

CONCURRENCE COPY

ENERGY AUTHORITY (RECONSTITUTION) AMENDMENT BILL, 1982

EXPLANATORY NOTE

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

The Statutory and Other Offices Remuneration (Energy Authority) Amendment Bill, 1982, is cognate with this Bill.

The objects of this Bill are to amend the Energy Authority Act, 1976, so as—

- (a) to reconstitute the Energy Authority of New South Wales ("the Authority"), so that it will consist of 5-7 members appointed by the Governor-in-Council, as follows:—
 - (i) a part-time Chairman;
 - (ii) a full-time General Manager; and
 - (iii) 3-5 other part-time members,
(Schedule 1);
- (b) to define the respective functions of the Authority and the General Manager of the Authority (Schedule 1);
- (c) to re-state the details relating to the appointment and tenure of office of the members of the Authority, the procedures of the Authority and associated matters (Schedules 1 and 2); and
- (d) to insert standard provisions relating to accounts, audit and annual reports relating to the Authority (Schedule 3).

The Bill makes other provisions of a minor, consequential, ancillary or transitional nature.

CONCURRENT

Every Attorney General

Yours truly

Very respectfully

Wm. H. Hunt

Dear Sir

I have the honor to acknowledge

the receipt of your letter

of the 10th inst.

and in reply to inform you

that the same has been forwarded

to the proper authorities

for their consideration

I am, Sir, very respectfully

Your obedient servant

**ENERGY AUTHORITY (RECONSTITUTION) AMENDMENT
BILL, 1982**

No. , 1982.

A BILL FOR

An Act to amend the Energy Authority Act, 1976, to reconstitute the Energy Authority of New South Wales, and for other purposes.

[MR BOOTH—7 April, 1982.]

See also Statutory and Other Offices Remuneration (Energy Authority) Amendment Bill, 1982.

Energy Authority (Reconstitution) Amendment.

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 "Energy Authority (Reconstitution) Amendment Act, 1982".

Commencement.

2. (1) Except as provided in subsections (2) and (3), this Act shall 10 commence on the date of assent to this Act.

(2) Section 5 (1) and Schedules 1 and 2 shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

(3) Section 5 (2) and Schedule 3 shall commence on 1st July, 1982.

15 Principal Act.

3. The Energy Authority Act, 1976, is referred to in this Act as the Principal Act.

Schedules.

4. This Act contains the following Schedules:—

20 SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONSTITUTION AND PROCEDURE OF THE AUTHORITY.

SCHEDULE 2.—MINOR AND CONSEQUENTIAL AMENDMENTS TO THE PRINCIPAL ACT.

25 SCHEDULE 3.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO ACCOUNTS, AUDIT AND ANNUAL REPORTS.

Energy Authority (Reconstitution) Amendment.

SCHEDULE 4.—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

Amendment of Act No. 69, 1976.

5. (1) The Principal Act is amended in the manner set forth in Schedules 1 and 2.

5 (2) The Principal Act is further amended in the manner set forth in Schedule 3.

Savings, transitional and other provisions.

6. Schedule 4 has effect.

SCHEDULE 1.

10

(Sec. 5 (1).)

**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONSTITUTION AND PROCEDURE OF THE AUTHORITY.**

(1) Sections 7-8A—

Omit sections 7 and 8, insert instead:—

15 **Provisions relating to the constitution and procedure of the Authority.**

7. (1) The Authority shall consist of not less than 5 and not more than 7 members who shall be appointed by the Governor.

(2) In the event of the office of any member becoming vacant, a person shall, subject to Schedule 1, be appointed to fill the vacancy.

20 (3) Schedule 1 has effect with respect to the members.

(4) Schedule 1A has effect with respect to the procedure of the Authority.

Energy Authority (Reconstitution) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONSTITUTION
AND PROCEDURE OF THE AUTHORITY—*continued.***Delegation.**

5 7A. (1) The Authority may, by instrument in writing, delegate
to—

- (a) the General Manager;
- (b) a committee comprised of members, including the General
Manager or a member nominated by the General Manager;
- 10 (c) a board;
- (d) an officer or employee of the Authority;
- (e) a person for the time being holding or acting in a specified
position in the staff establishment of the Authority; or
- 15 (f) any person of whose services the Authority makes use pursuant
to this or any other Act,

the exercise or performance of such of the functions of the Authority
as are specified in the instrument.

20 (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 accord-
ance with the terms of the delegation by the delegate.

25 (3) Without limiting the operation of subsection (2), a func-
tion the exercise or performance of which has been delegated under
this section to the General Manager may, while the delegation re-
mains unrevoked, be exercised or performed from time to time in
accordance with the terms of the delegation by—

- (a) an officer or employee of the Authority;
- (b) a person for the time being holding or acting in a specified
position in the staff establishment of the Authority; or
- 30 (c) any person of whose services the Authority makes use pur-
suant to this or any other Act,

Energy Authority (Reconstitution) Amendment.

SCHEDULE 1—continued.**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONSTITUTION
AND PROCEDURE OF THE AUTHORITY—continued.**

5 as authorised by instrument in writing by the General Manager in that
behalf either generally or in a particular case or class of cases.

10 (4) A delegation or authorisation under this section may be
made subject to such conditions or limitations as to the exercise or
performance of any function the subject thereof, or as to time or
circumstances, as may be specified in the instrument of delegation
or authorisation.

(5) Notwithstanding any delegation under this section, the
Authority may continue to exercise or perform any function dele-
gated.

15 (6) Any act or thing done or suffered by a delegate acting in
the exercise or performance of a delegation under this section, or
by a person duly authorised in that behalf by the General Manager
under this section, has the same force and effect as it would have if
it had been done or suffered by the Authority and shall be deemed
to have been done or suffered by the Authority.

20 (7) The Authority may, by instrument in writing, revoke
wholly or in part any delegation under this section, and the General
Manager may, by instrument in writing, revoke wholly or in part
any authorisation under this section.

25 (8) An instrument purporting to have been signed by a per-
son in his capacity as a delegate of the Authority, or as a person
authorised under this section, shall in all courts and before all
persons acting judicially be received in evidence as if it were an
instrument duly executed by the Authority and shall, until the con-
30 trary is proved, be deemed to be an instrument signed by a delegate
of the Authority or by a person duly authorised under this section, as
the case may be.

Energy Authority (Reconstitution) Amendment.

SCHEDULE 1—continued.

**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONSTITUTION
AND PROCEDURE OF THE AUTHORITY—continued.**

5 (9) In subsection (8), a reference to a delegate includes a
reference to the chairman of a committee or board to which the
exercise or performance of a function has been delegated under
subsection (1).

Functions of General Manager.

8. The General Manager—

- 10 (a) is responsible, as the chief executive officer of the Authority,
for the management of the affairs of the Authority subject
to and in accordance with any directions given to him by
the Authority; and
- 15 (b) shall have and may exercise and perform such other functions
as are conferred or imposed on him by or under this or any
other Act.

Disclosure of interest by members.

20 8A. (1) If a member has a pecuniary interest, direct or indirect,
in a contract or proposed contract with the Authority or in any
other matter in which the Authority is concerned and is present at a
meeting of the Authority at which the contract, proposed contract
or other matter is the subject of consideration, he shall, at the meeting,
as soon as practicable after the commencement thereof, disclose his
25 interest and shall not take part in the consideration or discussion of
or vote on any question with respect to the contract, proposed
contract or other matter.

Energy Authority (Reconstitution) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONSTITUTION
AND PROCEDURE OF THE AUTHORITY—*continued.*

5 (2) For the purposes of this section, a person shall be treated as having an indirect interest in a contract, proposed contract or other matter if—

10 (a) he or any nominee of his is a member of a company or other body with which the contract is made or is proposed to be made or which has a direct or indirect pecuniary interest in the other matter; or

(b) he is a partner, or is in the employment, of a person with whom the contract is made or is proposed to be made or who has a direct or indirect pecuniary interest in the other matter.

(3) Notwithstanding subsection (2)—

15 (a) that subsection does not apply to membership of or employment under any council or statutory body within the meaning of the Local Government Act, 1919;

20 (b) a member of a company or other body shall not, by reason only of his membership, be treated as being so interested if he has no beneficial interest in any shares of that company or other body; and

25 (c) a member of a company having not less than 25 members shall not be treated as having an interest in any contract or proposed contract with the Authority or in any other matter in which the Authority is concerned by reason only that the contract or proposed contract is with or the other matter concerns the company.

30 (4) In the case of a man and his wife who are living together, the interest of one spouse shall, if known to the other, be deemed, for the purposes of this section, to be also an interest of the other spouse.

Energy Authority (Reconstitution) Amendment.

SCHEDULE 1—continued.**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONSTITUTION
AND PROCEDURE OF THE AUTHORITY—continued.**

5 (5) A general notice in writing by a member to an officer of
the Authority nominated by the Authority to the effect that he or his
spouse is a member or is in the employment of a specified company
or other body, or that he or his spouse is a partner or in the employ-
ment of a specified person shall, unless and until the notice is
10 withdrawn, be deemed to be a sufficient disclosure of his interest
in any contract, proposed contract or other matter relating to that
company or other body or to that person which may be the subject
of consideration after the date of the notice.

15 (6) The officer referred to in subsection (5) shall record in
a book to be kept for the purpose particulars of any disclosure made
under subsection (1) and of any notice given under subsection (5)
and the book shall be open at all reasonable hours to the inspection
of any person on payment of such fee as may be determined by the
Authority from time to time.

20 (7) Subject to subsection (8), a member contravenes this
subsection if he fails to comply with the provisions of subsection (1),
unless he proves that he did not know that a contract, proposed
contract or other matter in which he had a pecuniary interest was
the subject of consideration at the meeting.

Penalty: \$400.

25 (8) The Minister may, subject to such conditions as he thinks
fit to impose, remove any disability imposed by subsection (1) in any
case in which the number of members referred to in subsection (1)
so disabled at any one time would be so great a proportion of the
whole of the members as to impede the transaction of business, or in
30 any other case in which it appears to the Minister that it is in the
public interest that the disability should be removed.

*Energy Authority (Reconstitution) Amendment.*SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONSTITUTION
AND PROCEDURE OF THE AUTHORITY—*continued.*

5 (9) The Authority may, by resolution, provide for the exclusion of any member from a meeting of the Authority while any proposal, in respect of any contract, proposed contract or other matter in which that member has an interest as referred to in this section, is under consideration.

(10) In this section, “shares” includes stock.

10 (2) Schedules 1, 1A—

Omit Schedule 1, insert instead:—

SCHEDULE 1.

(Sec. 7 (3).)

PROVISIONS RELATING TO THE CONSTITUTION OF THE AUTHORITY.

15 **Interpretation: Sch. 1.**

1. In this Schedule, “part-time member” means a member referred to in clause 2 (1) (b).

Members.

2. (1) Of the members—

- 20 (a) 1 shall, in and by the instrument by which he is appointed, be appointed as General Manager of the Authority; and
- 25 (b) not less than 4 and not more than 6 shall be persons nominated for appointment as members by the Minister and shall, in and by the instruments by which they are appointed, be appointed as part-time members.

(2) A person of or above the age of 65 years is not eligible to be appointed as General Manager.

(3) A person of or above the age of 70 years is not eligible to be appointed as a part-time member.

Energy Authority (Reconstitution) Amendment.

SCHEDULE 1—continued.**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONSTITUTION
AND PROCEDURE OF THE AUTHORITY—continued.**

5 (4) Nothing in this Act requires a vacancy in the office of a part-time member to be filled if there are at least 4 other part-time members.

Chairman of the Authority.

3. Of the part-time members, one shall, in and by the instrument by which he is appointed, or by another instrument executed by the Governor, be appointed as Chairman of the Authority.

10 **Acting members.**

4. (1) The Governor may, from time to time, appoint a person to act in the office of a member, other than the office of Chairman, during the illness or absence of the member.

15 (2) The Governor may, from time to time, appoint a part-time member to act in the office of Chairman during the illness or absence of the Chairman, and may in any such case appoint a person to act in the office of that member while that member acts in the office of Chairman.

20 (3) The Governor may, for any cause which appears to him sufficient, remove any person from any office to which he was appointed under subclause (1) or (2).

(4) Any member or person while acting in the office of Chairman, or of any other member, shall have all the functions of the person in whose office he acts, and shall receive such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of him.

25 (5) Without limiting the generality of subclause (4), any member or person while acting in the office of General Manager shall have all the functions of the General Manager.

(6) For the purposes of this clause, a vacancy in the office of—

(a) General Manager;

30 (b) a part-time member, other than the Chairman; or

(c) the Chairman,

Energy Authority (Reconstitution) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONSTITUTION
AND PROCEDURE OF THE AUTHORITY—*continued.*

5 shall be deemed to be an absence from office of the General Manager, part-time member or Chairman, as the case may be.

Terms of office.

5. The term of office of a member shall be, and, unless he vacates his office during his term, a member shall hold office for—

- 10 (a) where he is General Manager—such period not exceeding 7 years; or
(b) where he is a part-time member—such period not exceeding 5 years, as may be specified in the instrument appointing him.

Members may be re-appointed.

6. Upon the expiration of the term of office of a member he shall, if otherwise qualified, be eligible for re-appointment from time to time.

15 **General Manager.**

7. (1) The General Manager shall devote the whole of his time to the duties of his office, except as permitted by clause 9 (1) (c) or except with the consent of the Minister (which consent the Minister is hereby authorised to give).

- 20 (2) The General Manager is entitled to be paid—
(a) remuneration in accordance with the Statutory and Other Offices Remuneration Act, 1975; and
(b) such travelling and subsistence allowances as the Minister may from time to time determine in respect of him.

Part-time members.

25 8. A part-time member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of him.

Energy Authority (Reconstitution) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONSTITUTION
AND PROCEDURE OF THE AUTHORITY—*continued.***Vacation of office.**

- 5 9. (1) A member shall be deemed to have vacated his office if—
- (a) he dies;
- 10 (b) being a part-time member, he absents himself from 4 consecutive meetings of the Authority of which reasonable notice has been given to him personally or in the ordinary course of post, except on leave granted by the Minister (which leave the Minister is hereby authorised to grant) 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;
- 15 (c) being General Manager, he absents himself from duty for 14 days (whether or not wholly or partly consecutive) in any period of 12 months, except on leave granted by the Minister (which leave the Minister is hereby authorised to grant), unless his absence is occasioned by illness or other unavoidable cause;
- 20 (d) 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 for their benefit;
- 25 (e) 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;
- 30 (f) he is convicted in New South Wales of a felony or of a misdemeanour which is punishable by imprisonment for 12 months or upwards, or he is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be a felony or a misdemeanour so punishable;
- (g) he resigns his office by writing under his hand addressed to the Governor;
- (h) being—
- 35 (i) General Manager, he attains the age of 65 years; or
- (ii) a part-time member, he attains the age of 70 years;
- (i) he is retired or removed from office by the Governor under subclause (2) or (3); or

Energy Authority (Reconstitution) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONSTITUTION
AND PROCEDURE OF THE AUTHORITY—*continued.*

5 (j) being General Manager, he engages during his term of office in any paid employment outside the duties of his office, except with the consent of the Minister (which consent the Minister is hereby authorised to give).

10 (2) The General Manager may be retired from office by the Governor after he attains the age of 60 years and before he attains the age of 65 years and, if he is so retired, he is entitled to such compensation (if any) as the Statutory and Other Offices Remuneration Tribunal determines.

(3) Where the Governor is satisfied that a member is incapable or incompetent or has misconducted himself, the Governor may remove the member from his office.

15 **Effect of certain other Acts.**

10. (1) The provisions of the Public Service Act, 1979, shall not apply to or in respect of the appointment of a member and a member is not, as a member, subject to that Act during his term of office as a member.

20 (2) Where by or under any other 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, or prohibiting him from engaging in employment outside the duties of his office, that provision shall not operate to disqualify him from holding that office and also the office of a part-time member or from accepting and retaining any remuneration payable to him under clause 8 as a part-time member.

25 (3) The office of a part-time member shall for the purposes of any Act be deemed not to be an office or place of profit under the Crown.

Preservation of rights of General Manager previously public servant, etc.

30 11. (1) In this clause—
“statutory body” means any body declared under clause 13 to be a statutory body for the purposes of this Schedule;

“superannuation scheme” means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under any Act.

*Energy Authority (Reconstitution) Amendment.*SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONSTITUTION AND PROCEDURE OF THE AUTHORITY—*continued.*

5 (2) Subject to subclause (3) and to the terms of his appointment,
where the General Manager was, immediately before his appointment as General
Manager—

- (a) an officer of the Public Service;
- (b) an officer of a Teaching Service;
- (c) a contributor to a superannuation scheme;
- 10 (d) an officer employed by a statutory body; or
- (e) a person in respect of whom provision was made by any Act that
he retain any rights accrued or accruing to him as an officer or
employee,

he—

- 15 (f) shall retain any rights accrued or accruing to him as such an officer,
contributor or person;
- (g) may continue to contribute to any superannuation scheme to which he
was a contributor immediately before his appointment as General
Manager; and
- 20 (h) shall be entitled to receive any deferred or extended leave and any
payment, pension or gratuity,

as if he had continued to be such an officer, contributor or person during his
service as General Manager and—

- 25 (i) his service as General Manager shall be deemed to be service as an
officer or employee for the purpose of any law under which those
rights accrued or were accruing, under which he continues to con-
tribute or by which that entitlement is conferred; and
- (j) he shall be deemed to be an officer or employee, and the Authority
shall be deemed to be his employer, for the purpose of the superan-
30 nation scheme to which he is entitled to contribute under this
clause.

35 (3) If the General Manager would, but for this subclause, be entitled
under subclause (2) to contribute to a superannuation scheme or to receive
any payment, pension or gratuity under the scheme, he shall not be so entitled
upon his becoming (whether upon his appointment as General Manager or at
any later time while he holds office as General Manager) a contributor to any

*Energy Authority (Reconstitution) Amendment.*SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONSTITUTION AND PROCEDURE OF THE AUTHORITY—*continued.*

5 other superannuation scheme, and the provisions of subclause (2) (j) cease to apply to or in respect of him and the Authority in any case where he becomes a contributor to such another superannuation scheme.

10 (4) Subclause (3) does not prevent the payment to the General Manager upon his ceasing to be a contributor to a superannuation scheme of such amount as would have been payable to him if he had ceased, by reason of his resignation, to be an officer or employee for the purposes of the scheme.

(5) The General Manager shall not, in respect of the same period of service, be entitled to claim a benefit under this Act and another Act.

General Manager entitled to re-appointment to former employment in certain cases.

15 12. (1) In this clause—

“retiring age” means—

- 20 (a) in relation to a person who was, immediately before his appointment as General Manager, an officer of the Public Service or an officer of a Teaching Service—the age of 60 years; and
- 25 (b) in relation to a person who was, immediately before his appointment as General Manager, an officer or employee of a statutory body—the age at which officers or employees (being officers or employees of the class to which the person belonged immediately before his appointment as General Manager), as the case may be, of the statutory body are entitled to retire;

“statutory body” means any body declared under clause 13 to be a statutory body for the purposes of this Schedule.

30 (2) A person who ceases to be General Manager, otherwise than pursuant to clause 9 (1) (paragraph (g) excepted), shall, if he has not attained the retiring age, be entitled to be appointed, where, immediately before his appointment as General Manager, he was—

- (a) an officer of the Public Service—to some position in the Public Service;
- (b) an officer of a Teaching Service—to some position in the Teaching Service; or
- 35 (c) an officer or employee of a statutory body—to some position in the service of the statutory body,

Energy Authority (Reconstitution) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONSTITUTION AND PROCEDURE OF THE AUTHORITY—*continued.*

5 not lower in classification and salary than that which he held immediately before his appointment as General Manager.

(3) Where subclause (2) does not apply to a person who—

(a) was, immediately before his appointment to a full-time office constituted by an Act, an officer or employee referred to in subclause (2) (a), (b) or (c); and

10 (b) is after that appointment appointed as General Manager,

he shall have such rights (if any) to appointment as such an officer or employee, in the event of his ceasing to be General Manager, as are specified in the instrument of his appointment as General Manager or as are agreed upon by him and by or on behalf of the Government.

15 **Declaration of statutory bodies.**

13. The Governor may, by proclamation published in the Gazette, declare any body constituted by or under any Act to be a statutory body for the purposes of this Schedule.

Liability of members, etc.

20 14. No matter or thing done, and no contract entered into by the Authority, and no matter or thing done by any member or by any person acting under the direction of the Authority shall, if the matter or thing was done or the contract was entered into bona fide for the purpose of executing this Act,
25 subject a member or a person so acting personally to any action, liability, claim or demand whatever.

Presumptions.

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;

30 (b) any resolution of the Authority;

Energy Authority (Reconstitution) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONSTITUTION AND PROCEDURE OF THE AUTHORITY—*continued.*

(c) the appointment of any member; or

5 (d) the presence of a quorum at any meeting of the Authority.

SCHEDULE 1A.

(Sec. 7 (4).)

PROVISIONS RELATING TO THE PROCEDURE OF THE AUTHORITY.

General procedure.

10 1. The procedure for the calling of meetings of the Authority and for the
conduct of business at those meetings shall, subject to this Schedule and the
regulations, be as determined by the Authority.

Quorum.

15 2. Three members (or 4 if there are more than 5 members for the time
being), of whom at least one shall be the General Manager, shall form a quorum
and any duly convened meeting of the Authority at which a quorum is present
shall be competent to transact any business of the Authority and shall have and
may exercise and perform all the functions of the Authority.

Presiding member.

20 3. (1) The Chairman or, in the absence of the Chairman, another part-time
member referred to in clause 2 (1) (b) of Schedule 1 elected as chairman for
the meeting by the members present shall preside at a meeting of the Authority.

25 (2) The person acting as chairman at any meeting of the Authority shall,
in the event of an equality of votes, have in addition to a deliberative vote a
second or casting vote.

Energy Authority (Reconstitution) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONSTITUTION AND PROCEDURE OF THE AUTHORITY—*continued.*

Voting.

- 5 4. A decision supported by a majority of the votes cast at a meeting of the Authority at which a quorum is present shall be the decision of the Authority.

Minutes.

- 10 5. (1) The Authority shall cause a minute book to be kept in which shall be recorded full and accurate minutes of the proceedings of each meeting of the Authority.

(2) Minutes recorded under subclause (1) in respect of a meeting shall, when duly read and confirmed at the next meeting of the Authority, be signed by the Chairman or the member acting as chairman at that next meeting.

SCHEDULE 2.

15

(Sec. 5 (1).)

MINOR AND CONSEQUENTIAL AMENDMENTS TO THE
PRINCIPAL ACT.

(1) Section 3—

Omit the matter relating to Schedule 1, insert instead:—

20

SCHEDULE 1.—PROVISIONS RELATING TO THE CONSTITUTION
OF THE AUTHORITY.

SCHEDULE 1A.—PROVISIONS RELATING TO THE PROCEDURE
OF THE AUTHORITY.

Energy Authority (Reconstitution) Amendment.

SCHEDULE 2—*continued.*MINOR AND CONSEQUENTIAL AMENDMENTS TO THE
PRINCIPAL ACT—*continued.*

- (2) (a) Section 5, definition of “chairman”—
5 Omit the definition, insert instead:—
“Chairman” means the Chairman of the Authority;
- (b) Section 5, definition of “deputy chairman”—
Omit the definition.
- (c) Section 5, definition of “General Manager”—
10 After the definition of “functions”, insert:—
“General Manager” means the General Manager of the
Authority;
- (d) Section 5 (2)—
At the end of section 5, insert:—
15 (2) In a Schedule to this Act, a reference to a subclause
is, unless a contrary intention appears, a reference to a subclause
of the clause in which the reference occurs.
- (3) Section 6 (4)—
After section 6 (3), insert:—
20 (4) Notwithstanding anything in section 38 of the Interpreta-
tion Act, 1897, the regulations may make provision for or with
respect to the custody and use of the common seal of the Authority.
- (4) Section 19B—
25 Omit “chairman and general manager of the Authority” wherever
occurring, insert instead “General Manager”.

Energy Authority (Reconstitution) Amendment.

SCHEDULE 2—*continued.*

MINOR AND CONSEQUENTIAL AMENDMENTS TO THE
PRINCIPAL ACT—*continued.*

- (5) Section 19C (1) (c)—
5 Omit “41”, insert instead “7A”.
- (6) Section 19D—
Omit the section, insert instead:—
Constitution and procedure.
10 19D. The regulations may make provision for or with respect to
the constitution and procedure of a board.
- (7) Section 41—
Omit the section.
- (8) Section 42—
Omit “chairman”, insert instead “General Manager”.
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Energy Authority (Reconstitution) Amendment.

SCHEDULE 3.

(Sec. 5 (2).)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO ACCOUNTS,
AUDIT AND ANNUAL REPORTS.

5 (1) Sections 21–23—

Omit the sections, insert instead:—

Accounts.

21. (1) The Authority shall cause to be kept proper accounts and records in relation to all of its operations.

10 (2) The Authority shall, as soon as practicable, but within 6 months, after the end of each financial year of the Authority, prepare and submit to the Minister for presentation to Parliament a statement of accounts, together with the Auditor-General's certificate given under this section in relation to the statement.

15 (3) The statement of accounts shall—

(a) be in a form approved by the Auditor-General;

(b) include such information as is requested by him; and

(c) exhibit a true and fair view of the financial position and transactions of the Authority.

20 (4) The Authority shall, as soon as practicable, but within 4 months, after the end of the financial year to which a statement of accounts relates, transmit the statement to the Auditor-General for verification and certification.

25 (5) The Auditor-General's certificate shall state that he has audited the accounts of the Authority relating to the relevant financial year, and shall indicate whether the statement of accounts complies with subsection (3), and shall set forth any qualifications subject to which the certificate is given.

Energy Authority (Reconstitution) Amendment.

SCHEDULE 3—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO ACCOUNTS, AUDIT
AND ANNUAL REPORTS—*continued.*

5 (6) Nothing in this section prevents the alteration of the statement of accounts, with the approval of the Auditor-General, after its receipt by him and before its submission to the Minister.

10 (7) The Minister shall lay the statement of accounts, or cause it to be laid, together with the Auditor-General's certificate, before both Houses of Parliament as soon as practicable after the receipt by him of the statement.

(8) The financial year of the Authority shall be the year commencing on 1st July.

Audit.

15 22. (1) The accounts and records of financial transactions of the Authority, and the records relating to assets of or in the custody of the Authority, shall be inspected and audited by the Auditor-General.

20 (2) For the purposes of any such inspection and audit, the Auditor-General or a person authorised by him is entitled at all reasonable times to full and free access to the accounts, records, documents and papers of the Authority and may make copies thereof or take extracts therefrom.

25 (3) The Auditor-General or a person authorised by him may require a person, being a person engaged in the administration of this Act, to furnish him with such information in the possession of the person or to which the person has access as the Auditor-General or authorised person considers necessary for the purposes of the functions of the Auditor-General under this Act, and the person shall comply with the requirement.

30 Penalty: \$200.

Energy Authority (Reconstitution) Amendment.

SCHEDULE 3—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO ACCOUNTS, AUDIT
AND ANNUAL REPORTS—*continued.*

5 (4) The Auditor-General may dispense with all or any part of the detailed inspection and audit of any accounts or records referred to in subsection (1).

10 (5) The Auditor-General shall report to the Authority and the Minister on the result of any such inspection and audit, and as to such irregularities or other matters as in his judgment call for special notice or as are prescribed.

(6) Towards defraying the costs and expenses of any such inspection and audit, the Authority shall pay to the Consolidated Revenue Fund such amounts, at such times, as the Treasurer decides.

(2) Section 46—

15 Omit the section, insert instead:—

Annual report.

20 46. (1) The Authority shall, as soon as practicable after 30th June, but not later than 31st December, in each year, prepare and forward to the Minister a report of its work and activities for the year ended on 30th June in that year.

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

Energy Authority (Reconstitution) Amendment.

SCHEDULE 4.

(Sec. 6.)

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

Interpretation: Sch. 4.

5 1. (1) In this Schedule—

“appointed day” means the day appointed and notified under section 2 (2);

“Authority” means the Energy Authority of New South Wales.

(2) In this Schedule, a reference to a subclause is, unless a contrary intention appears, a reference to a subclause of the clause in which the reference occurs.

10 **Members holding office immediately before appointed day.**

2. (1) In this clause—

“new body” means the Authority as constituted in accordance with the Principal Act as in force on or after the appointed day;

15 “old body” means the Authority as constituted in accordance with the Principal Act as in force before the appointed day.

(2) A person who, immediately before the appointed day, held office as a member of the old body—

(a) shall cease to hold office as such on the appointed day; and

20 (b) is eligible, if otherwise qualified, to be appointed as a member of the new body.

(3) A member of the old body who ceases to hold office as such by reason of the operation of subclause (2) is not entitled to be paid any remuneration or compensation by reason of his ceasing to hold that office, but nothing in this subclause prevents the payment to that person of such compensation (if any) as the Minister determines out of the funds of the Authority.

(4) A person who, immediately before the appointed day, held office as chairman and general manager of the old body and who ceases to hold that office pursuant to subclause (2) is, if—

30 (a) he is not appointed as General Manager of the new body with effect on the appointed day;

(b) he was, immediately before his appointment as chairman and general manager, an employee of The Electricity Commission of New South Wales or an officer of the Public Service; and

Energy Authority (Reconstitution) Amendment.

SCHEDULE 4—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

- (c) he has not attained the age of 60 years,
entitled to be appointed to some position in the service of the Commission or in the
5 Public Service not lower in classification and salary than the one which he held as such
an employee or officer.

(5) Where subclause (4) does not apply to a person who was, immediately
before his appointment as chairman and general manager of the old body, the holder
of a full-time office as a member of a body constituted by an Act, he is, if—

- 10 (a) he is not appointed as General Manager of the new body with effect on the
appointed day; and
(b) he has not attained the age of 60 years,

entitled to be appointed to some position in the service of the Government at a salary
not lower than that which maintains the relationship existing, immediately before his
15 appointment as chairman and general manager of the old body, between the rate of
salary payable to him and the rates of other relevant salaries.

Appointments, etc., before appointed day.

3. For the purpose only of enabling the Authority to be constituted in accordance
with the Principal Act, as amended by this Act, on or after (but not before) the
20 appointed day, appointments may be made under the Principal Act, as so amended,
and any other act, matter or thing may be done, before that day as if the whole
of this Act commenced on the date of assent to this Act, but so that no appointment
as member of the Authority as so constituted takes effect before the appointed day.

First meeting of newly constituted Authority.

- 25 4. The Minister shall call the first meeting of the Authority to be held on or after
the appointed day in such manner as he thinks fit.

Delegations.

5. Any delegation in force under section 41 of the Principal Act immediately before
the appointed day shall be deemed to be a delegation under section 7A of the Principal
30 Act, as amended by this Act.

Energy Authority (Reconstitution) Amendment.

SCHEDULE 4—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.***Accounts, audit and annual reports.**

5 6. (1) Sections 21, 22, 23 and 46 of the Principal Act apply to and in respect of the year ending on 30th June, 1982, as if Schedule 3 had not been enacted.

(2) Sections 21, 22 and 46 of the Principal Act, as amended by this Act, apply to and in respect of the year commencing on 1st July, 1982, and subsequent years.

Regulations.

10 7. (1) The Governor may make regulations containing provisions of a savings or transitional nature consequent on the enactment of this Act.

(2) A provision made under subclause (1) may take effect as from the appointed day or a later day.

(3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision 15 does not operate so as—

- 20 (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 therein; 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 therein.

(4) A provision made under subclause (1) shall, if the regulations under this clause so provide, have effect notwithstanding any other clause of this Schedule (clause 2 excepted).

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1982

**ENERGY AUTHORITY (RECONSTITUTION) AMENDMENT
ACT, 1982, No. 65**

New South Wales



ANNO TRICESIMO PRIMO

ELIZABETHÆ II REGINÆ

Act No. 65, 1982.

An Act to amend the Energy Authority Act, 1976, to reconstitute the Energy Authority of New South Wales, and for other purposes. [Assented to, 18th May, 1982.]

See also Statutory and Other Offices Remuneration (Energy Authority) Amendment Act, 1982.

Energy Authority (Reconstitution) Amendment.

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 Authority (Reconstitution) Amendment Act, 1982".

Commencement.

2. (1) Except as provided in subsections (2) and (3), this Act shall commence on the date of assent to this Act.

(2) Section 5 (1) and Schedules 1 and 2 shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the *Gazette*.

(3) Section 5 (2) and Schedule 3 shall commence on 1st July, 1982.

Principal Act.

3. The Energy Authority Act, 1976, is referred to in this Act as the Principal Act.

Schedules.

4. This Act contains the following Schedules:—

SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONSTITUTION AND PROCEDURE OF THE AUTHORITY.

SCHEDULE 2.—MINOR AND CONSEQUENTIAL AMENDMENTS TO THE PRINCIPAL ACT.

SCHEDULE 3.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO ACCOUNTS, AUDIT AND ANNUAL REPORTS.

Energy Authority (Reconstitution) Amendment.

SCHEDULE 4.—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

Amendment of Act No. 69, 1976.

5. (1) The Principal Act is amended in the manner set forth in Schedules 1 and 2.

(2) The Principal Act is further amended in the manner set forth in Schedule 3.

Savings, transitional and other provisions.

6. Schedule 4 has effect.

SCHEDULE 1.

(Sec. 5 (1).)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONSTITUTION AND PROCEDURE OF THE AUTHORITY.

(1) Sections 7-8A—

Omit sections 7 and 8, insert instead:—

Provisions relating to the constitution and procedure of the Authority.

7. (1) The Authority shall consist of not less than 5 and not more than 7 members who shall be appointed by the Governor.

(2) In the event of the office of any member becoming vacant, a person shall, subject to Schedule 1, be appointed to fill the vacancy.

(3) Schedule 1 has effect with respect to the members.

(4) Schedule 1A has effect with respect to the procedure of the Authority.

Energy Authority (Reconstitution) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONSTITUTION
AND PROCEDURE OF THE AUTHORITY—*continued.***Delegation.**

7A. (1) The Authority may, by instrument in writing, delegate to—

- (a) the General Manager;
- (b) a committee comprised of members, including the General Manager or a member nominated by the General Manager;
- (c) a board;
- (d) an officer or employee of the Authority;
- (e) a person for the time being holding or acting in a specified position in the staff establishment of the Authority; or
- (f) any person of whose services the Authority makes use pursuant to this or any other Act,

the exercise or performance of such of the functions of the Authority as are specified in the instrument.

(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 by the delegate.

(3) Without limiting the operation of subsection (2), a function the exercise or performance of which has been delegated under this section to the General Manager may, while the delegation remains unrevoked, be exercised or performed from time to time in accordance with the terms of the delegation by—

- (a) an officer or employee of the Authority;
- (b) a person for the time being holding or acting in a specified position in the staff establishment of the Authority; or
- (c) any person of whose services the Authority makes use pursuant to this or any other Act,

Energy Authority (Reconstitution) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONSTITUTION
AND PROCEDURE OF THE AUTHORITY—*continued.*

as authorised by instrument in writing by the General Manager in that behalf either generally or in a particular case or class of cases.

(4) A delegation or authorisation under this section may be made subject to such conditions or limitations as to the exercise or performance of any function the subject thereof, or as to time or circumstances, as may be specified in the instrument of delegation or authorisation.

(5) Notwithstanding any delegation under this section, the Authority may continue to exercise or perform any function delegated.

(6) Any act or thing done or suffered by a delegate acting in the exercise or performance of a delegation under this section, or by a person duly authorised in that behalf by the General Manager under this section, has the same force and effect as it would have if it had been done or suffered by the Authority and shall be deemed to have been done or suffered by the Authority.

(7) The Authority may, by instrument in writing, revoke wholly or in part any delegation under this section, and the General Manager may, by instrument in writing, revoke wholly or in part any authorisation under this section.

(8) An instrument purporting to have been signed by a person in his capacity as a delegate of the Authority, or as a person authorised under this section, shall in all courts and before all persons acting judicially be received in evidence as if it were an instrument duly executed by the Authority and shall, until the contrary is proved, be deemed to be an instrument signed by a delegate of the Authority or by a person duly authorised under this section, as the case may be.

Energy Authority (Reconstitution) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONSTITUTION
AND PROCEDURE OF THE AUTHORITY—*continued.*

(9) In subsection (8), a reference to a delegate includes a reference to the chairman of a committee or board to which the exercise or performance of a function has been delegated under subsection (1).

Functions of General Manager.

8. The General Manager—

- (a) is responsible, as the chief executive officer of the Authority, for the management of the affairs of the Authority subject to and in accordance with any directions given to him by the Authority; and
- (b) shall have and may exercise and perform such other functions as are conferred or imposed on him by or under this or any other Act.

Disclosure of interest by members.

8A. (1) If a member has a pecuniary interest, direct or indirect, in a contract or proposed contract with the Authority or in any other matter in which the Authority is concerned and is present at a meeting of the Authority at which the contract, proposed contract or other matter is the subject of consideration, he shall, at the meeting, as soon as practicable after the commencement thereof, disclose his interest and shall not take part in the consideration or discussion of or vote on any matter with respect to the contract, proposed contract or other matter.

Energy Authority (Reconstitution) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONSTITUTION
AND PROCEDURE OF THE AUTHORITY—*continued.*

(2) For the purposes of this section, a person shall be treated as having an indirect interest in a contract, proposed contract or other matter if—

- (a) he or any nominee of his is a member of a company or other body with which the contract is made or is proposed to be made or which has a direct or indirect pecuniary interest in the other matter; or
- (b) he is a partner, or is in the employment, of a person with whom the contract is made or is proposed to be made or who has a direct or indirect pecuniary interest in the other matter.

(3) Notwithstanding subsection (2)—

- (a) that subsection does not apply to membership of or employment under any council or statutory body within the meaning of the Local Government Act, 1919;
- (b) a member of a company or other body shall not, by reason only of his membership, be treated as being so interested if he has no beneficial interest in any shares of that company or other body; and
- (c) a member of a company having not less than 25 members shall not be treated as having an interest in any contract or proposed contract with the Authority or in any other matter in which the Authority is concerned by reason only that the contract or proposed contract is with or the other matter concerns the company.

(4) In the case of a man and his wife who are living together, the interest of one spouse shall, if known to the other, be deemed, for the purposes of this section, to be also an interest of the other spouse.

Energy Authority (Reconstitution) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONSTITUTION
AND PROCEDURE OF THE AUTHORITY—*continued.*

(5) A general notice in writing by a member to an officer of the Authority nominated by the Authority to the effect that he or his spouse is a member or is in the employment of a specified company or other body, or that he or his spouse is a partner or in the employment of a specified person shall, unless and until the notice is withdrawn, be deemed to be a sufficient disclosure of his interest in any contract, proposed contract or other matter relating to that company or other body or to that person which may be the subject of consideration after the date of the notice.

(6) The officer referred to in subsection (5) shall record in a book to be kept for the purpose particulars of any disclosure made under subsection (1) and of any notice given under subsection (5) and the book shall be open at all reasonable hours to the inspection of any person on payment of such fee as may be determined by the Authority from time to time.

(7) Subject to subsection (8), a member contravenes this subsection if he fails to comply with the provisions of subsection (1), unless he proves that he did not know that a contract, proposed contract or other matter in which he had a pecuniary interest was the subject of consideration at the meeting.

Penalty: \$400.

(8) The Minister may, subject to such conditions as he thinks fit to impose, remove any disability imposed by subsection (1) in any case in which the number of members referred to in subsection (1) so disabled at any one time would be so great a proportion of the whole of the members as to impede the transaction of business, or in any other case in which it appears to the Minister that it is in the public interest that the disability should be removed.

Energy Authority (Reconstitution) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONSTITUTION
AND PROCEDURE OF THE AUTHORITY—*continued.*

(9) The Authority may, by resolution, provide for the exclusion of any member from a meeting of the Authority while any proposal, in respect of any contract, proposed contract or other matter in which that member has an interest as referred to in this section, is under consideration.

(10) In this section, "shares" includes stock.

(2) Schedules 1, 1A—

Omit Schedule 1, insert instead:—

SCHEDULE 1.

(Sec. 7 (3).)

PROVISIONS RELATING TO THE CONSTITUTION OF THE AUTHORITY.

Interpretation: Sch. 1.

1. In this Schedule, "part-time member" means a member referred to in clause 2 (1) (b).

Members.

2. (1) Of the members—

- (a) 1 shall, in and by the instrument by which he is appointed, be appointed as General Manager of the Authority; and
- (b) not less than 4 and not more than 6 shall be persons nominated for appointment as members by the Minister and shall, in and by the instruments by which they are appointed, be appointed as part-time members.

(2) A person of or above the age of 65 years is not eligible to be appointed as General Manager.

(3) A person of or above the age of 70 years is not eligible to be appointed as a part-time member.

Energy Authority (Reconstitution) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONSTITUTION
AND PROCEDURE OF THE AUTHORITY—*continued.*

(4) Nothing in this Act requires a vacancy in the office of a part-time member to be filled if there are at least 4 other part-time members.

Chairman of the Authority.

3. Of the part-time members, one shall, in and by the instrument by which he is appointed, or by another instrument executed by the Governor, be appointed as Chairman of the Authority.

Acting members.

4. (1) The Governor may, from time to time, appoint a person to act in the office of a member, other than the office of Chairman, during the illness or absence of the member.

(2) The Governor may, from time to time, appoint a part-time member to act in the office of Chairman during the illness or absence of the Chairman, and may in any such case appoint a person to act in the office of that member while that member acts in the office of Chairman.

(3) The Governor may, for any cause which appears to him sufficient, remove any person from any office to which he was appointed under subclause (1) or (2).

(4) Any member or person while acting in the office of Chairman, or of any other member, shall have all the functions of the person in whose office he acts, and shall receive such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of him.

(5) Without limiting the generality of subclause (4), any member or **person while acting in the office of General Manager** shall have all the functions of the General Manager.

(6) For the purposes of this clause, a vacancy in the office of—

- (a) General Manager;
- (b) a part-time member, other than the Chairman; or
- (c) the Chairman,

Energy Authority (Reconstitution) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONSTITUTION
AND PROCEDURE OF THE AUTHORITY—*continued.*

shall be deemed to be an absence from office of the General Manager, part-time member or Chairman, as the case may be.

Terms of office.

5. The term of office of a member shall be, and, unless he vacates his office during his term, a member shall hold office for—

- (a) where he is General Manager—such period not exceeding 7 years; or
- (b) where he is a part-time member—such period not exceeding 5 years, as may be specified in the instrument appointing him.

Members may be re-appointed.

6. Upon the expiration of the term of office of a member he shall, if otherwise qualified, be eligible for re-appointment from time to time.

General Manager.

7. (1) The General Manager shall devote the whole of his time to the duties of his office, except as permitted by clause 9 (1) (c) or except with the consent of the Minister (which consent the Minister is hereby authorised to give).

- (2) The General Manager is entitled to be paid—
 - (a) remuneration in accordance with the Statutory and Other Offices Remuneration Act, 1975; and
 - (b) such travelling and subsistence allowances as the Minister may from time to time determine in respect of him.

Part-time members.

8. A part-time member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of him.

Energy Authority (Reconstitution) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONSTITUTION
AND PROCEDURE OF THE AUTHORITY—*continued.***Vacation of office.**

9. (1) A member shall be deemed to have vacated his office if—
- (a) he dies;
 - (b) being a part-time member, he absents himself from 4 consecutive meetings of the Authority of which reasonable notice has been given to him personally or in the ordinary course of post, except on leave granted by the Minister (which leave the Minister is hereby authorised to grant) 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;
 - (c) being General Manager, he absents himself from duty for 14 days (whether or not wholly or partly consecutive) in any period of 12 months, except on leave granted by the Minister (which leave the Minister is hereby authorised to grant), unless his absence is occasioned by illness or other unavoidable cause;
 - (d) 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 for their benefit;
 - (e) 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;
 - (f) he is convicted in New South Wales of a felony or of a misdemeanour which is punishable by imprisonment for 12 months or upwards, or he is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be a felony or a misdemeanour so punishable;
 - (g) he resigns his office by writing under his hand addressed to the Governor;
 - (h) being—
 - (i) General Manager, he attains the age of 65 years; or
 - (ii) a part-time member, he attains the age of 70 years;
 - (i) he is retired or removed from office by the Governor under subclause (2) or (3); or

Energy Authority (Reconstitution) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONSTITUTION
AND PROCEDURE OF THE AUTHORITY—*continued.*

- (j) being General Manager, he engages during his term of office in any paid employment outside the duties of his office, except with the consent of the Minister (which consent the Minister is hereby authorised to give).

(2) The General Manager may be retired from office by the Governor after he attains the age of 60 years and before he attains the age of 65 years and, if he is so retired, he is entitled to such compensation (if any) as the Statutory and Other Offices Remuneration Tribunal determines.

(3) Where the Governor is satisfied that a member is incapable or incompetent or has misconducted himself, the Governor may remove the member from his office.

Effect of certain other Acts.

10. (1) The provisions of the Public Service Act, 1979, shall not apply to or in respect of the appointment of a member and a member is not, as a member, subject to that Act during his term of office as a member.

(2) Where by or under any other 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, or prohibiting him from engaging in employment outside the duties of his office, that provision shall not operate to disqualify him from holding that office and also the office of a part-time member or from accepting and retaining any remuneration payable to him under clause 8 as a part-time member.

(3) The office of a part-time member shall for the purposes of any Act be deemed not to be an office or place of profit under the Crown.

Preservation of rights of General Manager previously public servant, etc.

11. (1) In this clause—

“statutory body” means any body declared under clause 13 to be a statutory body for the purposes of this Schedule;

“superannuation scheme” means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under any Act.

Energy Authority (Reconstitution) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONSTITUTION AND PROCEDURE OF THE AUTHORITY—*continued.*

(2) Subject to subclause (3) and to the terms of his appointment, where the General Manager was, immediately before his appointment as General Manager—

- (a) an officer of the Public Service;
- (b) an officer of a Teaching Service;
- (c) a contributor to a superannuation scheme;
- (d) an officer employed by a statutory body; or
- (e) a person in respect of whom provision was made by any Act that he retain any rights accrued or accruing to him as an officer or employee,

he—

- (f) shall retain any rights accrued or accruing to him as such an officer, contributor or person;
- (g) may continue to contribute to any superannuation scheme to which he was a contributor immediately before his appointment as General Manager; and
- (h) shall be entitled to receive any deferred or extended leave and any payment, pension or gratuity,

as if he had continued to be such an officer, contributor or person during his service as General Manager and—

- (i) his service as General Manager shall be deemed to be service as an officer or employee for the purpose of any law under which those rights accrued or were accruing, under which he continues to contribute or by which that entitlement is conferred; and
- (j) he shall be deemed to be an officer or employee, and the Authority shall be deemed to be his employer, for the purpose of the superannuation scheme to which he is entitled to contribute under this clause.

(3) If the General Manager would, but for this subclause, be entitled under subclause (2) to contribute to a superannuation scheme or to receive any payment, pension or gratuity under the scheme, he shall not be so entitled upon his becoming (whether upon his appointment as General Manager or at any later time while he holds office as General Manager) a contributor to any

Energy Authority (Reconstitution) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONSTITUTION AND PROCEDURE OF THE AUTHORITY—*continued.*

other superannuation scheme, and the provisions of subclause (2) (j) cease to apply to or in respect of him and the Authority in any case where he becomes a contributor to such another superannuation scheme.

(4) Subclause (3) does not prevent the payment to the General Manager upon his ceasing to be a contributor to a superannuation scheme of such amount as would have been payable to him if he had ceased, by reason of his resignation, to be an officer or employee for the purposes of the scheme.

(5) The General Manager shall not, in respect of the same period of service, be entitled to claim a benefit under this Act and another Act.

General Manager entitled to re-appointment to former employment in certain cases.

12. (1) In this clause—

“retiring age” means—

- (a) in relation to a person who was, immediately before his appointment as General Manager, an officer of the Public Service or an officer of a Teaching Service—the age of 60 years; and
- (b) in relation to a person who was, immediately before his appointment as General Manager, an officer or employee of a statutory body—the age at which officers or employees (being officers or employees of the class to which the person belonged immediately before his appointment as General Manager), as the case may be, of the statutory body are entitled to retire;

“statutory body” means any body declared under clause 13 to be a statutory body for the purposes of this Schedule.

(2) A person who ceases to be General Manager, otherwise than pursuant to clause 9 (1) (paragraph (g) excepted), shall, if he has not attained the retiring age, be entitled to be appointed, where, immediately before his appointment as General Manager, he was—

- (a) an officer of the Public Service—to some position in the Public Service;
- (b) an officer of a Teaching Service—to some position in the Teaching Service; or
- (c) an officer or employee of a statutory body—to some position in the service of the statutory body,

Energy Authority (Reconstitution) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONSTITUTION AND PROCEDURE OF THE AUTHORITY—*continued.*

not lower in classification and salary than that which he held immediately before his appointment as General Manager.

(3) Where subclause (2) does not apply to a person who—

(a) was, immediately before his appointment to a full-time office constituted by an Act, an officer or employee referred to in subclause (2) (a), (b) or (c); and

(b) is after that appointment appointed as General Manager,

he shall have such rights (if any) to appointment as such an officer or employee, in the event of his ceasing to be General Manager, as are specified in the instrument of his appointment as General Manager or as are agreed upon by him and by or on behalf of the Government.

Declaration of statutory bodies.

13. The Governor may, by proclamation published in the Gazette, declare any body constituted by or under any Act to be a statutory body for the purposes of this Schedule.

Liability of members, etc.

14. No matter or thing done, and no contract entered into by the Authority, and no matter or thing done by any member or by any person acting under the direction of the Authority shall, if the matter or thing was done or the contract was entered into bona fide for the purpose of executing this Act, subject a member or a person so acting personally to any action, liability, claim or demand whatever.

Presumptions.

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;

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONSTITUTION AND PROCEDURE OF THE AUTHORITY—*continued.*

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

SCHEDULE 1A.

(Sec. 7 (4).)

PROVISIONS RELATING TO THE PROCEDURE OF THE AUTHORITY.

General procedure.

1. The procedure for the calling of meetings of the Authority and for the conduct of business at those meetings shall, subject to this Schedule and the regulations, be as determined by the Authority.

Quorum.

2. Three members (or 4 if there are more than 5 members for the time being), of whom at least one shall be the General Manager, shall form a quorum and any duly convened meeting of the Authority at which a quorum is present shall be competent to transact any business of the Authority and shall have and may exercise and perform all the functions of the Authority.

Presiding member.

3. (1) The Chairman or, in the absence of the Chairman, another part-time member referred to in clause 2 (1) (b) of Schedule 1 elected as chairman for the meeting by the members present shall preside at a meeting of the Authority.

(2) The person acting as chairman at any meeting of the Authority shall, in the event of an equality of votes, have in addition to a deliberative vote a second or casting vote.

Energy Authority (Reconstitution) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONSTITUTION AND PROCEDURE OF THE AUTHORITY—*continued.*

Voting.

4. A decision supported by a majority of the votes cast at a meeting of the Authority at which a quorum is present shall be the decision of the Authority.

Minutes.

5. (1) The Authority shall cause a minute book to be kept in which shall be recorded full and accurate minutes of the proceedings of each meeting of the Authority.

(2) Minutes recorded under subclause (1) in respect of a meeting shall, when duly read and confirmed at the next meeting of the Authority, be signed by the Chairman or the member acting as chairman at that next meeting.

SCHEDULE 2.

(Sec. 5 (1).)

MINOR AND CONSEQUENTIAL AMENDMENTS TO THE
PRINCIPAL ACT.

(1) Section 3—

Omit the matter relating to Schedule 1, insert instead:—

SCHEDULE 1.—PROVISIONS RELATING TO THE CONSTITUTION
OF THE AUTHORITY.

SCHEDULE 1A.—PROVISIONS RELATING TO THE PROCEDURE
OF THE AUTHORITY.

Energy Authority (Reconstitution) Amendment.

SCHEDULE 2—*continued.*MINOR AND CONSEQUENTIAL AMENDMENTS TO THE
PRINCIPAL ACT—*continued.*

- (2) (a) Section 5, definition of “chairman”—

Omit the definition, insert instead:—

“Chairman” means the Chairman of the Authority;

- (b) Section 5, definition of “deputy chairman”—

Omit the definition.

- (c) Section 5, definition of “General Manager”—

After the definition of “functions”, insert:—

“General Manager” means the General Manager of the
Authority;

- (d) Section 5 (2)—

At the end of section 5, insert:—

(2) In a Schedule to this Act, a reference to a subclause is, unless a contrary intention appears, a reference to a subclause of the clause in which the reference occurs.

- (3) Section 6 (4)—

After section 6 (3), insert:—

(4) Notwithstanding anything in section 38 of the Interpretation Act, 1897, the regulations may make provision for or with respect to the custody and use of the common seal of the Authority.

- (4) Section 19B—

Omit “chairman and general manager of the Authority” wherever occurring, insert instead “General Manager”.

Energy Authority (Reconstitution) Amendment.

SCHEDULE 2—*continued.*MINOR AND CONSEQUENTIAL AMENDMENTS TO THE
PRINCIPAL ACT—*continued.*

(5) Section 19C (1) (c)—

Omit “41”, insert instead “7A”.

(6) Section 19D—

Omit the section, insert instead:—

Constitution and procedure.

19D. The regulations may make provision for or with respect to the constitution and procedure of a board.

(7) Section 41—

Omit the section.

(8) Section 42—

Omit “chairman”, insert instead “General Manager”.

Energy Authority (Reconstitution) Amendment.

SCHEDULE 3.

(Sec. 5 (2).)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO ACCOUNTS,
AUDIT AND ANNUAL REPORTS.

(1) Sections 21–23—

Omit the sections, insert instead:—

Accounts.

21. (1) The Authority shall cause to be kept proper accounts and records in relation to all of its operations.

(2) The Authority shall, as soon as practicable, but within 6 months, after the end of each financial year of the Authority, prepare and submit to the Minister for presentation to Parliament a statement of accounts, together with the Auditor-General's certificate given under this section in relation to the statement.

(3) The statement of accounts shall—

- (a) be in a form approved by the Auditor-General;
- (b) include such information as is requested by him; and
- (c) exhibit a true and fair view of the financial position and transactions of the Authority.

(4) The Authority shall, as soon as practicable, but within 4 months, after the end of the financial year to which a statement of accounts relates, transmit the statement to the Auditor-General for verification and certification.

(5) The Auditor-General's certificate shall state that he has audited the accounts of the Authority relating to the relevant financial year, and shall indicate whether the statement of accounts complies with subsection (3), and shall set forth any qualifications subject to which the certificate is given.

Energy Authority (Reconstitution) Amendment.

SCHEDULE 3—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO ACCOUNTS, AUDIT
AND ANNUAL REPORTS—*continued.*

(6) Nothing in this section prevents the alteration of the statement of accounts, with the approval of the Auditor-General, after its receipt by him and before its submission to the Minister.

(7) The Minister shall lay the statement of accounts, or cause it to be laid, together with the Auditor-General's certificate, before both Houses of Parliament as soon as practicable after the receipt by him of the statement.

(8) The financial year of the Authority shall be the year commencing on 1st July.

Audit.

22. (1) The accounts and records of financial transactions of the Authority, and the records relating to assets of or in the custody of the Authority, shall be inspected and audited by the Auditor-General.

(2) For the purposes of any such inspection and audit, the Auditor-General or a person authorised by him is entitled at all reasonable times to full and free access to the accounts, records, documents and papers of the Authority and may make copies thereof or take extracts therefrom.

(3) The Auditor-General or a person authorised by him may require a person, being a person engaged in the administration of this Act, to furnish him with such information in the possession of the person or to which the person has access as the Auditor-General or authorised person considers necessary for the purposes of the functions of the Auditor-General under this Act, and the person shall comply with the requirement.

Penalty: \$200.

Energy Authority (Reconstitution) Amendment.

SCHEDULE 3—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO ACCOUNTS, AUDIT
AND ANNUAL REPORTS—*continued.*

(4) The Auditor-General may dispense with all or any part of the detailed inspection and audit of any accounts or records referred to in subsection (1).

(5) The Auditor-General shall report to the Authority and the Minister on the result of any such inspection and audit, and as to such irregularities or other matters as in his judgment call for special notice or as are prescribed.

(6) Towards defraying the costs and expenses of any such inspection and audit, the Authority shall pay to the Consolidated Revenue Fund such amounts, at such times, as the Treasurer decides.

(2) Section 46—

Omit the section, insert instead:—

Annual report.

46. (1) The Authority shall, as soon as practicable after 30th June, but not later than 31st December, in each year, prepare and forward to the Minister a report of its work and activities for the year ended on 30th June in that year.

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

Energy Authority (Reconstitution) Amendment.

SCHEDULE 4.

(Sec. 6.)

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

Interpretation: Sch. 4.

1. (1) In this Schedule—

“appointed day” means the day appointed and notified under section 2 (2);

“Authority” means the Energy Authority of New South Wales.

(2) In this Schedule, a reference to a subclause is, unless a contrary intention appears, a reference to a subclause of the clause in which the reference occurs.

Members holding office immediately before appointed day.

2. (1) In this clause—

“new body” means the Authority as constituted in accordance with the Principal Act as in force on or after the appointed day;

“old body” means the Authority as constituted in accordance with the Principal Act as in force before the appointed day.

(2) A person who, immediately before the appointed day, held office as a member of the old body—

(a) shall cease to hold office as such on the appointed day; and

(b) is eligible, if otherwise qualified, to be appointed as a member of the new body.

(3) A member of the old body who ceases to hold office as such by reason of the operation of subclause (2) is not entitled to be paid any remuneration or compensation by reason of his ceasing to hold that office, but nothing in this subclause prevents the payment to that person of such compensation (if any) as the Minister determines out of the funds of the Authority.

(4) A person who, immediately before the appointed day, held office as chairman and general manager of the old body and who ceases to hold that office pursuant to subclause (2) is, if—

(a) he is not appointed as General Manager of the new body with effect on the appointed day;

(b) he was, immediately before his appointment as chairman and general manager, an employee of The Electricity Commission of New South Wales or an officer of the Public Service; and

Energy Authority (Reconstitution) Amendment.

SCHEDULE 4—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

(c) he has not attained the age of 60 years,
entitled to be appointed to some position in the service of the Commission or in the Public Service not lower in classification and salary than the one which he held as such an employee or officer.

(5) Where subclause (4) does not apply to a person who was, immediately before his appointment as chairman and general manager of the old body, the holder of a full-time office as a member of a body constituted by an Act, he is, if—

(a) he is not appointed as General Manager of the new body with effect on the appointed day; and

(b) he has not attained the age of 60 years,

entitled to be appointed to some position in the service of the Government at a salary not lower than that which maintains the relationship existing, immediately before his appointment as chairman and general manager of the old body, between the rate of salary payable to him and the rates of other relevant salaries.

Appointments, etc., before appointed day.

3. For the purpose only of enabling the Authority to be constituted in accordance with the Principal Act, as amended by this Act, on or after (but not before) the appointed day, appointments may be made under the Principal Act, as so amended, and any other act, matter or thing may be done, before that day as if the whole of this Act commenced on the date of assent to this Act, but so that no appointment as member of the Authority as so constituted takes effect before the appointed day.

First meeting of newly constituted Authority.

4. The Minister shall call the first meeting of the Authority to be held on or after the appointed day in such manner as he thinks fit.

Delegations.

5. Any delegation in force under section 41 of the Principal Act immediately before the appointed day shall be deemed to be a delegation under section 7A of the Principal Act, as amended by this Act.

Energy Authority (Reconstitution) Amendment.

SCHEDULE 4—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.***Accounts, audit and annual reports.**

6. (1) Sections 21, 22, 23 and 46 of the Principal Act apply to and in respect of the year ending on 30th June, 1982, as if Schedule 3 had not been enacted.

(2) Sections 21, 22 and 46 of the Principal Act, as amended by this Act, apply to and in respect of the year commencing on 1st July, 1982, and subsequent years.

Regulations.

7. (1) The Governor may make regulations containing provisions of a savings or transitional nature consequent on the enactment of this Act.

(2) A provision made under subclause (1) may take effect as from the appointed day or a later day.

(3) To the extent to which a provision referred to in subclause (1) 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 therein; 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 therein.

(4) A provision made under subclause (1) shall, if the regulations under this clause so provide, have effect notwithstanding any other clause of this Schedule (clause 2 excepted).

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

J. A. ROWLAND,
Governor.

*Government House,
Sydney, 18th May, 1982.*



