

# CONCURRENCE COPY

## ELECTRICITY COMMISSION (AMENDMENT) BILL, 1981

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### EXPLANATORY NOTE

**(This Explanatory Note relates to this Bill as introduced into Parliament)**

The object of this Bill is to amend the Electricity Commission Act, 1950, in order to clarify the powers of The Electricity Commission of New South Wales ("the Commission") to undertake, or to participate with others in undertaking, coal mining operations and, in particular—

- (a) to empower the Commission to undertake coal mining operations in connection with the generation of electricity or for profit and to specify the objectives of the Commission in undertaking coal mining operations (Schedule 1 (4)—proposed section 13B);
- (b) to authorise the Commission to undertake coal mining operations through the agency of a company in which it has a controlling interest or in a partnership, joint venture or other association with other persons or bodies (Schedule 1 (4)—proposed section 13C);
- (c) to provide that the Commission may join in the formation of, or acquire shares in, companies incorporated or to be incorporated in New South Wales (Schedule 1 (4)—proposed section 13D); and
- (d) to authorise the Commission to guarantee the due performance of obligations or liabilities (including financial obligations or liabilities) incurred by companies or other persons or bodies referred to in paragraph (b) (Schedule 1 (4)—proposed section 13E).

The Bill also validates anything previously done by the Commission or an affiliate which could have been validly done if the Bill had been enacted at that time (clause 3).

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Act No. 1981

## **ELECTRICITY COMMISSION (AMENDMENT) BILL, 1981**

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 Commission (Amendment) Act 1981".

Amendment of Act No. 27, 1950.

2. The Electricity Commission Act 1950, in so far as it relates to the matters set out in Schedule 1, shall stand amended in the manner set out in that Schedule.

No. , 1981.

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### **A BILL FOR**

**An Act to amend the Electricity Commission Act, 1950, to clarify the powers of The Electricity Commission of New South Wales to undertake, or to participate with others in undertaking, coal mining operations; and to validate certain matters.**

[MR BOOTH—2 December, 1981.]

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***Electricity Commission (Amendment).***

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**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:—

**5 Short title.**

1. This Act may be cited as the "Electricity Commission (Amendment) Act, 1981".

**Amendment of Act No. 22, 1950.**

2. The Electricity Commission Act, 1950, is amended in the manner set 10 forth in Schedule 1.

**Validation.**

3. (1) Any act, matter or thing that—

(a) was done by The Electricity Commission of New South Wales or an affiliate before the date of assent to this Act; and

15 (b) could have lawfully been done only if this Act had been in force when it was done,

is hereby validated.

(2) In subsection (1), "affiliate" has the meaning ascribed thereto in section 13A of the Electricity Commission Act, 1950, as amended by this 20 Act.

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***Electricity Commission (Amendment).***

**SCHEDULE 1.**

(Sec. 2.)

**AMENDMENTS TO THE ELECTRICITY COMMISSION ACT, 1950.**

(1) Section 2—

5 After the matter relating to Division 4 of Part III, insert:—

**DIVISION 4A.—*Coal mining.***

(2) (a) Section 9 (1) (c)—

After “such business;”, insert “and”.

(b) Section 9 (1) (d)—

10 Omit “State; and”, insert instead “State.”.

(c) Section 9 (1) (e)—

Omit the paragraph.

(3) Section 10—

After “works”, insert “(including works under Division 4A)”.

15 (4) Part III, Division 4A—

After Division 4 of Part III, insert:—

**DIVISION 4A.—*Coal mining.***

**Interpretation: Div. 4A.**

20 13A. (1) In this Division, unless the context or subject-matter otherwise indicates or requires—

“affiliate” means any company in which the Commission has a controlling interest by virtue of its shareholding in the capital of the company, and includes a corporation with which the Commission has made an arrangement under section 34C and in which the Commission retains such a

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controlling interest;

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*Electricity Commission (Amendment).*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE ELECTRICITY COMMISSION ACT, 1950—*continued.*

“coal” includes oil shale;

“coal mining operations” includes operations undertaken for the purposes of—

- (a) prospecting for or mining coal;
- (b) washing, crushing or otherwise treating coal;
- (c) transporting coal; and
- (d) research with respect to coal;

“functions” includes powers, authorities and duties.

(2) A reference in this Division to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

**Additional functions of Commission with respect to coal mining.**

13B. (1) The Commission may, subject to this Act and to any directions of the Minister—

- (a) undertake coal mining operations; and
- (b) use, sell or otherwise dispose of coal won from any such operations—
  - (i) in connection with the generation of electricity; or
  - (ii) exclusively, principally or partly with a view to profit.

(2) The Commission shall, in exercising its functions under this Division, have the following objectives:—

- (a) to reduce the cost of the generation and supply of electricity by utilising alternative sources of income;
- (b) to facilitate the generation of electricity;
- (c) to promote and encourage research into, and development of, the coal resources of the State; and

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*Electricity Commission (Amendment).*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE ELECTRICITY COMMISSION ACT, 1950—*continued.*

- (d) with the approval of the Minister, to assist any development by or on behalf of the Government of the State.

**Affiliates, partnerships, joint ventures, etc.**

13C. Any of the functions of the Commission under this Division may be exercised—

- (a) by the Commission itself;
- (b) with the approval of the Minister—by an affiliate; or
- (c) with the approval of the Minister—by the Commission or an affiliate, or both, in a partnership, joint venture or other association with other persons or bodies.

**Acquisition of shares by the Commission.**

13D. (1) For the purpose of exercising its functions under this Division, the Commission may, with the approval of the Minister—

- (a) join in the formation of any company to be incorporated in New South Wales; and
- (b) purchase, hold, dispose of or deal with shares in, or subscribe to the issue of shares by, any company incorporated in New South Wales.

(2) An affiliate formed for a commercial purpose is not and does not represent the Crown.

**Guarantee by the Commission.**

13E. For the purpose of the exercise of the Commission's functions pursuant to section 13C (b) or (c), the Commission may, with the approval of the Minister, guarantee the due performance



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*Electricity Commission (Amendment).*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE ELECTRICITY COMMISSION ACT, 1950—*continued.*

5 of any covenants, promises, obligations or liabilities (including the repayment of loans, bank overdrafts or other financial accommodation and the payment of interest thereon) undertaken by or imposed upon—

- 10 (a) an affiliate; or  
(b) any person or body acting for or on behalf of a partnership, joint venture or other association referred to in section 13C (c).

**Coal lease, etc.**

13F. (1) In this section, “mining authority” means an authorisation, exploration permit, lease or other concession or authority under the Coal Mining Act, 1973, or the Mining Act, 1973.

15 (2) For the purpose of undertaking coal mining operations—

- (a) the Commission may, with the approval of the Minister, apply for a mining authority; and  
20 (b) the Commission may do all things authorised or required to be done under any mining authority granted to it or any law regulating coal mining operations.

(3) The Commission may, with the approval of the Minister and in accordance with the provisions of the Coal Mining Act, 1973, and the Mining Act, 1973—

- (a) transfer a mining authority granted to it; or  
25 (b) create, assign or otherwise deal with a legal or equitable interest in a mining authority granted to it.

**Necessary and incidental powers, etc.**

30 13G. (1) The Commission may, for the purpose of undertaking coal mining operations, do all things not expressly authorised by this Act that are necessary or convenient for, or incidental to, that purpose.



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*Electricity Commission (Amendment).*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE ELECTRICITY COMMISSION ACT, 1950—*continued.*

(2) Nothing in this Division restricts any function that the Commission has or would have apart from this Division.

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BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1981

Electricity Commission (Amendment).

## SCHEDULE I—continued.

AMENDMENTS TO THE ELECTRICITY COMMISSION ACT, 1950—continued.

(2) Nothing in this Division restricts any function that the Commission has or would have apart from this Division.

BY AUTHORITY  
D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1981

(40c)







**ELECTRICITY COMMISSION (AMENDMENT) ACT, 1981,  
No. 128**

**New South Wales**



**ANNO TRICESIMO**

**ELIZABETHÆ II REGINÆ**

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**Act No. 128, 1981.**

An Act to amend the Electricity Commission Act, 1950, to clarify the powers of The Electricity Commission of New South Wales to undertake, or to participate with others in undertaking, coal mining operations; and to validate certain matters. [Assented to, 30th December, 1981.]

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*Electricity Commission (Amendment).*

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**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 Commission (Amendment) Act, 1981".

**Amendment of Act No. 22, 1950.**

2. The Electricity Commission Act, 1950, is amended in the manner set forth in Schedule 1.

**Validation.**

3. (1) Any act, matter or thing that—

- (a) was done by The Electricity Commission of New South Wales or an affiliate before the date of assent to this Act; and
- (b) could have lawfully been done only if this Act had been in force when it was done,

is hereby validated.

(2) In subsection (1), "affiliate" has the meaning ascribed thereto in section 13A of the Electricity Commission Act, 1950, as amended by this Act.

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*Electricity Commission (Amendment).*

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SCHEDULE 1.

(Sec. 2.)

AMENDMENTS TO THE ELECTRICITY COMMISSION ACT, 1950.

(1) Section 2—

After the matter relating to Division 4 of Part III, insert:—

DIVISION 4A.—*Coal mining.*

(2) (a) Section 9 (1) (c)—

After “such business;”, insert “and”.

(b) Section 9 (1) (d)—

Omit “State; and”, insert instead “State.”.

(c) Section 9 (1) (e)—

Omit the paragraph.

(3) Section 10—

After “works”, insert “(including works under Division 4A)”.

(4) Part III, Division 4A—

After Division 4 of Part III, insert:—

DIVISION 4A.—*Coal mining.*

**Interpretation: Div. 4A.**

13A. (1) In this Division, unless the context or subject-matter otherwise indicates or requires—

“affiliate” means any company in which the Commission has a controlling interest by virtue of its shareholding in the capital of the company, and includes a corporation with which the Commission has made an arrangement under section 34C and in which the Commission retains such a controlling interest;

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*Electricity Commission (Amendment).*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE ELECTRICITY COMMISSION ACT, 1950—*continued.*

“coal” includes oil shale;

“coal mining operations” includes operations undertaken for the purposes of—

- (a) prospecting for or mining coal;
- (b) washing, crushing or otherwise treating coal;
- (c) transporting coal; and
- (d) research with respect to coal;

“functions” includes powers, authorities and duties.

(2) A reference in this Division to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

**Additional functions of Commission with respect to coal mining.**

13B. (1) The Commission may, subject to this Act and to any directions of the Minister—

- (a) undertake coal mining operations; and
- (b) use, sell or otherwise dispose of coal won from any such operations—
  - (i) in connection with the generation of electricity; or
  - (ii) exclusively, principally or partly with a view to profit.

(2) The Commission shall, in exercising its functions under this Division, have the following objectives:—

- (a) to reduce the cost of the generation and supply of electricity by utilising alternative sources of income;
- (b) to facilitate the generation of electricity;
- (c) to promote and encourage research into, and development of, the coal resources of the State; and



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*Electricity Commission (Amendment).*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE ELECTRICITY COMMISSION ACT, 1950—*continued.*

- (d) with the approval of the Minister, to assist any development by or on behalf of the Government of the State.

**Affiliates, partnerships, joint ventures, etc.**

13C. Any of the functions of the Commission under this Division may be exercised—

- (a) by the Commission itself;
- (b) with the approval of the Minister—by an affiliate; or
- (c) with the approval of the Minister—by the Commission or an affiliate, or both, in a partnership, joint venture or other association with other persons or bodies.

**Acquisition of shares by the Commission.**

13D. (1) For the purpose of exercising its functions under this Division, the Commission may, with the approval of the Minister—

- (a) join in the formation of any company to be incorporated in New South Wales; and
- (b) purchase, hold, dispose of or deal with shares in, or subscribe to the issue of shares by, any company incorporated in New South Wales.

(2) An affiliate formed for a commercial purpose is not and does not represent the Crown.

**Guarantee by the Commission.**

13E. For the purpose of the exercise of the Commission's functions pursuant to section 13C (b) or (c), the Commission may, with the approval of the Minister, guarantee the due performance

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*Electricity Commission (Amendment).*

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**SCHEDULE 1—continued.****AMENDMENTS TO THE ELECTRICITY COMMISSION ACT, 1950—continued.**

of any covenants, promises, obligations or liabilities (including the repayment of loans, bank overdrafts or other financial accommodation and the payment of interest thereon) undertaken by or imposed upon—

- (a) an affiliate; or
- (b) any person or body acting for or on behalf of a partnership, joint venture or other association referred to in section 13C (c).

**Coal lease, etc.**

13F. (1) In this section, “mining authority” means an authorisation, exploration permit, lease or other concession or authority under the Coal Mining Act, 1973, or the Mining Act, 1973.

(2) For the purpose of undertaking coal mining operations—

- (a) the Commission may, with the approval of the Minister, apply for a mining authority; and
- (b) the Commission may do all things authorised or required to be done under any mining authority granted to it or any law regulating coal mining operations.

(3) The Commission may, with the approval of the Minister and in accordance with the provisions of the Coal Mining Act, 1973, and the Mining Act, 1973—

- (a) transfer a mining authority granted to it; or
- (b) create, assign or otherwise deal with a legal or equitable interest in a mining authority granted to it.

**Necessary and incidental powers, etc.**

13G. (1) The Commission may, for the purpose of undertaking coal mining operations, do all things not expressly authorised by this Act that are necessary or convenient for, or incidental to, that purpose.



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*Electricity Commission (Amendment).*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE ELECTRICITY COMMISSION ACT, 1950—*continued.*

(2) Nothing in this Division restricts any function that the Commission has or would have apart from this Division.

*In the name and on behalf of Her Majesty I assent to this Act.*

L. W. STREET,  
*By Deputation from  
His Excellency the Governor.*

*Government House,  
Sydney, 30th December, 1981.*

