

AUSTRALIAN CAPITAL TERRITORY

Electricity (Amendment) Ordinance 1987

No. 5 of 1987

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910*.

Dated 19 February 1987.

N. M. STEPHEN
Governor-General

By His Excellency's Command,

G. SCHOLES
Minister of State for Territories

An Ordinance to amend the *Electricity Ordinance 1971*

Short title

1. This Ordinance may be cited as the *Electricity (Amendment) Ordinance 1987*.¹

Principal Ordinance

2. In this Ordinance, "Principal Ordinance" means the *Electricity Ordinance 1971*.²

Prohibition of sale, installation, &c., of certain articles

3. Section 32C of the Principal Ordinance is amended—

(a) by omitting from paragraph (1) (b) "or" and substituting "of"; and

(Ord. 60/86)—Cat. No.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

- (b) by inserting in sub-section (3) “, where that person knows or might reasonably be expected to have known that the article is a prohibited article of electrical equipment,” after “equipment”.

Sale, installation, &c., of prescribed articles

4. Section 32E of the Principal Ordinance is amended—

- (a) by inserting in sub-section (1) “the approved first seller knows or might reasonably be expected to have known that the article is a prescribed article of electrical equipment if” after “equipment where”; and
- (b) by inserting in sub-section (2) “that person knows or might reasonably be expected to have known that the article is a prescribed article or electrical equipment if” after “equipment where”.

Sale, &c., of articles not complying with standards

5. Section 32F of the Principal Ordinance is amended by omitting all the words after “of compliance” and substituting the following:

“where the person—

- (d) knows that the prescribed article of electrical equipment does not so comply; or
- (e) might reasonably be expected to have known that the prescribed article of electrical equipment does not so comply,

is guilty of an offence punishable, on conviction, by a fine not exceeding—

- (f) in the case of a body corporate—\$100,000; or
- (g) in the case of a natural person—\$20,000.”.

Registration as approved first seller

6. Section 32G of the Principal Ordinance is amended by omitting from sub-section (6) “occurs” and substituting “becomes known or might reasonably be expected to have become known to that approved first seller”.

Safety registration mark

7. Section 32M of the Principal Ordinance is amended—

- (a) by inserting in sub-section (1) “or her” after “by him”; and
- (b) by inserting in sub-section (2) “ where that person knows or might reasonably be expected to have known that the prescribed article of

electrical equipment has not been so marked, stamped or labelled,” after “Territory”.

Examination and testing of articles

8. Section 32Q of the Principal Ordinance is amended by inserting in sub-section (5) “or her” after “by him”.

Unsafe articles

9. Section 32R of the Principal Ordinance is amended—

- (a) by inserting in paragraph (1) (c) “or her” after “by him”;
- (b) by inserting in sub-section (3) “to take reasonable steps” after “who fails”; and
- (c) by omitting from sub-section (3) “him” and substituting “that person”.

Powers of inspectors

10. Section 32V of the Principal Ordinance is amended by omitting from sub-section (2) “commerical” and substituting “commercial”.

Entry and search, &c.

11. Section 32X of the Principal Ordinance is amended—

- (a) by omitting from sub-section (1) “he” (wherever occurring) and substituting “the inspector”; and
- (b) by omitting paragraph (1) (d).

12. After section 32X of the Principal Ordinance the following section is inserted:

Consent to entry

“32XA. (1) Before obtaining the consent of a person for the purposes of section 32X, an inspector shall inform that person that he or she may refuse to give consent.

“(2) Where the inspector obtains the consent of a person for the purposes of section 32X, the inspector shall ask that person to sign a written acknowledgement—

- (a) of the fact that the person has been informed that he or she may refuse to give consent;
- (b) of the fact that the person has voluntarily given consent; and

(c) of the day on which, and the time at which, that consent was given.

“(3) An entry by the inspector under section 32X by virtue of the consent of a person is not lawful unless that person voluntarily consented to the entry.

“(4) Where it is material, in any proceedings, for a court to be satisfied of the voluntary consent of a person for the purposes of section 32X and an acknowledgement, in accordance with sub-section (2), signed by the person is not produced in evidence, the court shall assume, unless the contrary is proved, that the person did not voluntarily give such a consent.”.

Search warrants

13. Section 32Y of the Principal Ordinance is amended—

- (a) by omitting from sub-section (1) “as the inspector so named thinks necessary and if necessary by force” and substituting “and by such force as is necessary and reasonable”;
- (b) by omitting from paragraph (1) (e) “his” and substituting “the inspector’s”; and
- (c) by omitting sub-section (4).

Repeals

14. Sections 32Z and 32ZA of the Principal Ordinance are repealed.

15. Section 32ZB of the Principal Ordinance is repealed and the following section substituted:

Obstruction of inspectors

“32ZB. A person who knowingly hinders or obstructs an inspector in the exercise of his or her powers or the performance of his or her duties under this Ordinance is guilty of an offence punishable, on conviction, by—

- (a) in the case of a body corporate—a fine not exceeding \$10,000; or
- (b) in the case of a natural person—a fine not exceeding \$2,000 or imprisonment for a period not exceeding 12 months.”.

Review by Administrative Appeals Tribunal

16. Section 32ZD of the Principal Ordinance is amended by inserting before paragraph (a) the following paragraphs:

- “(aa) declaring that an article of electrical equipment is a prohibited article of electrical equipment for the purposes of section 32C;

- (ab) declaring that a specified class of articles of electrical equipment is a prohibited class of articles of electrical equipment for the purposes of section 32C;
- (ac) declaring that an article of electrical equipment is a prescribed article of electrical equipment for the purposes of Part VII;
- (ad) declaring that a specified class of articles of electrical equipment is a prescribed class of articles of electrical equipment for the purposes of Part VII;”.

17. Before section 37 of the Principal Ordinance the following section is inserted in Part IX:

“36A. (1) Where, in proceedings for an offence against this Ordinance in respect of any conduct engaged in by a corporation, it is necessary to establish the state of mind of the corporation, it is sufficient to show that a director, servant or agent of the corporation, being a director, servant or agent by whom the conduct was engaged in within the scope of his or her actual or apparent authority, had that state of mind.

“(2) Any conduct engaged in on behalf of a corporation—

- (a) by a director, servant or agent of the corporation within the scope of his or her actual or apparent authority; or
- (b) by any other person at the direction or with the consent or agreement (whether express or implied) of a director, servant or agent of the corporation, where the giving of such direction, consent or agreement is within the scope of the actual or apparent authority of the director, servant or agent,

shall be deemed, for the purposes of this Ordinance, to have been engaged in by the corporation.

“(3) A reference in this Ordinance to the state of mind of a person includes a reference to the knowledge, intention, opinion, belief or purpose of the person and the person’s reasons for his or her intention, opinion, belief or purpose.”.

Further amendments

18. The Principal Ordinance is amended as set out in the Schedule.

SCHEDULE

Section 18

FURTHER AMENDMENTS OF PRINCIPAL ORDINANCE

Provision	Amendment
Paragraph 32C (3) (d).....	Omit "\$10,000", substitute "\$100,000".
Paragraph 32C (3) (e).....	Omit "\$2,000", substitute "\$20,000".
Paragraph 32E (3) (a).....	Omit "\$5,000", substitute "\$100,000".
Paragraph 32E (3) (b).....	Omit "\$1,000", substitute "\$20,000".
Paragraph 32G (6) (a).....	Omit "\$2,500", substitute "\$10,000".
Paragraph 32G (6) (b).....	Omit "\$500", substitute "\$2,000".
Paragraph 32M (2) (d).....	Omit "\$5,000", substitute "\$100,000".
Paragraph 32M (2) (e).....	Omit "\$1,000", substitute "\$20,000".
Paragraph 32Q (3) (a).....	Omit "\$5,000", substitute "\$100,000".
Paragraph 32Q (3) (b).....	Omit "\$1,000", substitute "\$20,000".
Paragraph 32R (3) (a).....	Omit "\$5,000", substitute "\$100,000".
Paragraph 32R (3) (b).....	Omit "\$1,000", substitute "\$20,000".
Section 32U.....	Omit "\$100", substitute "\$500".
Paragraph 32V (3) (a).....	Omit "\$2,000", substitute "\$20,000".
Paragraph 32V (3) (b).....	Omit "\$400", substitute "\$4,000".
Paragraph 32ZF (a).....	Omit "\$5,000", substitute "\$100,000".
Paragraph 32ZF (b).....	Omit "\$1,000", substitute "\$20,000".

NOTES

1. Notified in the *Commonwealth of Australia Gazette* on 24 February 1987.
2. No. 30, 1971 as amended by No. 27, 1972; No. 65, 1977; No. 46, 1978; No. 61, 1982; Nos. 20 and 67, 1985.