) All money paid into the reserve for loan repayment fund in respect of any loan or renewal loan may be applied in or towards repayment of any other loan or renewal loan but may not be applied for any other purpose until the loan or renewal loan in respect of which the fund has been established has been repaid.

SCHEDULE

Energy Authority.

SCHEDULE 3—*continued.*

PROVISIONS RELATING TO LOANS—*continued.*

(6) Where the Authority decides to cancel debentures, bonds, inscribed stock or other prescribed securities purchased from the reserve for repayment of the loan for which they were issued, the Authority shall, in addition to the sum otherwise payable to the reserve for repayment of that loan and subject to any agreement to which it is a party whereby it undertakes to pay interest at a higher rate to that reserve, pay to that reserve interest at the rate of $4\frac{1}{2}$ per centum per annum on the face value of the cancelled securities from the date of their cancellation until the maturity of the loan.

(7) If, after a loan has been repaid, there remains in the reserve for repayment of that loan any balance, that balance shall form part of the general funds of the Authority.

(8) A reserve for loan repayment fund shall not be subject to seizure in satisfaction of any debt other than the loan in respect of which the reserve was created.

(9) This clause shall not apply to any loan to be repaid by instalments at intervals of one year or less.

2. (1) For securing repayment of the principal and interest on Debentures, any money borrowed, the Authority may, as provided by the regulations, issue debentures, bonds, inscribed stock or other prescribed securities.

(2) Every such debenture or bond and every coupon originally annexed to the debenture or bond, and whether separated therefrom or not, may be transferred by simple delivery.

(3) Inscribed stock shall be transferable in the books of the Authority in accordance with the regulations.

(4) Debentures, bonds, inscribed stock or prescribed securities issued under this Act shall, as regards both the issue and transfer thereof for full consideration or money or money's worth, be deemed to be included in the general exemptions from stamp duty under Part III of the Stamp Duties Act, 1920, contained in the Second Schedule to that Act.

SCHEDULE

Energy Authority.

SCHEDULE 3—*continued.*PROVISIONS RELATING TO LOANS—*continued.*

Payments of debentures and coupons. 3. (1) The holder of a coupon originally annexed to a debenture or bond, and whether separated therefrom or not, shall be entitled to receive payment from the Authority of the interest specified in the coupon on its presentation on or after the date when, and at the place where, the interest is payable.

(2) The due repayment of any loan in respect of which debentures, bonds, stock or any other prescribed securities have been issued by the Authority and the interest thereon, shall be a charge upon the income and revenue of the Authority from whatever source arising and is hereby guaranteed by the Government.

(3) Any liability arising under the guarantee given by subclause (2) shall be discharged out of money provided by Parliament.

(4) The charge created by subclause (2) shall not prejudice or affect any power of the Authority to sell, convey, lease or otherwise deal with, free of the charge, any property vested in it.

Raising loans in any country. 4. (1) Notwithstanding any other provision of this Act, any money which the Authority is authorised to borrow may be borrowed by a loan raised, wholly or in part, in such places outside New South Wales as the Governor on the recommendation of the Treasurer may approve, and may be negotiated and raised in any currency.

(2) Any such loan may be raised wholly or in part by the issue of debentures, bonds, stock or other securities in any form and may contain any term, condition or provision permitted under the law of the place where the loan is raised and the Authority may establish and conduct in that place registries relating to the securities issued in respect of that loan.

(3) The Authority may, in respect of any such loan, agree that a sinking fund shall be established and controlled at such place and in such manner as may be found necessary or expedient in the circumstances of the case and, where any sinking fund is so established, the provisions of clause 1 shall apply with regard to that loan only in respect of the amount, if any, the repayment of which is not provided for by the sinking fund established under the agreement.

SCHEDULE

Energy Authority.

SCHEDULE 3—*continued.*PROVISIONS RELATING TO LOANS—*continued.*

(4) In connection with the raising of any loan under this clause, the Authority may enter into such agreements as it thinks fit with respect to the form of the debentures, bonds, stock or other securities referred to in subclause (2), or for the sale of those debentures, bonds, stock or other securities, or for the granting of an option to purchase those debentures, bonds, stock or other securities, or for services to be performed by any person in Australia or in any other part of the world in connection with that loan or with the issue, management and redemption of or otherwise with respect to those debentures, bonds, stock or other securities, and any such agreement may be upon such terms and conditions and may contain such provisions for the giving or receipt of consideration as the Authority thinks fit.

(5) Copies of any agreement referred to in subclause (4) shall be forwarded to the Minister who shall lay them, or cause them to be laid, before both Houses of Parliament as soon as possible after the loan is raised.

(6) The Governor may, upon the recommendation of the Authority, by notification published in the Gazette, appoint 2 or more persons to enter into for and on behalf of the Authority all such agreements as the Authority is by this clause authorised to enter into, and to sign, execute or otherwise perfect all such agreements, debentures, bonds, stock or other securities as are by this clause provided for and to do all such things as may be necessary or convenient to be done for the purpose of raising any loan under this Act and may, upon the like recommendation and by a like notification, revoke or vary any such appointment and make any fresh appointment.

(7) The production of a copy of the Gazette containing a notification of any appointment referred to in subclause (6) or the revocation thereof shall, in favour of a lender or of any holder of a security, be conclusive evidence of the appointment or revocation.

(8) All debentures, bonds, stock or other securities bearing the signatures of the persons so appointed in that behalf shall be deemed to be securities lawfully issued under the seal of the Authority and the principal money and interest secured thereby shall be a charge upon the income and revenue of the Authority from whatever source arising, and the due repayment of that principal money and that interest is hereby guaranteed by the Government, and all agreements and any instruments purporting to be made or issued under the authority of

SCHEDULE

Energy Authority.

SCHEDULE 3—*continued.*PROVISIONS RELATING TO LOANS—*continued.*

this clause and bearing the signatures of those persons shall be deemed to have been lawfully made or issued by the Authority and, if they purport to have been sealed by those persons, to have been lawfully executed by the Authority under seal.

(9) A holder of any such debenture, bond, stock or other security shall not be bound to inquire whether the issue of the debenture, bond, stock or security was, in fact, duly authorised.

(10) Subject to this clause and the law in force in the place where any loan is raised under this clause and applicable to that loan and the securities issued in connection therewith, the provisions of this Schedule, other than clauses 2 (1), 6 (3) and 6 (4), shall apply to and in respect of that loan and those securities in the same way as they apply to and in respect of any other loan and any other securities.

Trustees.

5. (1) Any trustee, unless expressly forbidden by any instrument creating the trust, may invest any trust money in his hands in stock inscribed by the Authority or in any debentures, bonds or other securities issued in accordance with this Act, and the investment shall be deemed to be an investment authorised by the Trustee Act, 1925.

(2) Any debenture or bond issued, stock inscribed or other security issued, in pursuance of this Act, shall be a lawful investment for any money which any company, council or body corporate, incorporated by any Act, is authorised or directed to invest in addition to any other investment authorised for the investment of that money.

(3) No notice of any express, implied or constructive trust shall be received by the Authority or by any officer or employee of the Authority in relation to any debenture or coupon issued or stock inscribed by the Authority.

**Lost
debentures.**

6. (1) If any debenture or bond issued by the Authority is lost, destroyed or defaced before it has been redeemed the Authority may, subject to the provisions of this clause, issue a new debenture or bond in its place.

SCHEDULE

Energy Authority.

SCHEDULE 3—*continued.*

PROVISIONS RELATING TO LOANS—*continued.*

(2) A new debenture or bond, issued under subclause (1) with interest coupon annexed, shall bear the same date, number, principal sum and rate of interest as the lost, destroyed or defaced debenture or bond.

(3) Where a debenture or bond is lost or destroyed, a new debenture or bond shall not be issued unless—

- (a) it has been established to the satisfaction of the Supreme Court that the debenture or bond has been lost or destroyed before redemption;
- (b) such advertisements as the Court may direct have been published;
- (c) 6 months have elapsed since the publication of the last of those advertisements; and
- (d) sufficient security has been given to the Authority to indemnify it against any double payment if the missing debenture or bond is at any time thereafter presented for redemption.

(4) Where a debenture or bond is defaced, a new debenture or bond shall not be issued unless and until the defaced debenture or bond is lodged with the Authority for cancellation.

(5) The provisions of this clause shall apply to and in respect of the case of a lost, destroyed or defaced coupon in the same way as they apply to and in respect of a lost, destroyed or defaced debenture or bond.

(6) Notwithstanding any other provision of this clause, in the case of loss, theft, destruction, mutilation or defacement of any debenture or bond issued under clause 4, a duplicate or new debenture or bond may be issued upon proof to the satisfaction of the Authority of the loss, theft or destruction, or upon surrender of the mutilated or defaced debenture or bond, as the case may be, and upon the Authority receiving security or indemnity satisfactory to it against double payment if the missing debenture or bond is at any time thereafter presented for payment.

7. (1) A person advancing money to the Authority shall not be **Protection** bound to inquire into the application of the money advanced or be in **of investors.** any way responsible for its non-application or misapplication.

SCHEDULE

Energy Authority.

SCHEDULE 3—*continued.*PROVISIONS RELATING TO LOANS—*continued.*

(2) A notification in the Gazette of the approval of the Governor having been given to a borrowing by the Authority shall, in favour of a lender and of any holder of any security given by the Authority, be conclusive evidence that all conditions precedent to the borrowing have been complied with and, where the approval notified is to a borrowing by the Authority in a place outside New South Wales and in a particular currency, shall also be conclusive evidence in favour of those persons of the approval of the Governor to the borrowing in the place and in the currency specified in the notification.

Securities
rank
equally.

8. All debentures, bonds, stock or other securities which are secured upon the income and revenue of the Authority shall rank *pari passu* without any preference one above another by reason of priority of date or otherwise.
