



Australian Capital Territory Electricity Supply Amendment Act 1982

No. 5 of 1982

An Act to amend the *Australian Capital Territory Electricity Supply Act 1962*

[Assented to 30 March 1982]

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

Short title, &c.

1. (1) This Act may be cited as the *Australian Capital Territory Electricity Supply Amendment Act 1982*.

(2) The *Australian Capital Territory Electricity Supply Act 1962*¹ is in this Act referred to as the Principal Act.

Commencement

2. This Act shall come into operation on the day on which it receives the Royal Assent.

Interpretation

3. Section 4 of the Principal Act is amended by inserting after the definition of “Commonwealth land” the following definition:

“ ‘emergency order’ means an order made under sub-section 35C (2);”.

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Vacation of office

4. Section 14 of the Principal Act is amended—

(a) by omitting paragraph (1) (c) and substituting the following paragraph:

“(c) fails, without reasonable excuse, to comply with his obligations under sub-section (2) or (3); or”; and

(b) by omitting sub-sections (2), (3) and (4) and substituting the following sub-sections:

“(2) A member who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Authority shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Authority.

“(3) A disclosure under sub-section (2) shall be recorded in the minutes of the meeting of the Authority and the member shall not, unless the Minister otherwise determines—

(a) be present during any deliberation of the Authority with respect to that matter; or

(b) take part in any decision of the Authority with respect to that matter.”.

5. (1) Section 16 of the Principal Act is repealed and the following section is substituted:

Delegation by Authority

“16. (1) The Authority may, either generally or as otherwise provided by the instrument of delegation, by writing under its common seal, delegate all or any of its powers under this Act, any emergency orders or any law of the Territory, other than—

(a) this power of delegation; or

(b) its powers under section 35C to make emergency orders.

“(2) A power so delegated, when exercised by the delegate, shall, for the purposes of this Act, that emergency order or that law of the Territory, as the case may be, be deemed to have been exercised by the Authority.

“(3) A delegation under this section does not prevent the exercise of a power by the Authority.”.

(2) Notwithstanding the repeal of section 16 of the Principal Act by this Act, a delegation in force under that section immediately before the date of commencement of this section continues in force, on and after that date, as if it had been made under section 16 of the Principal Act as amended by this Act.

Powers of Authority

6. Section 18 of the Principal Act is amended by inserting in sub-section (4) “Part IIIA or” after “provided in”.

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7. After Part III of the Principal Act the following Part is inserted:

“PART IIIA—EMERGENCY PROVISIONS

Crown to be bound

“35A. This Part binds the Crown in the right of the Commonwealth, of each of the States, of the Northern Territory and of Norfolk Island, but nothing in this Part renders the Crown liable to be prosecuted for an offence.

Declaration of electricity supply emergency

“35B. (1) Where the Minister is satisfied that the supply of electricity available in the Territory is, or is likely to be, so inadequate for the needs of the Territory as to require the restriction of the use of electricity in the Territory, the Minister may, by notice published in the *Gazette*, declare that an electricity supply emergency will exist during a period (in this Part referred to as a ‘period of electricity supply emergency’) specified in the notice.

“(2) The period of electricity supply emergency to be specified in a notice under sub-section (1) shall be expressed to commence on a date not earlier than the date of publication of the notice in the *Gazette* and shall not exceed 28 days.

“(3) If, at any time during a period of electricity supply emergency specified in a notice under sub-section (1), the Minister becomes satisfied that the supply of electricity available in the Territory is adequate for the needs of the Territory without requiring the restriction of the use of electricity in the Territory, the Minister shall, by notice published in the *Gazette*, revoke the first-mentioned notice and, upon the publication of the notice of revocation, the period of electricity supply emergency terminates.

Emergency orders

“35C. (1) In this section, ‘electricity’ means electricity supplied by the Authority in the Territory.

“(2) During a period of electricity supply emergency the Authority may, by order in writing under its common seal, prohibit or regulate, either unconditionally or subject to conditions (which may include a condition requiring the written approval of the Authority to be obtained), the use, or the use for a particular purpose, of electricity by such persons, or by persons included in such classes of persons, as are specified in the order.

“(3) The Authority shall not make an emergency order unless guidelines made under sub-section 35D (1) are in force.

“(4) In the making of emergency orders the Authority shall comply with the guidelines in force under section 35D.

“(5) Where an emergency order is made, a copy of the emergency order shall be published in the *Gazette* and the emergency order shall come into force on the date of publication or, if a later date (being a date during a period of

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electricity supply emergency) is specified in the emergency order, on the date so specified.

“(6) As soon as practicable after the making of an emergency order, the Authority—

- (a) shall cause a copy of the emergency order to be published in a daily newspaper circulating generally in the Territory; and
- (b) may, if it thinks fit, cause particulars of the emergency order to be published in the Territory by radio broadcast or television,

but failure by the Authority to cause an emergency order to be published in accordance with paragraph (a) does not affect the validity of the emergency order.

“(7) Sections 48 (other than paragraphs (1) (a) and (b) and sub-section (2)), 49 and 50 of the *Acts Interpretation Act* 1901 apply to emergency orders as if in those sections references to regulations were references to emergency orders and references to a regulation were references to a provision of an emergency order.

“(8) Subject to sub-section (9), an emergency order continues to be in force, unless sooner revoked under sub-section 33 (3) of the *Acts Interpretation Act* 1901, until the expiration of the period of electricity supply emergency during which it came into force.

“(9) If during a period of electricity supply emergency a notice under sub-section 35B (1) declares that an electricity supply emergency will exist during a period commencing immediately after the expiration of the first-mentioned period, any emergency order in force immediately before the expiration of the first-mentioned period (including an emergency order in force by virtue of a previous application or previous applications of this sub-section) continues in force, unless sooner revoked under sub-section 33 (3) of the *Acts Interpretation Act* 1901, until the expiration of the second-mentioned period.

“(10) Emergency orders shall be deemed not to be statutory rules within the meaning of the *Statutory Rules Publication Act* 1903.

“(11) Section 5 of the *Evidence Act* 1905 applies to an emergency order in like manner as that section applies to an order made by a Minister.

Guidelines for making emergency orders

“35D. (1) The Minister may, by instrument in writing—

- (a) make guidelines to be applied by the Authority with respect to the exercise of its powers under section 35C to make emergency orders;
- (b) vary guidelines made by him under this section (including guidelines varied by virtue of a previous application or previous applications of this section); and
- (c) revoke guidelines made by him under this section (including guidelines varied by virtue of a previous application or previous applications of this section).

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“(2) The Minister shall, as soon as practicable after making an instrument under sub-section (1), cause a copy of the instrument to be laid before each House of the Parliament.

“(3) Subject to sub-section (4), an instrument made under sub-section (1) comes into force at the expiration of—

- (a) unless paragraph (b) applies—the fifth sitting day of the House of Representatives after a copy of the instrument is laid before that House; or
- (b) if the fifth sitting day of the Senate after a copy of the instrument is laid before the Senate is a later day than the day referred to in paragraph (a)—that fifth sitting day of the Senate.

“(4) If either House of the Parliament, within 5 sitting days after a copy of an instrument made under sub-section (1) has been laid before that House, passes a resolution disallowing the instrument, the instrument shall not come into force.

Offence of contravening emergency order

“35E. (1) A person who, without reasonable excuse, contravenes or fails to comply with an emergency order is guilty of an offence punishable on conviction—

- (a) if the offender is a natural person—by a fine not exceeding \$2,000; or
- (b) if the offender is a body corporate—by a fine not exceeding \$10,000.

“(2) Without limiting the generality of the expression ‘reasonable excuse’ in sub-section (1), it is a reasonable excuse if a person who contravenes or fails to comply with an emergency order during the period of 24 hours after the coming into force of the emergency order neither knew, nor could reasonably be expected to have known, of the order.

Emergency warrants to enter and search

“35F. (1) If a Justice of the Peace is satisfied, by information on oath or affirmation, that there are reasonable grounds for believing that a contravention of, or failure to comply with, an emergency order has occurred, or is occurring, on any land or upon or in any premises to which electricity is supplied by the Authority, he may grant a warrant authorizing an officer or employee of the Authority named in the warrant, with such assistance as the officer or employee thinks necessary, during a period of electricity supply emergency in relation to which the emergency order is in force and during such hours as the warrant specifies or, if the warrant so specifies, at any time, to enter upon and search the land or premises for the purpose of ascertaining whether such a contravention or failure has occurred or is occurring.

“(2) A warrant issued under this section shall specify a date after which the warrant ceases to have effect.

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Powers conferred by this Part additional to other powers

“35G. The powers conferred by or under provisions of this Part are in addition to, and not in derogation of, the powers conferred by or under other provisions of this Act and, in particular, but without limiting the generality of the foregoing, nothing in this Part shall be taken, by implication, to limit or exclude any powers the Authority may have to cease to supply electricity to any land or premises.”.

Entry on land

8. Section 36 of the Principal Act is amended by omitting “\$100” and substituting “\$1,000”.

Destruction, &c., of apparatus, &c., prohibited

9. Section 38 of the Principal Act is amended by omitting “\$200” and substituting “\$1,000”.

NOTE

1. No. 76, 1962, as amended. For previous amendments, see No. 93, 1966; No. 216, 1973; No. 5, 1977; No. 36, 1978; No. 115, 1978; and No. 106, 1979.