

ELECTRICITY DEVELOPMENT (AMENDMENT) ACT 1985 No. 206

New South Wales



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Act No. 206, 1985

An Act to amend the Electricity Development Act 1945 for the purposes of empowering the Energy Authority of New South Wales to effect certain insurance policies on behalf of electricity supply authorities, requiring the Sydney County Council to make a contribution towards the premiums paid in respect of certain insurance policies and imposing restrictions on the resupply of electricity by certain persons, and to provide for related matters. [Assented to, 10th December, 1985.]

Electricity Development (Amendment) 1985

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 "Electricity Development (Amendment) Act 1985".

Commencement

2. (1) Except as provided by subsection (2), this Act shall commence on the date of assent to this Act.

(2) Schedule 2, and section 5 in its application to that Schedule, shall commence on such day as may be appointed by the Governor and notified by proclamation published in the Gazette.

Principal Act

3. The Electricity Development Act 1945 is referred to in this Act as the Principal Act.

Schedules

4. This Act contains the following Schedules:

SCHEDULE 1—INSERTION OF PART III_{AA} INTO THE PRINCIPAL ACT.

SCHEDULE 2—INSERTION OF PART VI_A INTO THE PRINCIPAL ACT.

SCHEDULE 3—MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT.

SCHEDULE 4—RECOVERY OF CONTRIBUTIONS TOWARDS THE COST OF CERTAIN INSURANCE PREMIUMS.

Amendment of Act No. 13, 1946

5. The Principal Act is amended in the manner set forth in Schedules 1-3.

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Recovery of contributions towards the cost of certain insurance premiums

6. Schedule 4 has effect.
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SCHEDULE 1

(Sec. 5)

INSERTION OF PART IIIAA INTO THE PRINCIPAL ACT

Part IIIAA—

After Part III, insert:

PART IIIAA

ELECTRICITY SUPPLY AUTHORITIES INSURANCE
SCHEME

**Energy Authority empowered to effect insurance policies on behalf
of electricity supply authorities**

14AAA. (1) Subject to subsection (3), the Authority may from time to time, on behalf of electricity supply authorities generally or any specified class of electricity supply authorities, enter into an insurance policy or insurance policies of the kind to which subsection (2) applies.

(2) For the purposes of subsection (1), an insurance policy is of a kind to which this subsection applies if it is a policy under which the insurer undertakes to indemnify an electricity supply authority covered by the policy in respect of any prescribed liability, loss or damage incurred or sustained during the currency of the policy by that authority (being a prescribed liability, loss or damage that is specified in the policy).

(3) The power to enter into an insurance policy under subsection (1) shall not be exercised except with the approval of the Minister and unless the Minister has approved of the terms of the policy.

(4) Before entering into an insurance policy under subsection (1), the Authority shall consult with the electricity supply authorities concerned.

(5) In subsection (2)—

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SCHEDULE 1—*continued*

INSERTION OF PART IIIAA INTO THE PRINCIPAL ACT—*continued*

“prescribed liability, loss or damage” means a liability or a loss, or damage, arising from or attributable to fire, negligence, nuisance, breach of statutory duty or any other act or omission arising from or attributable to some other prescribed risk.

(6) The Authority shall be deemed always to have had the power to enter into an insurance policy as provided by subsection (1), and any such insurance policy entered into before the commencement of this Part shall be deemed, for the purposes of this Part, to have been entered into under subsection (1).

Variation, etc., of policy of insurance entered into under section 14AAA

14AAB. Where an insurance policy entered into under section 14AAA is in force, the Authority may, with the approval of the Minister and after consulting the electricity supply authorities which are covered by the policy, enter into an agreement with the insurer for the variation of the policy and may, after similar consultation, surrender the policy.

Payment of premiums, etc.

14AAC. (1) Where the Authority enters into an insurance policy under section 14AAA or an agreement under section 14AAB varying such a policy, it is the responsibility of the Authority to pay the premium for the policy or, as the case may be, the additional premium (if any) payable under the agreement.

(2) A premium or additional premium payable under subsection (1) shall be paid from funds standing to the credit of the Electricity Development Account.

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SCHEDULE 1—*continued*INSERTION OF PART IIIAA INTO THE PRINCIPAL ACT—*continued***Power of Minister to require electricity supply authority to contribute towards premium or additional premium paid under section 14AAC**

14AAD. (1) As soon as practicable after entering into an insurance policy under section 14AAA or after entering into an agreement under section 14AAB varying such a policy, the Authority shall inform the Minister of the fact that it has done so and notify the Minister of the amount of the premium paid in respect of the policy or, as the case may be, the additional premium (if any) paid under the agreement.

(2) After being informed under subsection (1) that the Authority has entered into an insurance policy under section 14AAA or an agreement under section 14AAB varying such a policy and while the policy is still in force, the Minister may, by notice served on each electricity supply authority covered by the policy, require the electricity supply authority to pay to the Minister within such period as is specified in the notice a contribution, determined in accordance with subsection (3), towards defraying the cost incurred by the Authority in paying the premium in respect of the policy or, as the case may be, the additional premium (if any) under the agreement.

(3) Where the Minister proposes to impose a requirement under subsection (2) in relation to a premium or an additional premium paid in respect of an insurance policy entered into under section 14AAA or an agreement under section 14AAB varying such a policy, the Minister shall determine the amount of contribution to be paid to the Minister by each electricity supply authority covered by the policy.

(4) If an electricity supply authority which has been served with a notice under subsection (2) fails to pay to the Minister the amount of contribution specified in the notice in respect of that authority, then, on the expiration of the period so specified—

- (a) interest in respect of that amount shall accrue at the prescribed rate; and

*Electricity Development (Amendment) 1985*SCHEDULE 1—*continued*INSERTION OF PART IIIAA INTO THE PRINCIPAL ACT—*continued*

(b) that amount, together with any interest that has accrued under paragraph (a), shall be recoverable in a court of competent jurisdiction as a debt due to the Crown.

(5) For the purposes of subsection (4), “prescribed rate” means 16.7 per cent per year or, if some other rate is prescribed by the regulations for the purposes of that subsection, that other rate.

(6) All amounts paid or recovered under this section shall be paid into the Electricity Development Account.

SCHEDULE 2

(Sec. 5)

INSERTION OF PART VIA INTO THE PRINCIPAL ACT

Part VIA—

After Part VI, insert:

PART VIA

RESTRICTIONS ON RESUPPLY OF ELECTRICITY

Interpretation

27A. In this Part—

“person to whom this Part applies” means a person in that person’s capacity—

- (a) as the landlord of any premises, whether business, residential or otherwise; or
- (b) as the proprietor or operator of any hotel, motel, inn, hostel, boarding or rooming house, holiday flats or cabins, caravan park or campsite or any other prescribed premises or place;

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SCHEDULE 2—*continued*

INSERTION OF PART VIA INTO THE PRINCIPAL ACT—*continued*

“prescribed standard”, in relation to an electricity meter, means the standard prescribed for electricity meters by the Standards Association of Australia or, where the regulations prescribe some other standard, the standard so prescribed.

Offence to impose charges for the resupply of electricity in certain cases

27B. (1) Where a person to whom this Part applies resupplies to another person electricity originally supplied by an electricity supply authority, the first-mentioned person shall not—

- (a) impose a separate charge for that resupply unless the quantity of electricity resupplied has been separately measured by an electricity meter that complies with the prescribed standard; or
- (b) where the quantity resupplied has been measured by such a meter, impose a charge for that quantity greater than the charge that the electricity supply authority would have imposed under its published tariff for the direct supply of a similar quantity of electricity under an agreement entered into between the authority and that other person.

(2) Subsection (1) does not apply to the imposition of a separate charge for the use of a specified service or facility where the use of that service or facility necessarily involves the consumption of electricity.

(3) Any person who contravenes subsection (1) (a) or (b) is guilty of an offence against this Act.

(4) If in any proceedings for an offence under subsection (3) it is proved that a person other than an electricity supply authority supplied electricity to another person, it shall be presumed until the contrary is proved that the source of the first-mentioned person's supply was an electricity supply authority.

SCHEDULE 2—*continued*INSERTION OF PART VIA INTO THE PRINCIPAL ACT—*continued***Power of Local Court to make orders against persons found guilty of contravening section 27B**

27c. (1) Where a person is found guilty of having committed an offence under section 27B (2), the Local Court concerned may make an order directing the person found guilty of the offence, within a period specified in the order—

- (a) where the offence involves the imposition of a charge for the resupply of electricity in contravention of section 27B (1) (a)—to refund the amount of the charge; or
- (b) where the offence involves the imposition of a charge for the resupply of electricity in contravention of section 27B (1) (b)—to refund the difference between the amount of the charge and the maximum amount that could have been lawfully charged for the quantity of electricity involved in the resupply.

(2) A Local Court may make an order under subsection (1)—

- (a) on its own motion at the time of the finding; or
- (b) at the time of the finding or within 6 months after the date of the finding—on an application made to the Court by the person on whom the relevant offence was perpetrated.

(3) An order under subsection (1) may be enforced in a Local Court exercising its jurisdiction under the Local Court (Civil Claims) Act 1970, and the provisions of Part V of that Act apply in respect of such an order as if —

- (a) it were a judgment of the Local Court exercising that jurisdiction;
- (b) the amount ordered to be refunded were a judgment debt referred to in that Part;
- (c) the person against whom the order was made were a judgment debtor referred to in that Part; and
- (d) the person in favour of whom the order was made were a judgment creditor referred to in that Part.

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SCHEDULE 2—*continued*

INSERTION OF PART VIA INTO THE PRINCIPAL ACT—*continued*

(4) The remedy provided by subsection (1) is an alternative to any other remedy provided under any other enactment or rule of law.

SCHEDULE 3

(Sec. 5)

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT

(1) Section 3—

Omit the section.

(2) Section 4, definition of “Electricity Commission”, “Electricity Development Account”—

Before the definition of “Electricity supply authority”, insert:

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

“Electricity Development Account” means the Account established in the Special Deposits Account in the Treasury in accordance with section 16.

(3) Sections 14A, 14K, 14N (6), 15A, 19C, 27 (9)—

Omit “of New South Wales” wherever occurring.

(4) Section 33 (1)—

Omit the subsection, insert instead:

(1) Proceedings for an offence against this Act shall be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.

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SCHEDULE 3—*continued*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued

(5) (a) Section 37 (2B) (aa)—

Before section 37 (2B) (a), insert:

- (aa) adopt, either in whole or in part, or by reference, any standards, rules, codes or specifications of the Standards Association of Australia, the British Standards Institution or any other body or association;

(b) Section 37 (5)—

Omit the subsection.

SCHEDULE 4

(Sec. 6)

RECOVERY OF CONTRIBUTIONS TOWARDS THE COST OF CERTAIN
INSURANCE PREMIUMS

Interpretation

1. In this Schedule—

“electricity supply authority” has the meaning ascribed to that expression by section 4 of the Principal Act;

“the Authority” means the Energy Authority of New South Wales constituted under the Energy Authority Act 1976;

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

“the Council” means the Sydney County Council constituted under the Gas and Electricity Act 1935;

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SCHEDULE 4—*continued*

RECOVERY OF CONTRIBUTIONS TOWARDS THE COST OF CERTAIN
INSURANCE PREMIUMS—*continued*

“the Government Insurance Office” means the Government Insurance Office of New South Wales established by the Government Insurance Act 1927.

Liability of Sydney County Council to pay certain money to the Electricity Commission

2. By way of reimbursing the Commission with respect to a sum expended by it on account of the Council as a contribution towards defraying the cost incurred by the Authority in paying the premium in respect of insurance policies (numbered PL 9000 340 EN and PL 9000 341 EN) entered into between the Authority, on behalf of the various electricity supply authorities specified in the policy (including the Council), and the Government Insurance Office for the purpose of indemnifying those electricity supply authorities against the risks covered by the policy, the Council is, by virtue of this clause, liable to pay to the Commission the sum of \$1,379,900 (being the sum so expended on behalf of the Council), together with interest on that sum at the rate of 16.7 per cent per year, calculated from and including 1 November 1985, being the date on which the Commission paid the first-mentioned sum to the Authority.

Recovery of sum for which the Sydney County Council is liable under clause 2

3. If the Council fails to pay the sum referred to in clause 2 within 7 days after the commencement of this Schedule, together with the interest that has accrued in respect of that amount, the Commission is, on the expiration of that period, entitled to take proceedings in a court of competent jurisdiction and to recover that sum and the accrued interest as a debt due from the Council to the Commission.

Additional interest

4. Where—

- (a) the insurance policies referred to in clause 2 have been varied before the commencement of this Schedule;
- (b) pursuant to the variation an additional premium has been paid in respect of increased insurance cover provided under those policies; and
- (c) the Minister makes a determination in respect of an electricity supply authority under section 14AAD (3) of the Principal Act,

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SCHEDULE 4—*continued*

RECOVERY OF CONTRIBUTIONS TOWARDS THE COST OF CERTAIN
INSURANCE PREMIUMS—*continued*

there may be added to the amount so determined a further amount as interest (calculated at a rate prescribed by regulations made under the Principal Act) in respect of a period beginning with a date not earlier than the date on which the policies were varied and ending with the date by which that amount is required to be paid by the notice served on that authority under section 14AAD (2) of the Principal Act.
