

**ENERGY LEGISLATION (REPEALS AND SAVINGS) ACT
1987 No. 108**

NEW SOUTH WALES



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ENERGY LEGISLATION (REPEALS AND SAVINGS) ACT 1987
No. 108

NEW SOUTH WALES



Act No. 108, 1987

An Act to repeal certain enactments and to enact certain savings and transitional provisions as a consequence of and in connection with the enactment of the Energy Administration Act 1987 and other cognate Acts.
[Assented to 12 June 1987]

Energy Legislation (Repeals and Savings) 1987

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 Legislation (Repeals and Savings) Act 1987".

Commencement

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

(2) Except as provided by subsection (1), this Act shall commence on the day appointed and notified under section 2 (2) of the Energy Administration Act 1987.

Interpretation

3. (1) In this Act—

"appointed day" means the day on which this Act commences;

"Authority" means the Energy Authority of New South Wales;

"cognate Acts" means this Act, the Energy Administration Act 1987, the Electricity Development (Amendment) Act 1987, the Local Government (Electricity) Amendment Act 1987, the Electricity Commission (Amendment) Act 1987 and the Gas (Amendment) Act 1987;

"Corporation" means the Energy Corporation of New South Wales.

(2) In this Act—

(a) a reference to a function includes a reference to a power, authority and duty; and

(b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

Repeals

4. The Acts specified in Schedule 1 are, to the extent indicated, repealed.

*Energy Legislation (Repeals and Savings) 1987***Savings, transitional and other provisions**

5. (1) Schedules 2, 3 and 4 have effect.
- (2) The Governor may make regulations containing other provisions of a savings or transitional nature consequent on the enactment of the cognate Acts.
- (3) A provision referred to in subsection (2) may, if the regulations so provide, take effect from the date of commencement of this Act or a later date.
- (4) To the extent to which a provision referred to in subsection (2) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—
- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication; or
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.
- (5) A provision referred to in subsection (2) shall, if the regulations so provide, have effect notwithstanding any clause of Schedule 2, 3 or 4, except clauses 2 and 3 of Schedule 3.

SCHEDULE 1

(Sec. 4)

REPEALS

Borough of Newcastle Electric Lighting Act 55 Vic.—the whole Act

Municipal Council of Sydney Electric Lighting Act 1896 60 Vic. No. 23—the whole Act

Municipal Council of Sydney Electric Lighting (Amendment) Act 1928 No. 48—the whole Act

Electricity (Special Provisions) Act 1935 No. 42—the whole Act

Gas and Electricity (Amendment) Act 1936 No. 35—the whole Act

Local Government (Further Amendment) Act 1939 No. 41— sections 4 (3) and 7

Gas and Electricity (Amendment) Act 1946 No. 46—the whole Act

Local Government (Areas) Act 1948 No. 30—Division 7 of Part III

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SCHEDULE 1—*continued*

REPEALS—*continued*

- Local Government (Further Amendment) Act 1948 No. 44— section 4
- Electricity Commission (Balmain Electric Light Company Purchase) Act 1950 No. 40—
section 13 (4)
- Electricity Commission (Transfer of Reticulation Works) Act 1957 No. 43—section 3
- Gas and Electricity (Amendment) Act 1962 No. 30—the whole Act
- Decimal Currency Act 1965 No. 33—so much of the First Schedule as amends Act No.
42 of 1935
- Local Government (City of Sydney Boundaries) Act 1967 No. 48—Division 2 of Part
VI
- Sydney County Council (Elections) Act 1968 No. 68—section 5
- Supreme Court Act 1970 No. 52—so much of the Second Schedule as amends 60 Vic.
No. 23
- District Court Act 1973 No. 9—so much of Schedule 2 as amends 60 Vic. No. 23
- Metric Conversion Act 1974 No. 51—section 10 and so much of the Schedule as amends
Act No. 42 of 1935
- Statutory and Other Offices Remuneration Act 1975 (1976 No. 4)—so much of Schedule
2 as relates to the General Manager of the Energy Authority of New South Wales
- Energy Authority Act 1976 No. 69—the whole Act
- Notice of Action and Other Privileges Abolition Act 1977 No. 19—so much of Schedule
1 as amends 60 Vic. No. 23
- Energy Authority (Amendment) Act 1979 No. 103—the whole Act
- Gas and Electricity (Sydney County District) Amendment Act 1979 No. 184—the whole
Act
- Miscellaneous Acts (Retirement of Statutory Officers) Amendment Act 1980 No. 187—
so much of Schedule 1 as amends Act No. 69 of 1976
- Miscellaneous Acts (Companies) Amendment Act 1981 No. 123—so much of Schedule
8 as amends Act No. 42 of 1935
- Energy Authority (Reconstitution) Amendment Act 1982 No. 65—the whole Act
- Gas and Electricity (Amendmen.) Act 1982 No. 72—the whole Act
- Miscellaneous Acts (Public Finance and Audit) Repeal and Amendment Act 1983 No.
153—so much of Schedule 1 as repeals provisions of Act No. 69 of 1976 and so much
of Schedule 2 as amends Act No. 42 of 1935

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SCHEDULE 1—*continued*

REPEALS—*continued*

- Statute Law (Miscellaneous Amendments) Act 1984 No. 153—so much of Schedule 16 as amends Acts Nos. 42 of 1935 and 72 of 1982
- Miscellaneous Acts (Commercial Arbitration) Amendment Act 1984 No. 167—so much of Schedule 1 as amends 60 Vic. No. 23
- Gas and Electricity (Amendment) Act 1985 No. 225—the whole Act
- Statute Law (Miscellaneous Provisions) Act 1985 No. 231—so much of Schedule 31 as amends Act No. 42 of 1935
- Statute Law (Miscellaneous Provisions) Act 1986 No. 16—so much of Schedule 23 as amends Act No. 42 of 1935
- Gas and Electricity (Industry Safety) Amendment Act 1986 No. 76—the whole Act
- Local Government (General Revision) Amendment Act 1986 No. 159—so much of Schedule 8 as relates to the Borough of Newcastle Electric Lighting Act 55 Vic. and 60 Vic. No. 23
- Gas and Electricity (Gas Repeal) Amendment Act 1986 No. 214—the whole Act
- Miscellaneous Acts (Gas) Amendment Act 1986 No. 215—so much of Schedule 1 as amends Acts Nos. 72 of 1982 and 225 of 1985
- Statute Law (Miscellaneous Provisions) Act (No. 2) 1986 No. 218—Schedule 12
- Statute Law (Miscellaneous Provisions) Act (No. 1) 1987—so much of Schedule 32 as amends Acts Nos. 42 of 1935 and 69 of 1976
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SCHEDULE 2

(Sec. 5)

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS RELATING TO THE
SYDNEY COUNTY COUNCIL

Definitions

1. In this Schedule—

“new Council” means the Sydney County Council as constituted after the appointed day;

“old Council” means the Sydney County Council as constituted before the appointed day.

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SCHEDULE 2—*continued*

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS RELATING TO THE
SYDNEY COUNTY COUNCIL—*continued*

Councillors

2. On the appointed day, a person who, immediately before that day, held office as a councillor of the old Council—

- (a) shall be deemed to have been elected as a delegate to the new Council; and
- (b) shall hold office until the next general election for the new Council.

Continuity

3. The new Council is a continuation of, and the same legal entity as, the old Council.

Inscribed stock

4. Nothing in the cognate Acts affects the rights, privileges, obligations or liabilities of the holder of any inscribed stock issued by the old Council before the appointed day.

Agreements

5. Nothing in this Act affects any agreement made under section 55 (4) (a) of the Electricity (Special Provisions) Act 1935 before the appointed day.

SCHEDULE 3

(Sec. 5)

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS RELATING TO THE
ENERGY AUTHORITY

Abolition of Authority

1. On the appointed day, the Authority is abolished.

Members and General Manager of the Authority

2. (1) A person holding office as a member of the Authority immediately before the appointed day shall cease to hold office as such on that day.

(2) A member of the Authority who ceases to hold office as such by the operation of this Act is not entitled to be paid any remuneration or compensation by reason of so ceasing to hold office.

(3) The person holding office as General Manager of the Authority immediately before the appointed day is, if the person—

- (a) was an officer or employee of the Electricity Commission of New South Wales immediately before being appointed as General Manager;

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SCHEDULE 3—*continued*

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS RELATING TO THE
ENERGY AUTHORITY—*continued*

(b) ceases to be Director through resignation or the expiry of the term of office as Director; and

(c) has not reached the age of 60 years,

entitled to be appointed to some position in the service of the Commission not lower in classification and salary than that which the person held immediately before being appointed as General Manager.

References to Authority

3. On and from the appointed day, a reference in any other Act, or in any instrument made under any Act or in any instrument of any kind to—

(a) the Authority shall be read as a reference to the Corporation; or

(b) the General Manager or any member of the Authority shall be read as a reference to the Director.

Continuity

4. The Corporation is a continuation of, and the same legal entity as, the Authority.

Property acquired by gift etc.

5. (1) Any property held by the Authority immediately before the appointed day by way of gift, bequest or devise and that becomes property of the Corporation by virtue of this Schedule shall be deemed to have been acquired by the Corporation under the Energy Administration Act 1987.

(2) Any condition subject to which the property was held by the Authority shall be deemed to be a condition to which the Corporation has agreed.

Employees etc.

6. (1) A person, body or organisation appointed or employed by the Authority immediately before the appointed day shall be deemed to have been appointed or employed by the Corporation under the Energy Administration Act 1987 on the same terms and conditions as were applicable to the person, body or organisation immediately before that day.

(2) An inquiry or examination commenced or authorised by the Authority under section 27 of the Energy Authority Act 1976 and not concluded immediately before the appointed day shall be deemed to have been commenced or authorised by the Corporation under section 21 of the Energy Administration Act 1987.

Emergency regulations, orders and directions

7. (1) Until the commencement of the Interpretation Act 1987, section 43 of the Interpretation Act 1897 applies to and in respect of a regulation made under section 26 (Regulations in respect of emergencies) of the Energy Administration Act 1987 that expires and so applies as if it had been revoked.

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SCHEDULE 3—*continued*

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS RELATING TO THE
ENERGY AUTHORITY—*continued*

(2) Until the commencement of the Interpretation Act 1987, section 43 of the Interpretation Act 1897 applies to and in respect of an order or direction made or given under Part 6 (Emergency Provisions) of the Energy Administration Act 1987, and, without affecting the generality of the foregoing provisions of this subclause, so applies as if such an order or direction that expires or that has no further force or effect had been revoked.

SCHEDULE 4

(Sec. 5)

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS RELATING TO THE
ELECTRICITY DEVELOPMENT (AMENDMENT) ACT 1987

Definition

1. In this Schedule—

“Principal Act” means the Electricity Act 1945.

Appointment of general managers and assistant general managers

2. (1) A county council (other than the Sydney County Council) that is an electricity council within the meaning of the Principal Act, shall, not later than 3 months after the day appointed by the Minister for the purposes of this clause and notified in writing to the council—

- (a) appoint its principal engineer or county clerk as its first general manager; or
- (b) advise the Minister that it intends to advertise the position of general manager.

(2) A county council shall, not later than 6 months (or such longer time as the Minister may allow) after advising the Minister that it intends to advertise the position of general manager, appoint a person as its first general manager.

(3) On the appointed day, the General Manager of the Sydney County Council—

- (a) shall be deemed to have been appointed as the general manager of the Sydney County Council under section 7H of the Principal Act and to be so appointed on the same terms and conditions and for the same period as were applicable to the General Manager immediately before the appointed day; and
- (b) is entitled to receive the same or increased remuneration (as the Council with the concurrence of the Minister may agree).

Energy Legislation (Repeals and Savings) 1987

SCHEDULE 4—*continued*

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS RELATING TO THE
ELECTRICITY DEVELOPMENT (AMENDMENT) ACT 1987—*continued*

(4) A person appointed under subclause (1) (a) shall be appointed for a term not exceeding 7 years, but is eligible (if otherwise qualified) for re-appointment under section 7H of the Principal Act.

(5) A person shall not be appointed under subclause (2) unless—

- (a) the position of general manager has been advertised and notified as may be required by any relevant ordinance made under the Local Government Act 1919 or the regulations (if any);
- (b) the person has the experience and qualifications required by section 7H of the Principal Act; and
- (c) the person is the most meritorious applicant for the position.

(6) Until the first general managers and assistant managers are appointed under this clause and clause 3, the county clerk and principal engineer of the county council shall, notwithstanding any provision of the cognate Acts, continue in office as if those Acts had not been enacted.

Appointment of assistant general managers

3. (1) If a county council that is an electricity council has not appointed its principal engineer or county clerk to be the general manager under clause 2, the council shall appoint each such person not appointed as an assistant general manager of the council.

(2) If no assistant general manager is appointed under subclause (1), or more than one assistant general manager is required to be appointed under the Principal Act, such an appointment shall be made as provided by section 7I of that Act.

(3) A person appointed under subclause (1) is entitled to be appointed on the same terms and conditions as were applicable to the person immediately before the appointed day.

Directions and notifications by Authority

4. (1) A direction given before the appointed day by the Authority under section 13A of the Principal Act shall—

- (a) be deemed to be a direction given by the Director; and
- (b) continue in force until such time as it is revoked or amended by the Director or ceases to have effect by virtue of that section.

(2) A notification made before the appointed day by the Authority under section 14 of the Principal Act shall—

- (a) be deemed to be a notification made by the Director under section 14 of the Principal Act, as amended by the Electricity Development (Amendment) Act 1987; and

*Energy Legislation (Repeals and Savings) 1987*SCHEDULE 4—*continued*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS RELATING TO THE
ELECTRICITY DEVELOPMENT (AMENDMENT) ACT 1987—*continued*

(b) continue in force until such time as it is revoked or amended by the Director.

Insurance policies effected by Authority

5. An insurance policy effected before the appointed day by the Authority under section 14AAA of the Principal Act shall be deemed to be an insurance policy effected by the Corporation and shall continue in force until such time as it otherwise ceases to have effect.

Payments to Traffic Route Lighting Subsidy Account

6. The amendments made to section 19C of the Principal Act by the Electricity Development (Amendment) Act 1987 do not affect any requirement imposed on the Electricity Commission, the Commissioner of Main Roads and the Treasurer to make any payments under that section in respect of any period commencing before the appointed day.

Agreements relating to subsidies

7. An agreement made before the appointed day between—

- (a) the Authority and an electricity supply authority under section 13, 13C or 14F of the Principal Act; or
- (b) the Authority and a council under section 19D or 19H of the Principal Act,

shall be deemed to be an agreement between the Corporation and the authority or council, as the case requires, and shall continue in force until such time as it otherwise ceases to have effect.

Type specifications

8. (1) A determination made before the appointed day by the Authority as to a type specification within the meaning of Part IVC of the Principal Act shall be deemed to be a determination of the Director.

(2) An application made before the appointed day to the Authority under section 21B of the Principal Act and not finally disposed of shall be dealt with by the Corporation under that section, but the period of 21 days referred to in that section shall not apply to the application.

Exemptions relating to electrical articles

9. An exemption in force under section 21A of the Principal Act immediately before the appointed day shall be deemed to have been granted by the Director.

Approvals relating to electrical articles

10. (1) An electrical article approved before the appointed day by the Authority under section 21C of the Principal Act shall be deemed to have been approved by the Director.

Energy Legislation (Repeals and Savings) 1987

SCHEDULE 4—*continued*

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS RELATING TO THE
ELECTRICITY DEVELOPMENT (AMENDMENT) ACT 1987—*continued*

(2) An application made before the appointed day to the Authority under section 21C of the Principal Act and not finally disposed of shall be dealt with by the Director under that section.

Notifications relating to defective electrical articles

11. A notification made or notice in writing given before the appointed day by the Authority under section 21E of the Principal Act shall be deemed to have been made or given by the Director.

Approvals relating to certain works

12. An approval given before the appointed day by the Authority under section 27 of the Principal Act shall be deemed to have been given by the Director.

References to Electricity Development Act 1945

13. On and after the appointed day, a reference—

- (a) in any Act;
- (b) in any instrument made under any Act; or
- (c) in any other instrument of any kind,

to the Electricity Development Act 1945 shall be read as a reference to the Electricity Act 1945.