

CONCURRENCE COPY

ELECTRICITY DEVELOPMENT (AMENDMENT) BILL, 1984 (No. 2)

EXPLANATORY NOTE

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

The objects of this Bill are to amend the Electricity Development Act, 1945 ("the Act"), so as—

- (a) to repeal and re-enact with modifications the provisions of the Act requiring, and regulating the manner of granting, approvals under the Act in relation to certain electrical articles, with the aim of—
 - (i) requiring a declaration with respect to the conformity of those articles with specified standards ("a declaration of compliance") to be lodged with the Energy Authority of New South Wales ("the Authority") before an approval is given in relation to those articles (Schedule 1 (2)—proposed section 21c);
 - (ii) ensuring, in certain cases, that samples of those electrical articles are tested, in accordance with nominated standards, by qualified persons at testing facilities approved by the Authority before an approval is granted in relation to those articles (Schedule 1 (2)—proposed section 21c); and
 - (iii) providing that the approval or registration, by certain additional regulatory authorities outside New South Wales, of a class, description or type of electrical article may be recognised as having the same effect as an approval granted by the Authority (Schedule 1 (2)—proposed section 21A);
- (b) to provide that, in certain cases, a prescribed guarantee given in respect of compliance of an electrical article with specified standards may provide a defence to a prosecution for sale of a declared electrical article contrary to the requirements of the Act (Schedule 1 (2)—proposed section 21D);
- (c) to extend the powers of the Authority and persons authorised by the Authority in relation to the prohibition of the sale of unsafe electrical articles and to provide for the seizure and forfeiture of such articles in certain circumstances (Schedule 1 (2)—proposed sections 21E, 21F and 21G);
- (d) to make certain evidentiary provisions to facilitate the administration of the Act in relation to the sale of declared electrical articles in breach of the Act (Schedule 1 (2)—proposed section 21H);

- (e) to require a warrant to be obtained prior to the exercise by an authorised person of certain powers under proposed section 21F (Schedule 1 (2)—proposed section 21I);
- (f) to prevent the bringing of certain actions, claims or demands against persons lawfully acting in the execution of proposed Part IVc of the Act (Schedule 1 (2)—proposed section 21J);
- (g) to restrict the disclosure of certain information relating to electrical articles which is supplied to the Authority (Schedule 1 (2)—proposed section 21K);
- (h) to increase penalties for certain breaches of the Act and increase the range of penalties that may be fixed for breaches of the regulations (Schedule 1 (5) and (7));
- (i) to enable the making of regulations relating to the testing of, and standards for, declared electrical articles and the form of declarations of compliance (Schedule 1 (6) (c));
- (j) to clarify the definitions of “Electrical installation” and “Electrical wiring work” (Schedule 2 (1));
- (k) to enable the making of regulations requiring the giving of notices with respect to the carrying out of electrical wiring work (Schedule 2 (2)—proposed section 37 (2) (f1)); and
- (l) to make certain other provisions of a minor or consequential nature.

The Bill also contains provisions of a saving and transitional nature (Schedule 3).

ELECTRICITY DEVELOPMENT (AMENDMENT) BILL, 1984
(No. 2)

No. , 1984.

A BILL FOR

An Act to amend the Electricity Development Act, 1945, with respect to the safety of electrical articles and the carrying out of electrical wiring work.

[MR COX—2 May, 1984.]

Electricity Development (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 "Electricity Development (Amendment) Act, 1984".

Commencement.

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

(2) Section 5 shall, in its application to a provision of Schedule 1 or 2, commence on the day on which the provision commences.

(3) Schedule 1 shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation
15 published in the Gazette.

Principal Act.

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

Schedules.

20 4. This Act contains the following Schedules:—

SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO ELECTRICAL ARTICLES.

SCHEDULE 2.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO ELECTRICAL WIRING WORK.

25 SCHEDULE 3.—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

Electricity Development (Amendment).

Amendment of Act No. 13, 1946.

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

Savings, transitional and other provisions.

5 **6.** Schedule 3 has effect.

SCHEDULE 1.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
ELECTRICAL ARTICLES.

10 **(1) (a)** Section 3—

After the matter relating to Part IVB, insert:—

PART IVc.—ELECTRICAL ARTICLES—ss. 20–21k.

(b) Section 3—

15 From the matter relating to Part V, omit “20”, insert instead
 “22”.

(2) Part IVc—

Omit the headings to Part V and sections 20–21A, insert instead:—

PART IVc.

ELECTRICAL ARTICLES.

20 **Interpretation.**

20. **(1)** In this Part, except in so far as the context or subject-matter otherwise indicates or requires—

“approved” means subject to an approval which is in force;

Electricity Development (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
ELECTRICAL ARTICLES—*continued.*

5 “approved testing facility” means a place approved for the testing
of electrical articles under the regulations;

“class specification”, in relation to an electrical article, means—

(a) a specification for the time being declared by an order
under section 21 to be applicable to articles of the
class to which it belongs; or

10 (b) where any such specification is declared by the order
to be modified in its application to those articles, the
specification as so modified,

except so much, if any, of the specification, or of the specifi-
cation as so modified, as is inconsistent with a type specifi-
cation for the article;

15 “declaration of compliance” means a declaration in the prescribed
form that, when the declaration is made, each electrical
article of the type described in the declaration complies with
the class specifications and type specifications, if any, for the
20 article;

“qualified person” means a person declared by the regulations to
be a qualified person for the purpose of section 21C (2) (c);

25 “relevant authority”, in relation to a State, other than New South
Wales, or a Territory, means the authority prescribed as the
relevant authority for the other State or the Territory;

“sell” includes—

(a) auction or exchange;

(b) offer, agree or attempt to sell;

(c) advertise, expose, send, forward or deliver for sale;

30 (d) cause or permit to be sold or offered for sale;

(e) hire or cause to be hired; and

(f) display for sale or hire;

Electricity Development (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
ELECTRICAL ARTICLES—*continued.*

“specification” includes—

- 5 (a) a standard code, rule, testing requirement or other specification approved, recommended, adopted or published by the Standards Association of Australia; and
- 10 (b) a standard code, rule, testing requirement or other specification described in, or prescribed by, the regulations;

“Territory” means a Territory of the Commonwealth;

15 “type specification”, in relation to an electrical article, means a specification, other than a class specification, determined by the Authority to be applicable, or to be applicable in a modified form, to electrical articles of the type to which the article belongs.

(2) For the purposes of this Part—

- 20 (a) a reference to electrical articles of a type is a reference to each electrical article of the same design constructed to identical specifications; and
- 25 (b) an electrical article of a class described in an order under section 21, being an electrical article which is displayed for the purpose of advertising, or otherwise in connection with, the sale of other electrical articles of the same class, shall be treated as being displayed for sale.

(3) Where a class specification or a type specification for an electrical article requires the article or any part thereof—

- 30 (a) to have been submitted to a specified test; and
- (b) to have complied with a standard relating to the test, the article shall, for the purposes of this Part, section 21c (2) (c) excepted, be treated as complying with the requirement if the article or part, as the case may be, would comply with the standard if it were to be submitted to the test.

Electricity Development (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
ELECTRICAL ARTICLES—*continued.*

(4) This Part binds the Crown.

5 **Articles to which Part applies.**

21. (1) The Governor may, by order published in the Gazette, declare—

- 10 (a) electrical articles of a class described in the order to be, on and from a date specified in the order, electrical articles to which this Part applies; and
- (b) the specifications which are applicable to electrical articles of that class.

15 (2) An order under this section may declare a specification modified as stated in the order to be applicable to electrical articles of the class to which the order relates.

Sale of certain electrical articles.

21A. (1) A person who sells an electrical article to which this Part applies is guilty of an offence against this Act if—

- 20 (a) the electrical article is not—
- (i) of a type approved by the Authority; or
 - (ii) of a class, description or type approved or registered by the relevant authority for another State or a Territory;
- 25 (b) the electrical article is not marked in accordance with the regulations; or

Electricity Development (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
ELECTRICAL ARTICLES—*continued.*

5 (c) the electrical article does not comply with any one or more
of—
(i) the class specifications;
(ii) the type specifications, if any; or
(iii) the other prescribed requirements, if any,
for that electrical article.

10 (2) The penalty for an offence referred to in subsection (1)
is a penalty not exceeding \$2,000 and, where the offence continues,
in addition, a penalty not exceeding \$200 for each day during which
the offence continues.

15 (3) The Authority may, by order in writing and subject to
such conditions, if any, as are specified in the order, exempt a person
or persons of a class so specified from the operation of subsection
(1).

Preliminary application.

20 21B. (1) A person may, by application in the prescribed form,
request the Authority to notify the person of the type specifications
applicable to electrical articles of the type to which the application
relates.

25 (2) The Authority may require a person lodging an applica-
tion under subsection (1) to lodge an electrical article of the type
to which the application relates with the Authority for testing or
inspection.

Electricity Development (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
ELECTRICAL ARTICLES—*continued.*

5 (3) The Authority shall notify a person who has made an application under subsection (1) of the type specifications, if any, applicable to electrical articles of the type to which the application relates—

(a) except as provided in paragraph (b), within 21 days; or

10 (b) where the applicant and the Authority agree on a longer period, within the longer period,

after the date on which the application was lodged with the Authority.

(4) A notification under this section is conclusive evidence of the type specifications applicable to the electrical articles of the type to which the notification relates.

15 **Approval of type of electrical article.**

21c. (1) Except as provided by subsection (2), the Authority may, by order in writing, approve any type of electrical article.

(2) The Authority shall not approve a type of electrical article unless—

20 (a) an application for the approval is made in accordance with the regulations;

(b) a declaration of compliance with respect to the type of article for which approval is sought that is, in the opinion of the Authority, accurate and complete, is lodged with the applica-
25 tion for approval;

Electricity Development (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
ELECTRICAL ARTICLES—*continued.*

5 (c) the Authority is satisfied, where a class specification or a type specification for electrical articles of the type for which approval is sought requires the articles or any part thereof—

(i) to have been submitted to a specified test; and

10 (ii) to have complied with a standard relating to the test, that an article or part of an article, as the case may require, of that type has been submitted to that test conducted by a qualified person at an approved testing facility and has been found by a qualified person to have complied with that standard; and

15 (d) each electrical article of the type is an electrical article to which this Part applies.

(3) The Authority may refuse to approve a type of electrical article unless an electrical article of the type has been lodged with the Authority for testing or inspection.

20 (4) Where the Authority approves a type of electrical article under this section, it shall forthwith send the prescribed particulars to the applicant for the approval and to the relevant authority, if any, for each other State and each Territory.

25 (5) Where the Authority is not satisfied that a type of electrical article should be approved it shall, by notice in writing served personally or by post on the applicant for the approval, inform the applicant that it has refused the application for approval and of the reason for so doing.

30 (6) For the purposes of an appeal under subsection (9), an application for approval shall be deemed to have been refused if it is not determined by the Authority—

Electricity Development (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
ELECTRICAL ARTICLES—*continued.*

(a) except as provided by paragraph (b), within 60 days; or

5 (b) where the applicant and the Authority agree on a longer
period, within the longer period,

after the date on which the application was lodged with the Authority.

10 (7) The Authority may, by order in writing, suspend (for a
period not exceeding 90 days) or cancel, for any of the reasons and
in the manner provided by the regulations, the approval of a type of
electrical article.

15 (8) Where the Authority suspends or cancels an approval, it
shall forthwith send a notice, setting out the reason for the suspension
or cancellation of the approval and the other prescribed particulars, to
the applicant for the approval and to the relevant authority, if any, for
each other State and each Territory.

(9) A person aggrieved by a determination of the
Authority under this section may appeal to the Minister in the manner
provided by the regulations.

20 **Guarantee to be a defence in certain circumstances.**

21D. (1) Subject to this section, an information for an offence
referred to in section 21A (1) shall be dismissed if it is proved that
the defendant received a prescribed guarantee in respect of the
electrical article to which the information relates from the person

Electricity Development (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
ELECTRICAL ARTICLES—*continued.*

- 5 from whom the defendant obtained the electrical article and if it is also proved that the defendant had no reason to believe that, at the time of the alleged offence, the electrical article—
- (a) was not of a type approved under section 21C or approved or registered by a relevant authority for another State or a Territory;
 - 10 (b) was not marked as prescribed; and
 - (c) did not comply with the class specifications, the type specifications, if any, and the other prescribed requirements for the article, if any.
- 15 (2) For the purposes of subsection (1), a guarantee is a prescribed guarantee in respect of an electrical article only if—
- (a) the guarantee is in writing;
 - (b) the matters guaranteed are that, when the guarantee is given—
 - 20 (i) the electrical article is of a type approved under section 21C or of a class, description or type approved or registered by a relevant authority for another State or a Territory and complies with the class specifications, the type specifications, if any, and any other prescribed requirements for the article; and
 - (ii) the electrical article is marked as prescribed;
 - 25 (c) the guarantor is—
 - (i) an individual who resides in New South Wales; or
 - (ii) a corporation that has a place of business within New South Wales;
 - 30 (d) the guarantee specifies the name of the guarantor and—
 - (i) in the case of a guarantor who is an individual and who resides within the State—the address of the guarantor and of the place of business of the guarantor; or

Electricity Development (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
ELECTRICAL ARTICLES—*continued.*

5 (ii) in the case of a guarantor that is a corporation—
an address of a place of business of the guarantor
within New South Wales;

(e) the guarantee applies—

10 (i) generally to electrical articles of the type to which
the prosecution relates; or

(ii) to the specific electrical article to which the
prosecution relates,

and, in the latter case, refers to a sale note, bill of sale,
invoice, bill of lading or other document describing the
electrical article sold and the marking thereon; and

15 (f) the guarantee complies with any regulations applicable to it.

(3) Subsection (1) does not apply unless the defendant has,
not later than 7 days after service on the defendant of the summons
issued in response to the information—

20 (a) given notice in writing to the informant and the guarantor
of intention to rely on the guarantee specifying, in the
notice to the informant, the name of the guarantor, any name
under which the guarantor trades and the address referred
to in subsection (2) (d) in relation to the guarantor; and

(b) given the informant a copy of the guarantee.

25 (4) A guarantor given notice under subsection (3) is
entitled to offer evidence at the hearing of the information to which
the notice relates and the court may, if it thinks fit, adjourn the
hearing to enable the guarantor to do so.

30 (5) Where an offence is proved under section 21A (1), but
the information is dismissed under this section, the guarantor is,
without prejudice to the guarantor's liability to be prosecuted under
subsection (6), liable to the same penalty as could have been imposed

Electricity Development (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
ELECTRICAL ARTICLES—*continued.*

5 if the offence to which the information relates had been committed
by the guarantor, unless the guarantor proves that, when the
guarantee was given, the guarantor had reasonable grounds for
believing that the statements and descriptions contained in the
guarantee were true.

10 (6) A person is guilty of an offence against this Act if,
in a guarantee referred to in subsection (2), the person makes
or gives a false statement or description in relation to an electrical
article or type of electrical article but shall not be found guilty
of an offence under this subsection if the person proves that, when
15 the person gave the guarantee, the person had reasonable grounds
for believing that the statements and descriptions contained in the
guarantee were true.

(7) The penalty for an offence referred to in subsection (6)
is—

- 20 (a) in the case of a corporation—a penalty not exceeding \$5,000;
and
(b) in every other case—a penalty not exceeding \$2,000.

(8) Notwithstanding anything in any other Act, proceedings
for an offence under subsection (6) may be commenced at any time
after the giving of the guarantee to which the proceedings relate.

25 **Defective electrical articles.**

21E. (1) This section applies to and in respect of electrical
articles, whether or not they are electrical articles to which this Part
applies.

- 30 (2) If the Authority believes on reasonable grounds that—
(a) any electrical article is, or is likely to become, by reason of
its design or construction, unsafe to use; and

Electricity Development (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
ELECTRICAL ARTICLES—*continued.*

5 (b) prohibition of the sale of the electrical article or of all electrical articles of the same type as that article is warranted by reason of the risk of death or injury to any person or damage to any property arising out of the use of that article or those articles,

the Authority may—

10 (c) by notifications published in the Gazette and in such newspapers as are prescribed, prohibit the sale of the electrical article or of any electrical article of that type from the date of publication of the notification in the Gazette or from a later date specified in that notification; or

15 (d) by notice in writing served on any person, prohibit that person from selling the electrical article or any electrical article of that type from the date on which the notice is so served or from a later date specified in the notice.

(3) If the Authority believes on reasonable grounds that—

20 (a) any electrical article is, or is likely to become, by reason of its design or construction, unsafe to use; and

(b) specific action is necessary to make the electrical article or other electrical articles of the same type safe to use or to render safe the use of that article or those articles,

25 the Authority may, by notice in writing served on any person whose business is or includes the sale of electrical articles and who has sold the electrical article or another electrical article of the same type, require that person to take, within such time as is specified in the notice, such action as is so specified, which may consist of or
30 include—

(c) sending a written request to the person to whom the electrical article or any other electrical article of the same type was sold by that person to return the article to the place at which the article was sold; and

35 (d) making the electrical article safe to use or rendering safe the use of that article, in the manner specified in the notice.

Electricity Development (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
ELECTRICAL ARTICLES—*continued.*

- 5 (4) The Authority or the Minister, whether on the application of an affected person or not, may remove a prohibition effected under subsection (2) by executing an instrument in writing, notice of which shall, as soon as practicable—
- 10 (a) in the case of a prohibition effected under subsection (2) (c)—be published in the Gazette and in such newspapers as are prescribed; and
- (b) in the case of a prohibition effected under subsection (2) (d)—be served on the person or persons to whom the prohibition applied.
- 15 (5) Where a requirement has been made of a person under subsection (3), the Authority or the Minister, whether on the application of the person or not, may—
- (a) by notice in writing served on the person, alter the requirement; or
- 20 (b) by executing an instrument in writing (notice of which shall as soon as practicable be conveyed or sent by post to the person) revoke the requirement.
- 25 (6) Any person who does anything prohibited by a notification or a notice published or served under subsection (2) while that prohibition remains in force shall be guilty of an offence against this Act.
- (7) Any person who fails to comply with any requirement made of the person by the Authority under subsection (3) shall be guilty of an offence against this Act.
- 30 (8) A person is not guilty of an offence referred to in subsection (6) or (7) if the person satisfies the court that the person had reasonable grounds for breaching or failing to comply with the prohibition or requirement to which the alleged offence relates.

Electricity Development (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
ELECTRICAL ARTICLES—*continued.*

5 (9) A notice under subsection (2) (d), (3), (4) (b) or
(5) (a) may be served on a person—

(a) by delivering it personally to the person;

(b) by delivering it to the place last known to the Authority as the place of abode or a place of business of the person and by leaving it there—

10 (i) in the case of delivery to a place of abode—with some person apparently over the age of 16 years; and

(ii) in the case of delivery to a place of business—with some person who appears to be employed at that place; or

15 (c) subject to subsection (10), by posting it in an envelope duly stamped and addressed to the person at the place last known to the Authority as the place of abode or a place of business of the person.

20 (10) Where a notice is served as referred to in subsection (9) (c), it shall be deemed to have been served at such time after it is posted as is prescribed or, where no such time is prescribed, at the time when it would be delivered in the ordinary course of post.

25 (11) This section does not affect any provision of the Consumer Protection Act, 1969, or any regulation made under that Act, or derogate from any power vested in any person or body under that Act.

Powers of authorised persons.

21F. (1) In this section, “authorised person” means a person authorised under subsection (2).

Electricity Development (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
ELECTRICAL ARTICLES—*continued.*

- 5 (2) Any person authorised for the purpose in writing by the Authority may, at any reasonable time, enter any land on which, or any premises in or on which, the authorised person suspects on reasonable grounds the manufacture or sale of electrical articles is being carried on or may be being carried on and—
- 10 (a) inspect and test any electrical article or prototype of an electrical article;
- 15 (b) inspect any manufacturing assembly or testing plant or equipment used in respect of any electrical article;
- (c) open any container or package which the authorised person has reasonable grounds to believe contains any electrical article or require the person having the custody, control or possession of the container or package to open it;
- 20 (d) seize, detain or remove, for the purpose of examination or testing, any electrical article or any container or package in which an electrical article is contained or has been contained, if the authorised person has reasonable cause to believe that an offence has been committed against this Act or the regulations in respect of the electrical article or that the electrical article is or is likely to become unsafe;
- 25 (e) require any person on any such land or in or on any such premises to produce any accounts, records, books or other documents in the possession or under the control of that person relating to the manufacture or sale of any electrical article on, in or from the land or premises;
- 30 (f) take copies of, or extracts or notes from, any such accounts, records, books or other documents;
- 35 (g) require any person on any such land or on or in any such premises to answer questions or otherwise furnish information relating to the manufacture or sale of electrical articles on, in or from the land or premises, being articles in the possession or under the control of that person; and

Electricity Development (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
ELECTRICAL ARTICLES—*continued.*

5 (h) require the owner or occupier of any such land or premises to provide the authorised person with such assistance and facilities as are reasonably necessary to enable the authorised person to exercise the powers, authorities, duties or functions of the authorised person under this section,

10 but nothing in this subsection empowers an authorised person to enter a dwelling except under the authority of a warrant issued under section 21I.

(3) An authorised person may, if the authorised person believes on reasonable grounds that an electrical article or more than one electrical article of a class is, or is likely to become, unsafe—

15 (a) by notice in writing served personally or by post on the person having the custody, control or possession of the electrical article or of electrical articles of the class, prohibit the sale by that person of the electrical article or of all electrical articles of the class; and

20 (b) affix in some conspicuous position on the electrical article or each of the electrical articles, as the case may be, a label indicating that the electrical article is to be considered dangerous and must not be sold or used until specified repairs necessary to make the electrical article safe to use have been
25 effected by the person having the custody, possession or control of the electrical article.

(4) A notice served pursuant to subsection (3) (a) shall
30 cease to have effect after the expiration of 2 weeks from the date on which it is issued unless within that period the Authority has, pursuant to subsection (5)—

(a) confirmed or varied the terms of the notice; or

(b) revoked the notice.

Electricity Development (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
ELECTRICAL ARTICLES—*continued.*

5 (5) The Authority may, at any time, by a further notice in writing served personally or by post on the person on whom a notice has been served pursuant to subsection (3) (a), confirm or vary the terms of, or revoke, the last-mentioned notice.

(6) A person shall not—

- 10 (a) prevent an authorised person from exercising or performing any power, authority, duty or function conferred or imposed on the authorised person by this section;
- (b) hinder or obstruct an authorised person in the exercise or performance of any such power, authority, duty or function;
- 15 (c) without reasonable excuse, refuse or fail to comply with any requirement made or to answer any question asked by an authorised person in accordance with this section; or
- (d) furnish an authorised person with information knowing that it is false or misleading in a material particular.

Penalty: \$1,000.

20 (7) A person shall not sell an electrical article contrary to the terms for the time being in force of a notice served pursuant to subsection (3) (a).

Penalty: \$2,000.

25 (8) It is sufficient defence to a prosecution for an offence arising under subsection (6) (c) by reason of the failure of a defendant to answer a question asked by an authorised person if the defendant satisfies the court that the defendant did not know, and could not with reasonable diligence ascertain, the answer to the question.

Electricity Development (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
ELECTRICAL ARTICLES—*continued.*

5 (9) A person is not excused from answering any question asked by an authorised person under this section on the ground that the answer might tend to incriminate the person and make the person liable to a penalty, but the information furnished by the person shall not be admissible against the person in any proceedings except proceedings for an offence under subsection (6) or (7).

10 (10) Where an answer to a question asked by an authorised person under this section or any information whatever is given to an authorised person by an officer of a corporation, the answer and the information are, for the purposes of any proceedings against the corporation under any of the provisions of this Act, admissible in
15 evidence against the corporation and, unless it is proved that the answer or information was given in relation to a matter in respect of which the officer had no authority to bind the corporation, binding upon the corporation.

20 (11) Where an electrical article is seized pursuant to subsection (2) (d), the Authority shall, within the prescribed period—

(a) determine whether or not, in its opinion, the electrical article is safe; and

(b) if the electrical article is found by it to be safe—

25 (i) provide compensation, determined in accordance with the regulations, for the electrical article so seized; or

(ii) forthwith return the electrical article to the person from whom it was seized.

30 (12) Any person who personates or falsely represents that the person is an authorised person shall be guilty of an offence against **this Act.**

Electricity Development (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
ELECTRICAL ARTICLES—*continued.*

5 (13) Every authorised person shall be provided with a certificate of authorisation in a form approved by the Authority, and on exercising in any place any power conferred on the authorised person by this section shall, if so requested by a person apparently in charge of the place, produce the certificate to that person.

Forfeiture of certain electrical articles.

10 21G. (1) Where the Authority determines that an electrical article seized under section 21F (2) (d) is unsafe, it may apply, in the prescribed manner, to a court of petty sessions constituted by a stipendiary magistrate for forfeiture of the electrical article to the Crown.

15 (2) Upon the making of an order by the court for forfeiture of an electrical article, the electrical article shall be forfeited to the Crown.

(3) Any electrical article forfeited to the Crown shall be disposed of as the Authority directs.

Evidentiary provisions.

20 21H. In any proceedings, a certificate purporting to be signed by a prescribed officer of the Authority to the effect—

- (a) that an electrical article described in the certificate was an electrical article to which this Part applies;
- 25 (b) that a standard code, rule, testing requirement or other specification specified or described in the certificate, whether with or without modifications so specified or described, was a class specification or a type specification for a specified type of electrical article; or

Electricity Development (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
ELECTRICAL ARTICLES—*continued.*

5 (c) that an electrical article described in the certificate was or
was not of a type approved under section 21C or of a class,
description or type approved or registered by a relevant
authority for another State or a Territory,

10 at any time, or during any period, specified in the certificate, shall be
admissible in evidence and shall be prima facie evidence of the facts
so certified.

Search warrant.

15 21I. Upon a complaint made by a person authorised under section
21F (2) on oath before a stipendiary magistrate stating that the per-
son suspects that an offence against this Act or the regulations has
been or is being committed within any dwelling, the stipendiary
magistrate may, if satisfied that there are reasonable grounds for that
suspicion, by warrant authorise that person to enter, using such force
as is reasonably necessary, the dwelling named in the warrant, for the
purpose of exercising the functions of the person under section 21F.

Protection of authorised persons, etc.

20 21J. Except as provided by section 21F (11), no action, claim
or demand shall be made or allowed by or in favour of any person
against the Authority or any person authorised under section 21F
25 (2) lawfully acting in the execution of section 21F for or in respect
of any damage, loss or injury sustained or alleged to be sustained by
reason of the enactment of this Part or of its operation or of anything
done or purporting to be done under section 21F or under any
regulation made for the purposes of section 21F.

Electricity Development (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
ELECTRICAL ARTICLES—*continued.***Disclosure of information.**

5 21K. (1) Subject to subsection (3), a person shall not disclose any information relating to any manufacturing or commercial secrets or working processes and obtained by the person in connection with the administration or execution of this Part, unless the disclosure of information is—

10 (a) made in connection with the administration or execution of this Part;

 (b) made with the prior permission of the Minister; or

15 (c) ordered by a court, or by any other body or person authorised by law to examine witnesses, in the course of, and for the purpose of, the hearing and determination by that court, body or person of any matter or thing.

 Penalty: \$1,000.

20 (2) The Minister may grant the permission referred to in subsection (1) (b) only if the Minister is satisfied that to do so would be in the public interest.

25 (3) An officer or employee of the Authority may, with the consent of the Authority, communicate any matter which comes to the knowledge of the officer or employee in the exercise or performance of the powers, authorities, duties or functions of the officer or employee under this Part to an officer or body engaged in administering or executing a law of the Commonwealth or of another State or a Territory relating to electrical articles.

(3) Part V, heading—

 Before section 22, insert:—

30

PART V.

**ELECTRICAL APPARATUS AND APPLIANCES; AND
ELECTRICAL CONTRACTORS AND ELECTRICIANS.**

Electricity Development (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
ELECTRICAL ARTICLES—*continued.*

- (4) (a) Section 25 (2), (3)—
5 Omit the subsections.
- (b) Section 25 (5) (a), (7), (8)—
Omit “, (2)” wherever occurring.
- (5) (a) Section 32—
Omit “\$500”, insert instead “\$2,000”.
- 10 (b) Section 32—
Omit “\$100”, insert instead “\$200”.
- (6) (a) Section 37 (2) (b), (d)—
Omit “and any type, description or class of electrical article”
wherever occurring.
- 15 (b) Section 37 (2) (n)—
Omit “installation.”, insert instead “installation;”.
- (c) Section 37 (2) (o)–(cc)—
After section 37 (2) (n), insert:—
- 20 (o) the constitution, functions and procedures of a committee to advise the Authority in relation to the form of declarations of compliance, within the meaning of Part IVc, and any other matters relating to the regulation of the approval or sale of electrical articles that may be referred to it by the Authority;

Electricity Development (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
ELECTRICAL ARTICLES—*continued.*

- 5 (p) the making of applications for the purposes of Part IVC;
- (q) qualified persons, within the meaning of Part IVC;
- (r) the form and content of declarations of compliance, within the meaning of Part IVC, and requiring any such declaration to be in the form of a statutory declaration;
- (s) the testing and inspection of electrical articles;
- 10 (t) the approval, and the withholding and withdrawal of approval, of electrical articles or types of electrical articles and the renewal and duration of any such approval;
- 15 (u) the fees to be charged for the testing, inspection or approval of electrical articles or of types of electrical articles or for the renewal of any such approval;
- (v) the marking or labelling of electrical articles;
- 20 (w) prohibiting the fraudulent or improper use of marks similar to those required by this Act or of marks so nearly resembling those required by this Act as to be likely to deceive;
- (x) the approval of places, whether within or outside New South Wales, for the testing of electrical articles;
- 25 (y) the specifications, within the meaning of Part IVC, and other requirements for electrical articles;
- (z) the fees to be charged for applications under Part IVC;
- 30 (aa) prohibiting the making of any statement in any application, declaration or other document made or given for the purposes of this Act, being a statement which is false or misleading in a material respect;

Electricity Development (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
ELECTRICAL ARTICLES—*continued.*

- 5 (bb) guarantees to be given with respect to electrical articles;
and
- (cc) prohibiting or regulating the disposal, whether by way of
sale or not, of electrical articles and the display of
electrical articles in connection therewith.
- (7) (a) Section 37 (3)—
10 Omit "\$500", insert instead "\$2,000".
- (b) Section 37 (3)—
Omit "\$100", insert instead "\$200".
- (8) Section 38 (3)—
Omit the subsection.

15 SCHEDULE 2.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO ELECTRICAL
WIRING WORK.

- (1) (a) Section 4, definition of "Electrical installation"—
20 Omit the definition, insert instead:—
- "Electrical installation" means any appliances, wires, fittings
or other apparatus placed in, on, under or over any
premises (including premises owned, occupied or leased

Electricity Development (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO ELECTRICAL
WIRING WORK—*continued.*

- 5 by the Crown) and used for or for purposes incidental
to the conveyance, control and use of electricity supplied
or intended to be supplied by an electricity supply
authority, but does not include—
- (a) any electricity supply main or service line of an
electricity supply authority;
- 10 (b) any appliances, wires, fittings or other apparatus
connected to and extending or situated beyond
any electrical outlet socket—
- (i) which is installed for the purpose of
connecting portable electrical appliances,
15 fittings or other apparatus; and
- (ii) at which fixed wiring terminates;
- (c) any appliances, wires, fittings or other apparatus
which are placed in, on or over any premises
owned or occupied by an electricity supply
20 authority which are used for the generation,
transmission or distribution of electricity; or
- (d) any electrical installation in or about a mine.
- (b) Section 4, definition of “Electrical wiring work” and “work”—
After “installing”, insert “, repairing, altering, removing or
25 adding to”.
- (2) Section 37 (2) (f1)—
After section 37 (2) (f), insert:—
- (f1) requiring, for the purposes of promoting safe practices in the
carrying out of electrical wiring work, a notice, in the
30 prescribed form and stating prescribed requirements relating
to supervision of the carrying out of electrical wiring work,

Electricity Development (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO ELECTRICAL
WIRING WORK—*continued.*

5 to be inserted in any publication, or to be given during any
broadcast, relating to the carrying out of electrical wiring
work;

SCHEDULE 3.

(Sec. 6.)

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

10 Interpretation.

1. In this Schedule, "appointed day" means the day appointed and notified under section 2 (3).

Approvals.

15 2. Electrical articles of a class, description or type approved by the Authority under section 21 (1) of the Principal Act before the appointed day shall, on that day, be deemed to be electrical articles of a type approved by an order made by the Authority under section 21c of the Principal Act, as amended by this Act.

Proclamations.

20 3. A proclamation published in the Gazette under section 21 (1) of the Principal Act before the appointed day, prescribing a class, description or type of electrical article shall, on that day, be deemed to be an order published in the Gazette under section 21 of that Act, as amended by this Act, declaring a class of electrical articles to be electrical articles to which Part IVc of that Act, as so amended, applies.

Regulations.

25 4. (1) The Governor may make regulations containing other provisions of a saving 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.

Electricity Development (Amendment).

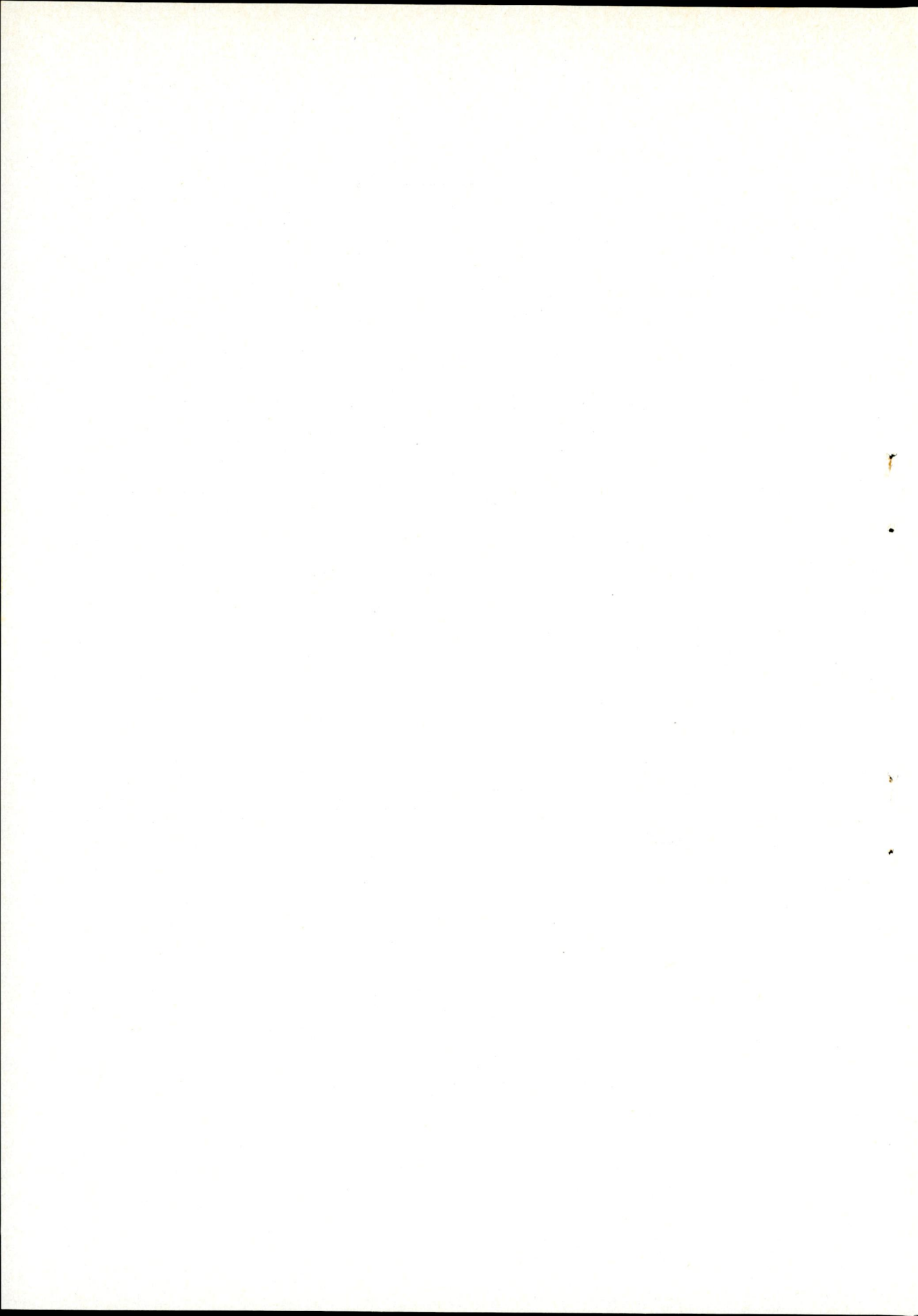
SCHEDULE 3—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

- (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
5 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
 - 10 (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 expressly so provide, have effect notwithstanding clause 2 or 3.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1984

(\$1.50)





**ELECTRICITY DEVELOPMENT (AMENDMENT) ACT, 1984,
No. 36**

New South Wales



ANNO TRICESIMO TERTIO

ELIZABETHÆ II REGINÆ

Act No. 36, 1984.

An Act to amend the Electricity Development Act, 1945, with respect to the safety of electrical articles and the carrying out of electrical wiring work.
[Assented to, 13th June, 1984.]

Electricity Development (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 "Electricity Development (Amendment) Act, 1984".

Commencement.

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

(2) Section 5 shall, in its application to a provision of Schedule 1 or 2, commence on the day on which the provision commences.

(3) Schedule 1 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.

Principal Act.

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

Schedules.

4. This Act contains the following Schedules:—

SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO ELECTRICAL ARTICLES.

SCHEDULE 2.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO ELECTRICAL WIRING WORK.

SCHEDULE 3.—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

Electricity Development (Amendment).

Amendment of Act No. 13, 1946.

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

Savings, transitional and other provisions.

6. Schedule 3 has effect.

SCHEDULE 1.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
ELECTRICAL ARTICLES.

(1) (a) Section 3—

After the matter relating to Part IVB, insert:—

PART IVc.—ELECTRICAL ARTICLES—ss. 20–21k.

(b) Section 3—

From the matter relating to Part V, omit “20”, insert instead “22”.

(2) Part IVc—

Omit the headings to Part V and sections 20–21A, insert instead:—

PART IVc.

ELECTRICAL ARTICLES.

Interpretation.

20. (1) In this Part, except in so far as the context or subject-matter otherwise indicates or requires—

“approved” means subject to an approval which is in force;

Electricity Development (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
ELECTRICAL ARTICLES—*continued.*

“approved testing facility” means a place approved for the testing of electrical articles under the regulations;

“class specification”, in relation to an electrical article, means—

- (a) a specification for the time being declared by an order under section 21 to be applicable to articles of the class to which it belongs; or
- (b) where any such specification is declared by the order to be modified in its application to those articles, the specification as so modified,

except so much, if any, of the specification, or of the specification as so modified, as is inconsistent with a type specification for the article;

“declaration of compliance” means a declaration in the prescribed form that, when the declaration is made, each electrical article of the type described in the declaration complies with the class specifications and type specifications, if any, for the article;

“qualified person” means a person declared by the regulations to be a qualified person for the purpose of section 21c (2) (c);

“relevant authority”, in relation to a State, other than New South Wales, or a Territory, means the authority prescribed as the relevant authority for the other State or the Territory;

“sell” includes—

- (a) auction or exchange;
- (b) offer, agree or attempt to sell;
- (c) advertise, expose, send, forward or deliver for sale;
- (d) cause or permit to be sold or offered for sale;
- (e) hire or cause to be hired; and
- (f) display for sale or hire;

Electricity Development (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
ELECTRICAL ARTICLES—*continued.*

“specification” includes—

- (a) a standard code, rule, testing requirement or other specification approved, recommended, adopted or published by the Standards Association of Australia; and
- (b) a standard code, rule, testing requirement or other specification described in, or prescribed by, the regulations;

“Territory” means a Territory of the Commonwealth;

“type specification”, in relation to an electrical article, means a specification, other than a class specification, determined by the Authority to be applicable, or to be applicable in a modified form, to electrical articles of the type to which the article belongs.

(2) For the purposes of this Part—

- (a) a reference to electrical articles of a type is a reference to each electrical article of the same design constructed to identical specifications; and
- (b) an electrical article of a class described in an order under section 21, being an electrical article which is displayed for the purpose of advertising, or otherwise in connection with, the sale of other electrical articles of the same class, shall be treated as being displayed for sale.

(3) Where a class specification or a type specification for an electrical article requires the article or any part thereof—

- (a) to have been submitted to a specified test; and
- (b) to have complied with a standard relating to the test,

the article shall, for the purposes of this Part, section 21c (2) (c) excepted, be treated as complying with the requirement if the article or part, as the case may be, would comply with the standard if it were to be submitted to the test.

Electricity Development (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
ELECTRICAL ARTICLES—*continued.*

(4) This Part binds the Crown.

Articles to which Part applies.

21. (1) The Governor may, by order published in the Gazette, declare—

- (a) electrical articles of a class described in the order to be, on and from a date specified in the order, electrical articles to which this Part applies; and
- (b) the specifications which are applicable to electrical articles of that class.

(2) An order under this section may declare a specification modified as stated in the order to be applicable to electrical articles of the class to which the order relates.

Sale of certain electrical articles.

21A. (1) A person who sells an electrical article to which this Part applies is guilty of an offence against this Act if—

- (a) the electrical article is not—
 - (i) of a type approved by the Authority; or
 - (ii) of a class, description or type approved or registered by the relevant authority for another State or a Territory;
- (b) the electrical article is not marked in accordance with the regulations; or

Electricity Development (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
ELECTRICAL ARTICLES—*continued.*

- (c) the electrical article does not comply with any one or more of—
- (i) the class specifications;
 - (ii) the type specifications, if any; or
 - (iii) the other prescribed requirements, if any,
- for that electrical article.

(2) The penalty for an offence referred to in subsection (1) is a penalty not exceeding \$2,000 and, where the offence continues, in addition, a penalty not exceeding \$200 for each day during which the offence continues.

(3) The Authority may, by order in writing and subject to such conditions, if any, as are specified in the order, exempt a person or persons of a class so specified from the operation of subsection (1).

Preliminary application.

21B. (1) A person may, by application in the prescribed form, request the Authority to notify the person of the type specifications applicable to electrical articles of the type to which the application relates.

(2) The Authority may require a person lodging an application under subsection (1) to lodge an electrical article of the type to which the application relates with the Authority for testing or inspection.

Electricity Development (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
ELECTRICAL ARTICLES—*continued.*

(3) The Authority shall notify a person who has made an application under subsection (1) of the type specifications, if any, applicable to electrical articles of the type to which the application relates—

- (a) except as provided in paragraph (b), within 21 days; or
- (b) where the applicant and the Authority agree on a longer period, within the longer period,

after the date on which the application was lodged with the Authority.

(4) A notification under this section is conclusive evidence of the type specifications applicable to the electrical articles of the type to which the notification relates.

Approval of type of electrical article.

21c. (1) Except as provided by subsection (2), the Authority may, by order in writing, approve any type of electrical article.

(2) The Authority shall not approve a type of electrical article unless—

- (a) an application for the approval is made in accordance with the regulations;
- (b) a declaration of compliance with respect to the type of article for which approval is sought that is, in the opinion of the Authority, accurate and complete, is lodged with the application for approval;

Electricity Development (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
ELECTRICAL ARTICLES—*continued.*

- (c) the Authority is satisfied, where a class specification or a type specification for electrical articles of the type for which approval is sought requires the articles or any part thereof—
- (i) to have been submitted to a specified test; and
 - (ii) to have complied with a standard relating to the test, that an article or part of an article, as the case may require, of that type has been submitted to that test conducted by a qualified person at an approved testing facility and has been found by a qualified person to have complied with that standard; and
- (d) each electrical article of the type is an electrical article to which this Part applies.

(3) The Authority may refuse to approve a type of electrical article unless an electrical article of the type has been lodged with the Authority for testing or inspection.

(4) Where the Authority approves a type of electrical article under this section, it shall forthwith send the prescribed particulars to the applicant for the approval and to the relevant authority, if any, for each other State and each Territory.

(5) Where the Authority is not satisfied that a type of electrical article should be approved it shall, by notice in writing served personally or by post on the applicant for the approval, inform the applicant that it has refused the application for approval and of the reason for so doing.

(6) For the purposes of an appeal under subsection (9), an application for approval shall be deemed to have been refused if it is not determined by the Authority—

Electricity Development (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
ELECTRICAL ARTICLES—*continued.*

- (a) except as provided by paragraph (b), within 60 days; or
- (b) where the applicant and the Authority agree on a longer period, within the longer period,

after the date on which the application was lodged with the Authority.

(7) The Authority may, by order in writing, suspend (for a period not exceeding 90 days) or cancel, for any of the reasons and in the manner provided by the regulations, the approval of a type of electrical article.

(8) Where the Authority suspends or cancels an approval, it shall forthwith send a notice, setting out the reason for the suspension or cancellation of the approval and the other prescribed particulars, to the applicant for the approval and to the relevant authority, if any, for each other State and each Territory.

(9) A person aggrieved by a determination of the Authority under this section may appeal to the Minister in the manner provided by the regulations.

Guarantee to be a defence in certain circumstances.

21D. (1) Subject to this section, an information for an offence referred to in section 21A (1) shall be dismissed if it is proved that the defendant received a prescribed guarantee in respect of the electrical article to which the information relates from the person

Electricity Development (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
ELECTRICAL ARTICLES—*continued.*

from whom the defendant obtained the electrical article and if it is also proved that the defendant had no reason to believe that, at the time of the alleged offence, the electrical article—

- (a) was not of a type approved under section 21c or approved or registered by a relevant authority for another State or a Territory;
- (b) was not marked as prescribed; and
- (c) did not comply with the class specifications, the type specifications, if any, and the other prescribed requirements for the article, if any.

(2) For the purposes of subsection (1), a guarantee is a prescribed guarantee in respect of an electrical article only if—

- (a) the guarantee is in writing;
- (b) the matters guaranteed are that, when the guarantee is given—
 - (i) the electrical article is of a type approved under section 21c or of a class, description or type approved or registered by a relevant authority for another State or a Territory and complies with the class specifications, the type specifications, if any, and any other prescribed requirements for the article; and
 - (ii) the electrical article is marked as prescribed;
- (c) the guarantor is—
 - (i) an individual who resides in New South Wales; or
 - (ii) a corporation that has a place of business within New South Wales;
- (d) the guarantee specifies the name of the guarantor and—
 - (i) in the case of a guarantor who is an individual and who resides within the State—the address of the guarantor and of the place of business of the guarantor; or

Electricity Development (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
ELECTRICAL ARTICLES—*continued.*

- (ii) in the case of a guarantor that is a corporation—
an address of a place of business of the guarantor
within New South Wales;
- (e) the guarantee applies—
 - (i) generally to electrical articles of the type to which
the prosecution relates; or
 - (ii) to the specific electrical article to which the
prosecution relates,
and, in the latter case, refers to a sale note, bill of sale,
invoice, bill of lading or other document describing the
electrical article sold and the marking thereon; and
- (f) the guarantee complies with any regulations applicable to it.

(3) Subsection (1) does not apply unless the defendant has,
not later than 7 days after service on the defendant of the summons
issued in response to the information—

- (a) given notice in writing to the informant and the guarantor
of intention to rely on the guarantee specifying, in the
notice to the informant, the name of the guarantor, any name
under which the guarantor trades and the address referred
to in subsection (2) (d) in relation to the guarantor; and
- (b) given the informant a copy of the guarantee.

(4) A guarantor given notice under subsection (3) is
entitled to offer evidence at the hearing of the information to which
the notice relates and the court may, if it thinks fit, adjourn the
hearing to enable the guarantor to do so.

(5) Where an offence is proved under section 21A (1), but
the information is dismissed under this section, the guarantor is,
without prejudice to the guarantor's liability to be prosecuted under
subsection (6), liable to the same penalty as could have been imposed

Electricity Development (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
ELECTRICAL ARTICLES—*continued.*

if the offence to which the information relates had been committed by the guarantor, unless the guarantor proves that, when the guarantee was given, the guarantor had reasonable grounds for believing that the statements and descriptions contained in the guarantee were true.

(6) A person is guilty of an offence against this Act if, in a guarantee referred to in subsection (2), the person makes or gives a false statement or description in relation to an electrical article or type of electrical article but shall not be found guilty of an offence under this subsection if the person proves that, when the person gave the guarantee, the person had reasonable grounds for believing that the statements and descriptions contained in the guarantee were true.

(7) The penalty for an offence referred to in subsection (6) is—

- (a) in the case of a corporation—a penalty not exceeding \$5,000;
and
- (b) in every other case—a penalty not exceeding \$2,000.

(8) Notwithstanding anything in any other Act, proceedings for an offence under subsection (6) may be commenced at any time after the giving of the guarantee to which the proceedings relate.

Defective electrical articles.

21E. (1) This section applies to and in respect of electrical articles, whether or not they are electrical articles to which this Part applies.

- (2) If the Authority believes on reasonable grounds that—
 - (a) any electrical article is, or is likely to become, by reason of its design or construction, unsafe to use; and

Electricity Development (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
ELECTRICAL ARTICLES—*continued.*

- (b) prohibition of the sale of the electrical article or of all electrical articles of the same type as that article is warranted by reason of the risk of death or injury to any person or damage to any property arising out of the use of that article or those articles,

the Authority may—

- (c) by notifications published in the Gazette and in such newspapers as are prescribed, prohibit the sale of the electrical article or of any electrical article of that type from the date of publication of the notification in the Gazette or from a later date specified in that notification; or
- (d) by notice in writing served on any person, prohibit that person from selling the electrical article or any electrical article of that type from the date on which the notice is so served or from a later date specified in the notice.

(3) If the Authority believes on reasonable grounds that—

- (a) any electrical article is, or is likely to become, by reason of its design or construction, unsafe to use; and
- (b) specific action is necessary to make the electrical article or other electrical articles of the same type safe to use or to render safe the use of that article or those articles,

the Authority may, by notice in writing served on any person whose business is or includes the sale of electrical articles and who has sold the electrical article or another electrical article of the same type, require that person to take, within such time as is specified in the notice, such action as is so specified, which may consist of or include—

- (c) sending a written request to the person to whom the electrical article or any other electrical article of the same type was sold by that person to return the article to the place at which the article was sold; and
- (d) making the electrical article safe to use or rendering safe the use of that article, in the manner specified in the notice.

Electricity Development (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
ELECTRICAL ARTICLES—*continued.*

(4) The Authority or the Minister, whether on the application of an affected person or not, may remove a prohibition effected under subsection (2) by executing an instrument in writing, notice of which shall, as soon as practicable—

- (a) in the case of a prohibition effected under subsection (2) (c)—be published in the Gazette and in such newspapers as are prescribed; and
- (b) in the case of a prohibition effected under subsection (2) (d)—be served on the person or persons to whom the prohibition applied.

(5) Where a requirement has been made of a person under subsection (3), the Authority or the Minister, whether on the application of the person or not, may—

- (a) by notice in writing served on the person, alter the requirement; or
- (b) by executing an instrument in writing (notice of which shall as soon as practicable be conveyed or sent by post to the person) revoke the requirement.

(6) Any person who does anything prohibited by a notification or a notice published or served under subsection (2) while that prohibition remains in force shall be guilty of an offence against this Act.

(7) Any person who fails to comply with any requirement made of the person by the Authority under subsection (3) shall be guilty of an offence against this Act.

(8) A person is not guilty of an offence referred to in subsection (6) or (7) if the person satisfies the court that the person had reasonable grounds for breaching or failing to comply with the prohibition or requirement to which the alleged offence relates.

Electricity Development (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
ELECTRICAL ARTICLES—*continued.*

(9) A notice under subsection (2) (d), (3), (4) (b) or (5) (a) may be served on a person—

(a) by delivering it personally to the person;

(b) by delivering it to the place last known to the Authority as the place of abode or a place of business of the person and by leaving it there—

(i) in the case of delivery to a place of abode—with some person apparently over the age of 16 years; and

(ii) in the case of delivery to a place of business—with some person who appears to be employed at that place; or

(c) subject to subsection (10), by posting it in an envelope duly stamped and addressed to the person at the place last known to the Authority as the place of abode or a place of business of the person.

(10) Where a notice is served as referred to in subsection (9) (c), it shall be deemed to have been served at such time after it is posted as is prescribed or, where no such time is prescribed, at the time when it would be delivered in the ordinary course of post.

(11) This section does not affect any provision of the Consumer Protection Act, 1969, or any regulation made under that Act, or derogate from any power vested in any person or body under that Act.

Powers of authorised persons.

21F. (1) In this section, “authorised person” means a person authorised under subsection (2).

Electricity Development (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
ELECTRICAL ARTICLES—*continued.*

(2) Any person authorised for the purpose in writing by the Authority may, at any reasonable time, enter any land on which, or any premises in or on which, the authorised person suspects on reasonable grounds the manufacture or sale of electrical articles is being carried on or may be being carried on and—

- (a) inspect and test any electrical article or prototype of an electrical article;
- (b) inspect any manufacturing assembly or testing plant or equipment used in respect of any electrical article;
- (c) open any container or package which the authorised person has reasonable grounds to believe contains any electrical article or require the person having the custody, control or possession of the container or package to open it;
- (d) seize, detain or remove, for the purpose of examination or testing, any electrical article or any container or package in which an electrical article is contained or has been contained, if the authorised person has reasonable cause to believe that an offence has been committed against this Act or the regulations in respect of the electrical article or that the electrical article is or is likely to become unsafe;
- (e) require any person on any such land or in or on any such premises to produce any accounts, records, books or other documents in the possession or under the control of that person relating to the manufacture or sale of any electrical article on, in or from the land or premises;
- (f) take copies of, or extracts or notes from, any such accounts, records, books or other documents;
- (g) require any person on any such land or on or in any such premises to answer questions or otherwise furnish information relating to the manufacture or sale of electrical articles on, in or from the land or premises, being articles in the possession or under the control of that person; and

Electricity Development (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
ELECTRICAL ARTICLES—*continued.*

- (h) require the owner or occupier of any such land or premises to provide the authorised person with such assistance and facilities as are reasonably necessary to enable the authorised person to exercise the powers, authorities, duties or functions of the authorised person under this section,

but nothing in this subsection empowers an authorised person to enter a dwelling except under the authority of a warrant issued under section 21I.

(3) An authorised person may, if the authorised person believes on reasonable grounds that an electrical article or more than one electrical article of a class is, or is likely to become, unsafe—

- (a) by notice in writing served personally or by post on the person having the custody, control or possession of the electrical article or of electrical articles of the class, prohibit the sale by that person of the electrical article or of all electrical articles of the class; and
- (b) affix in some conspicuous position on the electrical article or each of the electrical articles, as the case may be, a label indicating that the electrical article is to be considered dangerous and must not be sold or used until specified repairs necessary to make the electrical article safe to use have been effected by the person having the custody, possession or control of the electrical article.

(4) A notice served pursuant to subsection (3) (a) shall cease to have effect after the expiration of 2 weeks from the date on which it is issued unless within that period the Authority has, pursuant to subsection (5)—

- (a) confirmed or varied the terms of the notice; or
- (b) revoked the notice.

Electricity Development (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
ELECTRICAL ARTICLES—*continued.*

(5) The Authority may, at any time, by a further notice in writing served personally or by post on the person on whom a notice has been served pursuant to subsection (3) (a), confirm or vary the terms of, or revoke, the last-mentioned notice.

(6) A person shall not—

- (a) prevent an authorised person from exercising or performing any power, authority, duty or function conferred or imposed on the authorised person by this section;
- (b) hinder or obstruct an authorised person in the exercise or performance of any such power, authority, duty or function;
- (c) without reasonable excuse, refuse or fail to comply with any requirement made or to answer any question asked by an authorised person in accordance with this section; or
- (d) furnish an authorised person with information knowing that it is false or misleading in a material particular.

Penalty: \$1,000.

(7) A person shall not sell an electrical article contrary to the terms for the time being in force of a notice served pursuant to subsection (3) (a).

Penalty: \$2,000.

(8) It is sufficient defence to a prosecution for an offence arising under subsection (6) (c) by reason of the failure of a defendant to answer a question asked by an authorised person if the defendant satisfies the court that the defendant did not know, and could not with reasonable diligence ascertain, the answer to the question.

Electricity Development (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
ELECTRICAL ARTICLES—*continued.*

(9) A person is not excused from answering any question asked by an authorised person under this section on the ground that the answer might tend to incriminate the person and make the person liable to a penalty, but the information furnished by the person shall not be admissible against the person in any proceedings except proceedings for an offence under subsection (6) or (7).

(10) Where an answer to a question asked by an authorised person under this section or any information whatever is given to an authorised person by an officer of a corporation, the answer and the information are, for the purposes of any proceedings against the corporation under any of the provisions of this Act, admissible in evidence against the corporation and, unless it is proved that the answer or information was given in relation to a matter in respect of which the officer had no authority to bind the corporation, binding upon the corporation.

(11) Where an electrical article is seized pursuant to subsection (2) (d), the Authority shall, within the prescribed period—

- (a) determine whether or not, in its opinion, the electrical article is safe; and
- (b) if the electrical article is found by it to be safe—
 - (i) provide compensation, determined in accordance with the regulations, for the electrical article so seized; or
 - (ii) forthwith return the electrical article to the person from whom it was seized.

(12) Any person who personates or falsely represents that the person is an authorised person shall be guilty of an offence against this Act.

Electricity Development (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
ELECTRICAL ARTICLES—*continued.*

(13) Every authorised person shall be provided with a certificate of authorisation in a form approved by the Authority, and on exercising in any place any power conferred on the authorised person by this section shall, if so requested by a person apparently in charge of the place, produce the certificate to that person.

Forfeiture of certain electrical articles.

21G. (1) Where the Authority determines that an electrical article seized under section 21F (2) (d) is unsafe, it may apply, in the prescribed manner, to a court of petty sessions constituted by a stipendiary magistrate for forfeiture of the electrical article to the Crown.

(2) Upon the making of an order by the court for forfeiture of an electrical article, the electrical article shall be forfeited to the Crown.

(3) Any electrical article forfeited to the Crown shall be disposed of as the Authority directs.

Evidentiary provisions.

21H. In any proceedings, a certificate purporting to be signed by a prescribed officer of the Authority to the effect—

- (a) that an electrical article described in the certificate was an electrical article to which this Part applies;
- (b) that a standard code, rule, testing requirement or other specification specified or described in the certificate, whether with or without modifications so specified or described, was a class specification or a type specification for a specified type of electrical article; or

Electricity Development (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
ELECTRICAL ARTICLES—*continued.*

- (c) that an electrical article described in the certificate was or was not of a type approved under section 21C or of a class, description or type approved or registered by a relevant authority for another State or a Territory,

at any time, or during any period, specified in the certificate, shall be admissible in evidence and shall be prima facie evidence of the facts so certified.

Search warrant.

21i. Upon a complaint made by a person authorised under section 21F (2) on oath before a stipendiary magistrate stating that the person suspects that an offence against this Act or the regulations has been or is being committed within any dwelling, the stipendiary magistrate may, if satisfied that there are reasonable grounds for that suspicion, by warrant authorise that person to enter, using such force as is reasonably necessary, the dwelling named in the warrant, for the purpose of exercising the functions of the person under section 21F.

Protection of authorised persons, etc.

21j. Except as provided by section 21F (11), no action, claim or demand shall be made or allowed by or in favour of any person against the Authority or any person authorised under section 21F (2) lawfully acting in the execution of section 21F for or in respect of any damage, loss or injury sustained or alleged to be sustained by reason of the enactment of this Part or of its operation or of anything done or purporting to be done under section 21F or under any regulation made for the purposes of section 21F.

Electricity Development (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
ELECTRICAL ARTICLES—*continued.***Disclosure of information.**

21K. (1) Subject to subsection (3), a person shall not disclose any information relating to any manufacturing or commercial secrets or working processes and obtained by the person in connection with the administration or execution of this Part, unless the disclosure of information is—

- (a) made in connection with the administration or execution of this Part;
- (b) made with the prior permission of the Minister; or
- (c) ordered by a court, or by any other body or person authorised by law to examine witnesses, in the course of, and for the purpose of, the hearing and determination by that court, body or person of any matter or thing.

Penalty: \$1,000.

(2) The Minister may grant the permission referred to in subsection (1) (b) only if the Minister is satisfied that to do so would be in the public interest.

(3) An officer or employee of the Authority may, with the consent of the Authority, communicate any matter which comes to the knowledge of the officer or employee in the exercise or performance of the powers, authorities, duties or functions of the officer or employee under this Part to an officer or body engaged in administering or executing a law of the Commonwealth or of another State or a Territory relating to electrical articles.

(3) Part V, heading—

Before section 22, insert:—

PART V.

ELECTRICAL APPARATUS AND APPLIANCES; AND
ELECTRICAL CONTRACTORS AND ELECTRICIANS.

Electricity Development (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
ELECTRICAL ARTICLES—*continued.*

- (4) (a) Section 25 (2), (3)—
Omit the subsections.
- (b) Section 25 (5) (a), (7), (8)—
Omit “, (2)” wherever occurring.
- (5) (a) Section 32—
Omit “\$500”, insert instead “\$2,000”.
- (b) Section 32—
Omit “\$100”, insert instead “\$200”.
- (6) (a) Section 37 (2) (b), (d)—
Omit “and any type, description or class of electrical article”
wherever occurring.
- (b) Section 37 (2) (n)—
Omit “installation.”, insert instead “installation;”.
- (c) Section 37 (2) (o)–(cc)—
After section 37 (2) (n), insert:—
- (o) the constitution, functions and procedures of a committee to advise the Authority in relation to the form of declarations of compliance, within the meaning of Part IVc, and any other matters relating to the regulation of the approval or sale of electrical articles that may be referred to it by the Authority;

Electricity Development (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
ELECTRICAL ARTICLES—*continued.*

- (p) the making of applications for the purposes of Part IVc;
- (q) qualified persons, within the meaning of Part IVc;
- (r) the form and content of declarations of compliance, within the meaning of Part IVc, and requiring any such declaration to be in the form of a statutory declaration;
- (s) the testing and inspection of electrical articles;
- (t) the approval, and the withholding and withdrawal of approval, of electrical articles or types of electrical articles and the renewal and duration of any such approval;
- (u) the fees to be charged for the testing, inspection or approval of electrical articles or of types of electrical articles or for the renewal of any such approval;
- (v) the marking or labelling of electrical articles;
- (w) prohibiting the fraudulent or improper use of marks similar to those required by this Act or of marks so nearly resembling those required by this Act as to be likely to deceive;
- (x) the approval of places, whether within or outside New South Wales, for the testing of electrical articles;
- (y) the specifications, within the meaning of Part IVc, and other requirements for electrical articles;
- (z) the fees to be charged for applications under Part IVc;
- (aa) prohibiting the making of any statement in any application, declaration or other document made or given for the purposes of this Act, being a statement which is false or misleading in a material respect;

Electricity Development (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
ELECTRICAL ARTICLES—*continued.*

- (bb) guarantees to be given with respect to electrical articles;
and
 - (cc) prohibiting or regulating the disposal, whether by way of
sale or not, of electrical articles and the display of
electrical articles in connection therewith.
- (7) (a) Section 37 (3)—
Omit “\$500”, insert instead “\$2,000”.
- (b) Section 37 (3)—
Omit “\$100”, insert instead “\$200”.
- (8) Section 38 (3)—
Omit the subsection.

SCHEDULE 2.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO ELECTRICAL
WIRING WORK.

- (1) (a) Section 4, definition of “Electrical installation”—
Omit the definition, insert instead:—
“Electrical installation” means any appliances, wires, fittings
or other apparatus placed in, on, under or over any
premises (including premises owned, occupied or leased

Electricity Development (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO ELECTRICAL
WIRING WORK—*continued.*

by the Crown) and used for or for purposes incidental to the conveyance, control and use of electricity supplied or intended to be supplied by an electricity supply authority, but does not include—

- (a) any electricity supply main or service line of an electricity supply authority;
- (b) any appliances, wires, fittings or other apparatus connected to and extending or situated beyond any electrical outlet socket—
 - (i) which is installed for the purpose of connecting portable electrical appliances, fittings or other apparatus; and
 - (ii) at which fixed wiring terminates;
- (c) any appliances, wires, fittings or other apparatus which are placed in, on or over any premises owned or occupied by an electricity supply authority which are used for the generation, transmission or distribution of electricity; or
- (d) any electrical installation in or about a mine.

- (b) Section 4, definition of “Electrical wiring work” and “work”—
After “installing”, insert “, repairing, altering, removing or adding to”.

- (2) Section 37 (2) (f1)—

After section 37 (2) (f), insert:—

- (f1) requiring, for the purposes of promoting safe practices in the carrying out of electrical wiring work, a notice, in the prescribed form and stating prescribed requirements relating to supervision of the carrying out of electrical wiring work,

Electricity Development (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO ELECTRICAL
WIRING WORK—*continued.*

to be inserted in any publication, or to be given during any broadcast, relating to the carrying out of electrical wiring work;

SCHEDULE 3.

(Sec. 6.)

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

Interpretation.

1. In this Schedule, "appointed day" means the day appointed and notified under section 2 (3).

Approvals.

2. Electrical articles of a class, description or type approved by the Authority under section 21 (1) of the Principal Act before the appointed day shall, on that day, be deemed to be electrical articles of a type approved by an order made by the Authority under section 21C of the Principal Act, as amended by this Act.

Proclamations.

3. A proclamation published in the Gazette under section 21 (1) of the Principal Act before the appointed day, prescribing a class, description or type of electrical article shall, on that day, be deemed to be an order published in the Gazette under section 21 of that Act, as amended by this Act, declaring a class of electrical articles to be electrical articles to which Part IVC of that Act, as so amended, applies.

Regulations.

4. (1) The Governor may make regulations containing other provisions of a saving 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.

Electricity Development (Amendment).

SCHEDULE 3—*continued.*

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

(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 expressly so provide, have effect notwithstanding clause 2 or 3.

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

J. A. ROWLAND,
Governor.

*Government House,
Sydney, 13th June, 1984.*





