

AUSTRALIAN CAPITAL TERRITORY

Electricity and Water Ordinance 1988

No. 30 of 1988

TABLE OF PROVISIONS

Section

PART I—PRELIMINARY

1. Short title
2. Commencement
3. Interpretation

PART II—ESTABLISHMENT, FUNCTIONS AND POWERS OF AUTHORITY

4. Establishment
5. Functions
6. Powers
7. Duty of Authority
8. Limitations on formation of companies, etc.
9. Limitations on formation of partnerships
10. Limitations on participation in joint ventures
11. Review of opinions
12. Delegation by Authority
13. Committees

PART III—CONSTITUTION OF AUTHORITY

14. Constitution
15. Tenure of office
16. Appointed members—remuneration and allowances
17. Acting appointments
18. Acting members—resignation
19. Leave of absence
20. Appointed members—resignation

(Ord. 46/88)—Cat. No.

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

TABLE OF PROVISIONS—continued

Section

- 21. Termination of appointment
- 22. Disclosure of interests
- 23. Meetings

**PART IV—CHIEF EXECUTIVE OFFICER, STAFF
AND CONSULTANTS**

- 24. Chief Executive Officer
- 25. Tenure of office
- 26. Chief Executive Officer—remuneration and allowances
- 27. Leave of absence
- 28. Resignation
- 29. Termination of appointment
- 30. Acting Chief Executive Officer
- 31. Employment of other staff
- 32. Consultants

PART V—OPERATION OF AUTHORITY

- 33. Corporate plan
- 34. Corporate plan etc. to Minister
- 35. Financial targets and performance indicators
- 36. Minister may vary financial plan
- 37. Directions to Authority
- 38. Reimbursement of cost of complying with directions

PART VI—FINANCE

- 39. Capital of Authority
- 40. Interest—payments to Commonwealth
- 41. Dividends—payments to Commonwealth
- 42. Borrowing from Commonwealth
- 43. Borrowing otherwise than from Commonwealth
- 44. Security
- 45. Borrowings not otherwise permitted
- 46. Application of money of Authority
- 47. Delegation by Treasurer

PART VII—DETERMINATIONS OF AUTHORITY

- 48. Charges for supply of electricity, water and sewerage services
- 49. Disallowance of determinations
- 50. Payments of charges etc.
- 51. Terms and conditions—variation

**PART VIII—POWERS OF ENTRY AND DECLARATIONS
OF EMERGENCIES**

TABLE OF PROVISIONS—continued

Section

Division 1—Interpretation

52. Interpretation

Division 2—Powers of entry and inspection

53. Authorised persons

54. Identity cards

55. Entry to premises

56. Powers of authorised persons

57. Entry in emergency

58. Interruption to services

59. Obstruction of authorised officers

Division 3—Emergency provisions

60. Interpretation

61. Crown to be bound

62. Declaration of emergencies

63. Powers of Authority during emergency

64. Expiration of directions

65. Offences

66. Authorised persons—emergency powers

67. Consent to entry

68. Search warrants

69. Emergency plans

70. Contents of emergency plan

71. Commencement of emergency plans and notices

72. Emergency plan—tabling requirements

73. Emergency plan—disallowance or commencement

74. Amendment or revocation of emergency plan

PART IX—MISCELLANEOUS

75. Offences by body corporate

76. Interference with apparatus etc.

77. Recovery of charges

78. Refund of charges

79. Evidentiary certificates

80. Power of Minister to determine fees

81. Fees payable to Authority

82. Regulations

PART X—TRANSITIONAL

83. Interpretation

84. Transfer of assets, liabilities etc.

85. Employees of Authority

TABLE OF PROVISIONS—continued

Section

- 86. Determinations in relation to electricity, water or sewerage services
- 87. Contracts, agreements and arrangements
- 88. References in instruments
- 89. Authority deemed to have done certain things
- 90. Legal proceedings
- 91. Registration of changes to title to land etc.

AUSTRALIAN CAPITAL TERRITORY

Electricity and Water Ordinance 1988

No. 30 of 1988

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 30 June 1988.

N. M. STEPHEN
Governor-General

By His Excellency's Command,

GARY PUNCH
Minister of State for the Arts
and Territories

An Ordinance to establish an Electricity and Water Authority for the Australian Capital Territory and for related purposes

PART I—PRELIMINARY

Short title

1. This Ordinance may be cited as the *Electricity and Water Ordinance 1988*.¹

Commencement

2. This Ordinance shall come into operation on 1 July 1988.

Interpretation

3. (1) In this Ordinance, unless the contrary intention appears—
“appoint” includes re-appoint;

“appointed member” means a member of the Authority other than the Chief Executive Officer;

“authorised person” means a person appointed under section 53;

“Authority” means the Australian Capital Territory Electricity and Water Authority;

“Chairperson” means the Chairperson of the Authority;

“Chief Executive Officer” means the person holding office under section 24;

“Commonwealth land” means land the property of the Commonwealth not comprised in a lease granted to a person;

“Deputy Chairperson” means the Deputy Chairperson of the Authority;

“electrical installation” means the wires, cables, fittings, appliances, meters, insulators, switchboards, outlet sockets and apparatus in, on, under or over any premises for the transmission to, and use on, the premises of electricity supplied by the Authority, but does not include—

- (a) appliances, fittings or apparatus capable of being connected to an outlet socket—
 - (i) at which fixed wiring terminates; and
 - (ii) that are or is installed for the purposes of connecting appliances, fittings or apparatus operated by electricity;
or
- (b) cables and other things required for connecting the appliances, fittings or apparatus to an electrical outlet socket;

“joint venture” means an undertaking carried on by 2 or more persons in common otherwise than as partners;

“member” means a member of the Authority;

“premises” includes land;

“securities” includes stocks, debentures, debenture stocks, notes, bonds, promissory notes, bills of exchange and similar instruments or documents;

“sewerage services” means the sewerage system provided by, or under the authority or control of, the Authority;

“share” means a share in the share capital of a corporation and includes stocks;

“staff”, in relation to the Authority, means persons appointed or engaged under section 31.

(2) For the purposes of this Ordinance—

- (a) the Chairperson may be referred to as the Chairman or Chairwoman, as the case requires;
- (b) the Deputy Chairperson may be referred to as the Deputy Chairman or Deputy Chairwoman, as the case requires;
- (c) the acting Chairperson may be referred to as the acting Chairman or acting Chairwoman, as the case requires; and
- (d) the acting Deputy Chairperson may be referred to as the acting Deputy Chairman or acting Deputy Chairwoman, as the case requires.

(3) The question whether a company is a subsidiary of the Authority shall be determined in the same manner as the question whether a corporation is a subsidiary of another corporation is determined for the purposes of the *Companies Act 1981*.

(4) A reference in this Ordinance to dealing with securities includes a reference to—

- (a) creating, executing, entering into, drawing, making, accepting, endorsing, issuing, discounting, selling, purchasing or re-selling securities;
- (b) creating, selling, purchasing, or re-selling rights or options in respect of securities; and
- (c) entering into agreements or other arrangements relating to securities.

PART II—ESTABLISHMENT, FUNCTIONS AND POWERS OF AUTHORITY

Establishment

4. (1) There is established by this Ordinance an authority by the name of the Australian Capital Territory Electricity and Water Authority.

(2) The Authority—

- (a) is a body corporate, with perpetual succession;
- (b) shall have a common seal; and
- (c) may sue and be sued in its corporate name.

(3) The common seal of the Authority shall be kept in such custody as the Authority directs and shall not be used except as authorised by the Authority.

(4) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Authority affixed to a document and shall presume that it was duly affixed.

Functions**5.** The functions of the Authority are—

- (a) to supply electricity and water;
- (b) to promote and manage the use of electricity and water;
- (c) to collect and treat sewage and otherwise to provide and manage sewerage services;
- (d) to produce sewage treatment by-products; and
- (e) to do such other things in relation to electricity or water or the provision of sewerage services as are conferred on the Authority by or under this Ordinance or any other law of the Territory.

Powers

6. (1) The Authority has power to do all things that are necessary or convenient to be done for, or in connection with, the performance of its functions and, in particular, may—

- (a) acquire, hold and dispose of real and personal property;
- (b) purchase and sell electricity or water;
- (c) generate and transmit electricity;
- (d) reticulate electricity or water;
- (e) participate in the assessment, management and development of water resources;
- (f) collect, carry, contain, treat and reticulate water;

- (g) collect, contain, treat and dispose of sewage;
- (h) develop policies and strategies relating to electricity or water usage and the provision of sewerage services;
- (i) provide for the treatment and purification of water supplied or to be supplied by the Authority;
- (j) provide consultative services;
- (k) supply electricity or water for use, or provide sewerage services, in a place outside the Territory that is the subject of an agreement to which the Authority is a party;
- (l) provide for the inspection and approval of work done in relation to the treatment and purification of water and the collection and treatment of sewage;
- (m) enter into agreements with the Commonwealth for the provision of electricity, water or sewerage services;
- (n) supply, install, maintain or repair electrical equipment (including equipment required or used to generate, transmit or reticulate electricity)—
 - (i) required or used by the Commonwealth, the Authority or a body established by a law of the Commonwealth or the Territory; or
 - (ii) as otherwise approved by the Minister;
- (o) supply, install, maintain or repair equipment, required or used by the Commonwealth, the Authority or a body established by a law of the Commonwealth or the Territory, or as otherwise approved by the Minister, which is required or used—
 - (i) to collect, carry, contain, treat, or reticulate water; or
 - (ii) to collect, carry, contain, treat, or dispose of, sewage or to produce sewage treatment by-products;
- (p) participate in the setting and enforcement of standards relating to—
 - (i) water extraction;
 - (ii) the protection of water catchment;
 - (iii) the treatment and disposal of sewage; and

- (iv) the production of sewage treatment by-products;
- (q) participate in the setting and enforcement of standards relating to electrical installations used or available for use in the Territory in the generation, reticulation or consumption of electricity;
- (r) research, evaluate and participate in research activities with respect to matters arising out of or incidental to its functions;
- (s) develop, sell, license and collect royalties on technology, software and other intellectual works;
- (t) determine the conditions upon or subject to which any electricity or water will be supplied or sewerage services will be provided by the Authority;
- (u) hire out plant, equipment or labour of the Authority that is not immediately needed for use by the Authority;
- (v) form, and participate in the formation of, companies;
- (w) enter into partnerships;
- (x) participate in joint ventures;
- (y) enter into contracts;
- (z) occupy, use and control any land or building owned or held by the Commonwealth and made available for the use of the Authority;
- (aa) make charges for work done, and services rendered, by the Authority;
- (ab) appoint agents and attorneys and act as an agent for other persons; and
- (ac) do anything incidental to any of its powers.

(2) The Minister and the Authority may enter into arrangements with respect to any matter arising under, or as a result of, the *Canberra Water Supply (Googong Dam) Act 1974* or the agreements referred to in that Act, being a matter relating to the supply of water for use in the Territory, and such an arrangement may authorise the Authority to act as agent of the Minister in respect of any such matter.

(3) Except as provided in Division 2 of Part VIII, nothing in this Ordinance shall be taken to authorise the Authority—

- (a) to do anything, or cause anything to be done, on Commonwealth land otherwise than with the consent of the Commonwealth or an authority of the Commonwealth having control of that land; or

- (b) to do anything, or cause anything to be done, on land other than Commonwealth land otherwise than in pursuance of rights conferred on the Authority by agreement or by a law of the Territory.

Duty of Authority

7. Nothing in this Ordinance shall be taken to authorise a departure from, or the doing of anything inconsistent with, the policies of the Commonwealth relating to the planning, development and construction of the City of Canberra as the National Capital.

Limitations on formation of companies, etc.

8. (1) The Authority shall not, without the written approval of the Minister—

- (a) subscribe for, or purchase, shares in, or debentures or other securities of, a company; or
- (b) form, or participate in the formation of, a company that would, upon its formation, be a subsidiary of the Authority.

(2) An approval under subsection (1)—

- (a) shall not be given until after the Minister has consulted the Minister for Finance and the Attorney-General;
- (b) may relate to a particular company or proposed company; and
- (c) may be given subject to specified conditions or restrictions.

(3) Subject to subsection (4), where the Authority subscribes for or purchases shares in, or debentures or other securities of, a company, or forms, participates in the formation of, or has a controlling interest in, a company, the Minister shall—

- (a) cause to be prepared a statement setting out particulars of, and the reasons for, the subscription, purchase, formation, participation or interest; and
- (b) cause a copy of the statement to be laid before each House of the Parliament within 15 sitting days of that House after—
 - (i) subject to subparagraph (ii)—the subscription, purchase, formation, participation or obtaining of the interest, took place; or

- (ii) if the Minister is of the opinion that the disclosure of the subscription, purchase, formation, participation, or obtaining of the interest would adversely affect the commercial interests of the Authority—the Minister ceases to be of that opinion.

(4) Where the Authority holds a controlling interest in a company, the Authority shall endeavour to ensure that the audit arrangements for the company are acceptable to the auditors of the Authority and that the company does not do anything that the Authority is not itself empowered to do.

(5) Without limiting the generality of subsection (4), the Authority shall endeavour to ensure that a company in which it holds a controlling interest does not—

- (a) borrow money otherwise than from the Commonwealth; or
- (b) raise money otherwise than by borrowing;

except on terms and conditions that are specified in, or consistent with, the written approval of the Treasurer.

(6) Subsection (5) applies to a borrowing or raising of money whether the money is borrowed or raised by dealing in securities or otherwise, and whether or not the money is borrowed or raised, in whole or in part, in a currency other than Australian currency.

(7) For the purposes of subsection (5), the issue by a company of an instrument acknowledging a debt in consideration of the payment or deposit of money or of the provision of credit shall, to the extent of the amount of that money or of that credit, as the case may be, be deemed to be a borrowing by that company.

Limitations on formation of partnerships

9. (1) The Authority shall not, without the written approval of the Minister, enter into partnership with another person.

(2) An approval under subsection (1)—

- (a) may relate to a particular person or proposed partnership; and
- (b) may be given subject to specified conditions or restrictions.

(3) Subject to subsection (4), where the Authority enters into a partnership with another person, the Minister shall—

- (a) cause to be prepared a statement setting out particulars of, and the reasons for, the partnership; and
- (b) cause a copy of the statement to be laid before each House of the Parliament within 15 sitting days of that House after—
 - (i) subject to paragraph (ii)—the partnership was entered into; or
 - (ii) if the Minister is of the opinion that the disclosure of the partnership would adversely affect the commercial interests of the Authority—the Minister ceases to be of that opinion.

(4) Where the Authority is able to control the acts and things done by the partnership of which it is a member, the Authority shall endeavour to ensure that the audit arrangements for the partnership are acceptable to the auditors of the Authority and that the partnership does not do anything that the Authority is not itself empowered to do.

Limitations on participation in joint ventures

10. (1) The Authority shall not, without the written approval of the Minister, participate in a joint venture.

(2) An approval under subsection (1)—

- (a) may relate to a particular proposed joint venture; and
- (b) may be given subject to specified conditions or restrictions.

(3) Subject to subsection (4) where the Authority enters into an agreement for a joint venture, the Minister shall—

- (a) cause to be prepared a statement setting out particulars of, and the reasons for, the joint venture; and
- (b) cause a copy of the statement to be laid before each House of the Parliament within 15 sitting days of that House after—
 - (i) subject to subparagraph (ii)—the agreement was entered into; or
 - (ii) if the Minister is of the opinion that the disclosure of the joint venture would adversely affect the commercial interests of the Authority—the Minister ceases to be of that opinion.

(4) Where the Authority is able to control the acts and things done by a joint venture of which it is a participant, the Authority shall endeavour to ensure that the audit arrangements for the joint venture are acceptable to the

auditors of the Authority and that the joint venture does not do anything that the Authority is not itself empowered to do.

Review of opinions

11. The Minister shall, in relation to an opinion referred to in subparagraph 8 (3) (b) (ii), 9 (3) (b) (ii) or 10 (3) (b) (ii), at the commencement of each financial year after the date on which the Minister—

- (a) formed that opinion; or
- (b) last decided that he or she remained of that opinion;

decide whether he or she remains of that opinion.

Delegation by Authority

12. (1) The Authority may, either generally or as otherwise provided by the instrument of delegation, by writing under its common seal, delegate to—

- (a) the Chief Executive Officer;
- (b) an appointed member; or
- (c) a member of the staff of the Authority;

any of its powers under this Ordinance or any other law of the Territory, other than this power of delegation.

(2) A power so delegated, when exercised by the delegate, shall, for the purposes of this Ordinance, be deemed to have been exercised by the Authority.

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

Committees

13. (1) The Authority may appoint such committees as it thinks fit to assist it in performing any of its functions.

(2) A committee shall—

- (a) furnish advice to the Authority with respect to such matters relating to the functions of the Authority as the Authority refers to the committee; or
- (b) assist the Authority in the performance of such of its functions as the Authority requires.

PART III—CONSTITUTION OF AUTHORITY

Constitution

14. (1) The Authority shall consist of—

- (a) a Chief Executive Officer; and
- (b) 3 other members.

(2) The Minister shall appoint a member to be Chairperson and another member to be Deputy Chairperson.

(3) The members referred to in paragraph (1) (b) shall be appointed by the Minister as part-time members with effect from such day as the Minister specifies in the instrument of appointment of the members.

(4) Appointed members hold office on such terms and conditions (if any) in respect of matters not provided for by this Ordinance as are determined in writing by the Minister.

(5) The appointment of a member is not invalidated, and shall not be called in question, by reason of a defect or irregularity in or in connection with the appointment of the member.

(6) The performance of the functions and the exercise of the powers of the Authority are not affected by reason only of there being a vacancy or vacancies in the membership of the Authority.

Tenure of office

15. (1) Subject to this Part, an appointed member holds office for such period, not exceeding 5 years, as is specified in the instrument of appointment, but is eligible for re-appointment.

(2) A person who has attained the age of 65 years shall not be appointed as a member referred to in paragraph 14 (1) (b) and a person shall not be appointed as a member referred to in that paragraph for a period that extends beyond the date on which the person will attain the age of 65 years.

Appointed members—remuneration and allowances

16. (1) An appointed member shall be paid such remuneration and allowances as are prescribed.

(2) Subsection (1) does not apply in relation to—

- (a) remuneration if there is a subsisting determination relating to the remuneration to be paid to an appointed member; or
- (b) an allowance of a particular kind if there is a subsisting determination relating to an allowance of that kind to be paid to an appointed member.

(3) In subsection (2), “determination” means a determination of the Remuneration Tribunal.

Acting appointments

17. (1) The Minister may appoint a person to act as Chairperson or Deputy Chairperson, as the case requires—

- (a) during a vacancy in the office of the Chairperson or Deputy Chairperson, as the case may be, whether or not an appointment has previously been made to that office; or
- (b) during any period, or during all periods, when the Chairperson or Deputy Chairperson, as the case may be, is absent from duty or from the Territory or is, for any other reason, unable to perform the functions of his or her office;

but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.

(2) The Minister may appoint a person to act as an appointed member—

- (a) during a vacancy in the office of an appointed member, whether or not an appointment has previously been made to that office; or
- (b) during any period, or during all periods, when an appointed member is acting as Chairperson or Deputy Chairperson, is absent from the Territory, or is, for any other reason, unable to perform the duties of his or her office;

but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.

(3) An appointment of a person under subsection (1) or (2) may be expressed to have effect only in such circumstances as are specified in the instrument of appointment.

(4) Where a person is acting as Chairperson, Deputy Chairperson or an appointed member otherwise than by reason of a vacancy in the office of Chairperson, Deputy Chairperson or the appointed member, as the case may be,

and the office in which the person is acting becomes vacant while that person is so acting, then, subject to subsection (3), that person may continue so to act until the Minister otherwise directs, the vacancy is filled or a period of 12 months from the date on which the vacancy occurred expires, whichever occurs first.

(5) The Minister may—

- (a) determine the terms and conditions of appointment, including remuneration and allowances, of a person appointed to act as the Chairperson, the Deputy Chairperson or an appointed member; and
- (b) terminate such an appointment at any time.

(6) While a person is acting as Chairperson, Deputy Chairperson or an appointed member, the person has and may exercise all the powers, and shall perform all the functions, of the Chairperson, Deputy Chairperson or the appointed member, as the case requires.

(7) Anything done by or in relation to the person purporting to act as Chairperson, Deputy Chairperson or appointed member is not invalid because—

- (a) the occasion for the appointment had not arisen;
- (b) there is a defect or irregularity in or in connection with the appointment;
- (c) the appointment had ceased to have effect; or
- (d) the occasion for the person to act had not arisen or had ceased.

Acting members—resignation

18. A person appointed to act as Chairperson, Deputy Chairperson or an appointed member may resign office by writing signed by the person and delivered to the Minister.

Leave of absence

19. (1) The Minister may grant leave of absence to the Chairperson on such terms and conditions (including remuneration and allowances) as the Minister determines.

(2) The Chairperson may grant leave of absence to an appointed member from a meeting of the Authority.

Appointed members—resignation

20. An appointed member may resign office by writing signed by him or her and delivered to the Minister.

Termination of appointment

21. (1) The Minister may terminate the appointment of an appointed member for misbehaviour or physical or mental incapacity.

(2) If an appointed member—

- (a)** becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;
- (b)** is absent from duty, except on leave granted by the Chairperson, for 3 consecutive meetings of the Authority;
- (c)** fails, without reasonable excuse, to comply with his or her obligations under section 22; or
- (d)** is convicted in Australia or elsewhere of an offence punishable by imprisonment for 1 year or longer;

the Minister shall terminate his or her appointment.

Disclosure of interest

22. (1) A member who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Authority shall as soon as practicable after the relevant facts have come to the member's knowledge disclose the nature of the interest at a meeting of the Authority.

(2) A disclosure under subsection (1) shall be recorded in the minutes of the meeting of the Authority and the member shall not, unless the Minister or the Authority otherwise determines—

- (a)** be present during any deliberation of the Authority with respect to that matter; or
- (b)** take part in any decision of the Authority with respect to that matter.

(3) For the purposes of making a determination by the Authority under subsection (2) in relation to a member who has made a disclosure under subsection (1), a member who has a direct or indirect pecuniary interest in the matter to which the disclosure relates shall not—

- (a) be present during any deliberation of the Authority for the purpose of making the determination; or
- (b) take part in the making by the Authority of the determination.

(4) A member shall not be taken to have a direct or indirect pecuniary interest when the Authority makes or considers a determination for charges for or in connection with the supply of electricity or water or the provision of sewerage services by reason only that the member is liable to pay a charge under this Ordinance.

Meetings

23. (1) The Authority shall hold such meetings as are necessary for the efficient performance of its functions.

(2) The Chairperson—

- (a) may, at any time, convene a meeting of the Authority; and
- (b) shall, on receipt of a written request signed by not less than 2 other members, convene a meeting of the Authority.

(3) The Minister may, at any time, convene a meeting of the Authority.

(4) The Chairperson shall preside at all meetings of the Authority at which he or she is present.

(5) Where the Chairperson is not present at a meeting of the Authority the Deputy Chairperson shall preside at the meeting.

(6) At a meeting of the Authority, 3 members constitute a quorum.

(7) Questions arising at a meeting of the Authority shall be determined by a majority of the votes of the members present and voting.

(8) The person presiding at a meeting of the Authority has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

PART IV—CHIEF EXECUTIVE OFFICER, STAFF AND CONSULTANTS

Chief Executive Officer

24. (1) The Minister shall appoint a person to be the Chief Executive Officer of the Authority.

(2) The Chief Executive Officer shall, subject to and in accordance with the general directions of the Authority, manage the affairs of the Authority.

Tenure of office

25. (1) The Chief Executive Officer holds office for such period, not exceeding 5 years, as is specified in the instrument of appointment, but is eligible for re-appointment.

(2) A person who has attained the age of 65 years shall not be appointed as Chief Executive Officer and a person shall not be appointed as Chief Executive Officer for a period that extends beyond the date on which the person will attain the age of 65 years.

(3) The Chief Executive Officer holds office on such terms and conditions in respect of matters not provided for by this Ordinance as are determined by the Authority with the approval of the Minister.

(4) Except for the first appointment, in making an appointment under subsection (1) the Minister shall have regard to the views of the Authority.

Chief Executive Officer—remuneration and allowances

26. (1) The Chief Executive Officer shall be paid such remuneration and allowances as are prescribed.

(2) Subsection (1) does not apply in relation to—

- (a) remuneration if there is a subsisting determination relating to the remuneration to be paid to the Chief Executive Officer; or
- (b) an allowance of a particular kind if there is a subsisting determination relating to an allowance of that kind to be paid to the Chief Executive Officer.

(3) In subsection (2), “determination” means a determination of the Remuneration Tribunal.

Leave of absence

27. The Minister may grant leave of absence to the Chief Executive Officer on such terms and conditions (including remuneration and allowances) as the Authority determines.

Resignation

28. The Chief Executive Officer may resign office by writing signed by him or her and delivered to the Minister.

Termination of appointment

29. (1) The Minister may terminate the appointment of the Chief Executive Officer for misbehaviour or physical or mental incapacity.

(2) If the Chief Executive Officer—

- (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;
- (b) engages in paid employment outside the duties of his or her office without the approval of the Authority;
- (c) is absent from duty, except on leave of absence granted by the Minister, for 14 consecutive days or for 28 days in any 12 months;
- (d) fails, without reasonable excuse, to comply with his or her obligations under section 22; or
- (e) is convicted in Australia or elsewhere of an offence punishable by imprisonment for 1 year or longer;

the Minister shall terminate his or her appointment.

Acting Chief Executive Officer

30. (1) The Minister may appoint a person to act as Chief Executive Officer—

- (a) during a vacancy in the office of the Chief Executive Officer, whether or not an appointment has previously been made to the office; or
- (b) during any period, or during all periods, when the Chief Executive Officer is absent from duty or from the Territory or is, for any other reason, unable to perform the functions of Chief Executive Officer;

but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.

(2) The Minister may terminate an appointment under subsection (1) at any time.

(3) While a person is acting as Chief Executive Officer the person has and may exercise all the powers and shall perform all the functions of the Chief Executive Officer.

(4) Anything done by or in relation to a person purporting to act under subsection (1) is not invalid because—

- (a) the occasion for the appointment had not arisen;

- (b) there is a defect or irregularity in or in connection with the appointment;
- (c) the appointment had ceased to have effect; or
- (d) the occasion for the person to act had not arisen or had ceased.

Employment of other staff

31. (1) The Authority may appoint such officers or engage such employees as the Authority considers necessary for the purposes of this Ordinance.

(2) The terms and conditions of employment of persons appointed or engaged under subsection (1) are such as are determined in writing by the Authority.

(3) The Chief Executive Officer may, on behalf of the Authority, arrange with the Secretary of a Department of the Australian Public Service, an authority of the Commonwealth that is not such a Department or another person—

- (a) for the services of officers or employees of the Department, of the authority or of the other person, as the case may be, to be made available for the purposes of the Authority; or
- (b) for the services of an employee of the Authority to be made available for the purposes of the Department, of the authority or of the other person, as the case may be.

Consultants

32. (1) The Authority may engage persons having suitable qualifications and experience as consultants to the Authority.

(2) The terms and conditions of engagement of persons engaged under subsection (1) are as determined in writing by the Authority.

PART V—OPERATION OF AUTHORITY

Corporate plan

33. (1) The Authority—

- (a) shall, as soon as practicable after the commencement of this Ordinance, develop a corporate plan;

(b) shall, as soon as practicable before the commencement of each financial year other than the first financial year covered by the plan, review and revise the corporate plan; and

(c) may from time to time review and revise the corporate plan.

(2) The corporate plan developed under paragraph (1) (a) shall include a statement of the objectives of the Authority—

(a) where the plan is developed in the first 9 months of a financial year—
for that year and at least the next 2 financial years; or

(b) where the plan is developed in the last 3 months of a financial year—
for the next financial year and at least the 2 financial years immediately following that next financial year.

(3) The corporate plan as revised under paragraph (1) (b) shall include a statement of the objectives of the Authority for the financial year immediately before the commencement of which the plan was revised and at least the 2 financial years immediately following that year.

(4) The corporate plan shall include a statement outlining the Authority's strategies and policies which it intends to adopt in order to achieve its objectives.

Corporate plan etc. to Minister

34. (1) The Authority shall, as soon as practicable after developing or revising a corporate plan, give the Minister a copy of that plan or the plan as revised, as the case requires.

(2) Where the Authority complies with subsection (1) in relation to the corporate plan or that plan as revised, as the case may be, the Authority shall also give to the Minister a copy of a financial plan that includes, in relation to each financial year covered by the plan—

(a) a forecast, in a form approved by the Minister, of the Authority's receipts and expenditures;

(b) the Authority's financial targets for profits, rate of returns and dividends; and

(c) the performance indicators it has adopted.

Financial targets and performance indicators

35. (1) The Authority, when setting its financial targets to be included in a financial plan under paragraph 34 (2) (b), shall consider the following matters:

- (a) objectives and policies of the Commonwealth known to the Authority or the subject of directions of the Minister;
- (b) any directions given by the Minister under section 36;
- (c) the need for the Authority to earn a reasonable rate of return on assets used;
- (d) the need for the Authority to establish and maintain a reasonable level of reserves having regard to the estimated future requirements for the supply of electricity or water or the provision of sewerage services in the Territory, and estimated future earnings to finance capital expansion, reduce borrowings or improve the Authority's cash flow;
- (e) any other relevant commercial considerations.

(2) For the purposes of paragraph 34 (2) (c), a performance indicator shall be in such terms as the Authority thinks fit.

Minister may vary financial plan

36. (1) Without limiting the generality of the Minister's powers under subsection 37 (2), the Minister may, by notice in writing, direct the Authority to vary financial targets of, and performance indicators adopted by, the Authority.

(2) When exercising his or her powers under subsection (1), the Minister shall have regard to—

- (a) the matters referred to in subsection 35 (1);
- (b) the trading conditions in which the Authority operates;
- (c) the commercial and market strengths of the operations of the Authority;
- (d) community service obligations required to be met by the Authority; and
- (e) such other commercial considerations as the Authority considers appropriate.

(3) Where the Minister has given the Authority—

- (a) a direction under subsection (1); and
- (b) the reasons for the direction;

the Authority shall comply with the direction.

Directions to Authority

37. (1) Except as provided by this section or as otherwise expressly provided by this Ordinance, the Authority is not subject to direction by or on behalf of the Commonwealth.

(2) Subject to subsection (1), where the Minister is satisfied that it is desirable in the public interest to do so, the Minister may, by notice in writing to the Authority, give directions to the Authority with respect to the performance of its functions or the exercise of its powers.

(3) The Authority shall comply with any direction under subsection (2).

(4) Where the Minister gives a direction to the Authority under subsection (2), particulars of the directions shall be included in the annual report of the Authority.

Reimbursement of cost of complying with directions

38. (1) Where the Authority satisfies the Minister that it has suffered financial detriment as a result of complying with a direction of the Minister under section 37, the Authority is entitled to be reimbursed by the Commonwealth the amount that the Minister determines in writing to be the amount of that financial detriment.

(2) The reference in subsection (1) to suffering financial detriment includes a reference to—

- (a)** incurring costs that are greater than would otherwise have been incurred; or
- (b)** forgoing revenue that would otherwise have been received.

(3) This section does not apply to a direction of the Minister under section 36 or 41.

PART VI—FINANCE

Capital of Authority

39. (1) The capital of the Authority is the aggregate of—

- (a)** the amount determined by the Minister, in consultation with the Minister for Finance, to be the value, at the date of vesting in the Authority, of the rights, property and assets vested in the Authority pursuant to section 84;
- (b)** any amounts paid to the Authority by the Minister for Finance out of moneys appropriated by the Parliament for the purpose of providing further capital to the Authority; and

- (c) the surplus of the Authority for each financial year;

less the aggregate of—

- (d) the sum of, at the date the Authority incurred liability for, the debts, liabilities and obligations that the Authority became, by virtue of section 84, liable to pay or discharge; and
- (e) amounts of capital paid to the Commonwealth by the Authority.

(2) The capital of the Authority is payable to the Commonwealth at such times, and in such amounts, as the Minister, in consultation with the Minister for Finance, determines.

(3) In making a determination under subsection (2), the Minister shall have regard to any advice that the Authority has given to him or her in relation to its financial affairs.

(4) A determination under this section shall be made by instrument in writing.

(5) For the purposes of this Ordinance, the surplus of the Authority for a financial year is the amount (if any) of revenue remaining after deducting from the revenue received or receivable by the Authority in respect of the financial year the expenditure and provision for expenditure properly chargeable against that revenue.

Interest—payments to Commonwealth

40. (1) Interest is payable to the Commonwealth on the prescribed capital of the Authority at such rate and at such times as the Minister for Finance determines from time to time.

(2) In subsection (1), “prescribed capital” means the amounts referred to in paragraph 39 (1) (b) less the amounts referred to in paragraph 39 (1) (e).

Dividends—payments to Commonwealth

41. (1) The Authority shall, within 4 months after the end of each financial year, by notice in writing given to the Minister, recommend that it—

- (a) pay to the Commonwealth, in relation to its operations in the financial year, a dividend of an amount specified in the notice; or
- (b) not pay a dividend to the Commonwealth for the financial year.

(2) In making a recommendation, the Authority shall have regard to—

- (a) the matters specified in section 35; and

(b) the extent of the Commonwealth's equity in the Authority.

(3) Subject to subsection (6), the Minister shall, within 30 days after receipt of the recommendation, give notice in writing to the Authority—

(a) where the recommendation is that a dividend be paid—

(i) approving the recommendation; or

(ii) directing the Authority to pay a dividend of a different specified amount; or

(b) where the recommendation is that a dividend not be paid—

(i) approving the recommendation; or

(ii) directing the Authority to pay a dividend of a specified amount.

(4) For the purpose of giving a notice under subsection (3), the Minister shall have regard to—

(a) the matters specified in section 35 (other than paragraph (1) (b));

(b) the objectives and policies of the Commonwealth Government;

(c) the extent of the Commonwealth's equity in the Authority; and

(d) any other commercial considerations the Minister thinks appropriate.

(5) Where payment of a dividend for a financial year is approved or directed under subsection (3), the Authority shall pay it to the Commonwealth within 8 months after the end of that year.

(6) A payment under this section may be made—

(a) out of the profits of the Authority for the financial year to which the payment relates;

(b) out of the profits of the Authority for any preceding financial year or years; or

(c) partly out of the profits of the Authority for the financial year referred to in paragraph (a) and partly out of the profits of the Authority for any preceding financial year or years.

Borrowing from Commonwealth

42. The Minister for Finance may, on behalf of the Commonwealth, out of money appropriated by the Parliament for the purpose, lend money to the

Authority on such terms and conditions as the Minister for Finance, by instrument, determines.

Borrowing otherwise than from Commonwealth

43. (1) The Authority may, with the approval of the Treasurer—

- (a) borrow money, otherwise than from the Commonwealth; or
- (b) raise money, otherwise than by borrowing;

that is from time to time necessary for the exercise of its powers or the performance of its functions.

(2) Without limiting the generality of subsection (1), the Authority may, under that subsection, borrow money, or raise money otherwise than by borrowing, by dealing with securities.

(3) An approval under subsection (1) shall be in writing.

(4) A borrowing of money, or a raising of money otherwise than by borrowing under subsection (1), may be made, in whole or in part, in a currency other than Australian currency.

(5) An approval may be given under subsection (1) in relation to a particular transaction or in relation to transactions included in a class of transactions.

(6) For the purposes of this section—

- (a) the issue by the Authority of an instrument acknowledging a debt in consideration of—
 - (i) the payment or deposit of money; or
 - (ii) the provision of credit;

otherwise than in relation to a transaction that is in the ordinary course of the day-to-day operations of the Authority shall be deemed to be a raising by the Authority, otherwise than by borrowing, of the amount of money equal to the amount of the money paid or deposited or the value of the credit provided, as the case may be; and

- (b) the obtaining of credit by the Authority otherwise than in relation to a transaction that is in the ordinary course of the day-to-day operations of the Authority shall be deemed to be a raising by the Authority, otherwise than by borrowing, of an amount of money equal to the value of the credit so obtained.

Security

44. The Authority may give security over the whole or any part of its assets for—

- (a) the repayment by the Authority of money borrowed under section 42 or paragraph 43 (1) (a) and the payment by the Authority of interest on money so borrowed; or
- (b) the payment by the Authority of money (including any interest) that the Authority is liable to pay with respect to money raised by virtue of section 43.

Borrowings not otherwise permitted

45. The Authority shall not borrow, or raise money otherwise than by borrowing, except in accordance with sections 42 and 43.

Application of money of Authority

46. The money of the Authority shall be applied by the Authority—

- (a) in payment of the costs and expenses incurred by the Authority in connection with the carrying out of its functions under this Ordinance;
- (b) in payment of any remuneration or allowance payable to members of the Authority; and
- (c) in making any other payments authorised or required to be made by the Authority by or under this Ordinance or any other law of the Territory.

Delegation by Treasurer

47. (1) The Treasurer may, either generally or as otherwise provided by the instrument of delegation, by writing signed by the Treasurer, delegate to a person holding or performing the duties of an office in the Department of the Treasury all or any of the powers of the Treasurer under section 43.

(2) A power so delegated, when exercised by the delegate, shall, for the purposes of this Part, be deemed to have been exercised by the Treasurer.

(3) A delegate is, in the exercise of a power so delegated, subject to the directions of the Treasurer.

(4) A delegation under subsection (1) does not prevent the exercise of a power by the Treasurer.

PART VII—DETERMINATIONS OF AUTHORITY

Charges for supply of electricity, water and sewerage services

48. (1) The Authority may, by notice in writing published in the *Gazette*, determine the charges for or in connection with the supply of electricity or water or the provision of sewerage services.

(2) A determination under subsection (1) shall, unless disallowed under section 49, take effect at the expiration of 30 days after the date on which it was published in the *Gazette*.

(3) The Authority may determine different charges for or in connection with the supply of electricity or water or the provision of sewerage services for different uses, in different localities or in different circumstances.

Disallowance of determinations

49. The Minister may, within 30 days after a determination under subsection 48 (1) was published in the *Gazette*, by notice in writing published in the *Gazette*, disallow the determination.

Payments of charges etc.

50. (1) A person—

(a) to whom electricity is supplied; or

(b) by whom—

(i) water rates are payable under section 12 of the *Water Rates Ordinance 1959*; or

(ii) sewerage rates are payable under section 14 of the *Sewerage Rates Ordinance 1968*;

is liable to make payments to the Authority in accordance with a determination in force under section 48.

(2) The Authority may make such arrangements as are fair and equitable for adjustments to amounts payable under this section whether by permitting payment on a pro rata basis or otherwise to accord with fluctuations in the rate of charges for electricity or water or the provision of sewerage services during a year.

(3) The Authority may with the approval of the Minister make an agreement with the person for or in connection with the supply of electricity or water or the provision of sewerage services to that person under which rates of charges in accordance with the agreement are payable instead of the charges applicable under subsection (1).

(4) In determining charges, the Authority shall take into consideration the financial position of the Authority and the future requirements of the undertaking of the Authority, with a view to making those charges as low as practicable having regard to the revenue required for the maintenance of the affairs of the Authority on a sound commercial basis.

(5) Where the liability of a person to pay a charge is not discharged within 28 days after the day on which that charge became due and payable, that person is, unless the Authority exempts that person from the operation of this subsection in relation to that charge, liable to pay to the Authority, by way of penalty, in addition to the amount of that charge, an amount calculated upon the amount of that charge remaining unpaid, at the prescribed rate of interest, for each month or part of a month for which that amount is unpaid to be computed from the day on which that charge became due and payable and to be compounded.

Terms and conditions—variation

51. (1) The Authority may, from time to time, by notice in writing, vary the terms and conditions for or in connection with the supply of electricity or water or the provision of sewerage services.

(2) Where the Authority makes a variation under subsection (1), it shall cause to be published in a daily newspaper circulating in the Territory a notice setting out particulars of the variation specifying the date, not being earlier than the date of publication of the notice, on and from which the variation has effect.

(3) Where the Authority has made an agreement under subsection 50 (3), the terms or conditions of that agreement shall not be varied unless the agreement provides that the terms or conditions of the agreement may be varied in accordance with this section.

PART VIII—POWERS OF ENTRY AND DECLARATIONS OF EMERGENCIES

Division 1—Interpretation

Interpretation

52. (1) For the purposes of this Part, a thing is connected with a particular offence if—

- (a) the offence has been committed with respect to it;
- (b) it will afford evidence of the commission of the offence; or
- (c) it was used, or is or was intended to be used, for the purpose of committing the offence.

(2) Unless the contrary intention appears, a reference in this Part to an offence shall be read as a reference to any act done, or about to be done, which is, or would be if it were done, or which it is believed on reasonable grounds is, or would be, if it were done—

- (a) an offence against this Ordinance or the regulations; or
- (b) any other offence in respect of which a penalty of imprisonment for 6 months or more may be imposed.

Division 2—Powers of entry and inspection

Authorised persons

53. (1) The Chief Executive Officer may, by instrument, appoint such persons as the Chief Executive Officer considers necessary to be authorised persons for the purposes of this Ordinance.

(2) In addition to the duties required to be performed by an authorised person under this Ordinance, an authorised person shall perform such other duties as the Chief Executive Officer from time to time directs.

Identity cards

54. (1) The Chief Executive Officer shall cause to be issued to each authorised person an identity card that specifies the name and appointment of the authorised person and on which appears a recent photograph of the person.

(2) A person appointed under subsection 53 (1) shall, on ceasing to be an authorised person, return his or her identity card to the Chief Executive Officer.

(3) A person who, without reasonable excuse, fails to comply with subsection (2) is guilty of an offence punishable, on conviction, by a fine not exceeding \$100.

Entry to premises

55. (1) For the purposes of this Ordinance or the regulations, an authorised person may, without the authority of a warrant, at any reasonable time, enter premises to which electricity or water is being or has been supplied, or sewerage services are or have been provided, by the Authority, or over which electricity or water of the Authority is being or has been conducted or carried, or on which sewerage services are or have been provided, and, subject to subsection (2), may exercise the powers referred to in section 56.

(2) An authorised person who enters premises under subsection (1) is not authorised to remain on the premises if, on request by the occupier, he or she does not show his or her identity card to the occupier.

(3) For the purposes of this Ordinance or the regulations, an authorised person may, without the authority of a warrant, enter premises at any reasonable time without the consent of the occupier for the purpose of reading any meter which indicates the quantity or amount of electricity or water supplied by the Authority which has been used or is being used on the premises.

Powers of authorised persons

56. For the purposes of section 55, an authorised person may inspect, test, obtain information from, repair, replace or remove any apparatus, equipment or other thing, the property of the Authority.

Entry in emergency

57. (1) An authorised person may enter any premises in or on which he or she believes on reasonable grounds there is any thing connected with an offence against this Ordinance and it is necessary—

- (a) to enter the premises in order to prevent the concealment, loss or destruction of the thing; or
- (b) to exercise the powers referred to in subsection (2);

and the entry or exercise of the power, as the case may be, is made in circumstances of such seriousness and urgency as to require and justify immediate entry or exercise of that power.

(2) For the purposes of subsection (1), an authorised person may, without the authority of a warrant, search a person, the clothing being worn by the person or property in or apparently in the immediate control of the person and seize any thing found in the course of that search.

(3) Where a person is searched under this section, the search shall be carried out by an authorised officer of the same sex.

Interruption to services

58. An authorised person may interrupt the supply of electricity or water or the provision of sewerage services to any premises if he or she has reasonable grounds for believing that it is necessary to do so in order to protect any person or property from injury or damage or to prevent a risk to public health.

Obstruction of authorised officers

59. A person shall not, without reasonable excuse, obstruct or hinder an authorised person in the exercise of his or her powers under this Ordinance or the regulations.

Penalty: \$1,000 or imprisonment for 6 months, or both.

Division 3—Emergency provisions

Interpretation

60. In this Division—

“declaration” means a declaration under section 62;

“direction” means a direction under section 63.

Crown to be bound

61. This Division binds the Crown in the right of the Commonwealth and of each of the States but nothing in this Division renders the Crown liable to be prosecuted for an offence.

Declaration of emergencies

62. (1) Where the Minister has reasonable grounds for believing—

- (a) that the supply of electricity or water available in the Territory is, or is likely to be, inadequate for the needs of the Territory as to require the restriction of the use of electricity or water in the Territory; or
- (b) that the supply of water or the maintenance of the provision of sewerage services in the Territory is, or is about to be, so affected that there is, or is likely to be, a danger to public health;

the Minister may, by notice published in the *Gazette*, declare that an emergency exists in relation to the supply of electricity or water, or the provision of sewerage services, as the case requires.

(2) Unless it is sooner revoked, a declaration remains in force for such period, not exceeding 28 days, as is specified in the notice, commencing on the date on which the notice is published in the *Gazette*.

(3) A declaration may be made immediately upon the expiration of a previous declaration.

Powers of Authority during emergency

63. (1) While a declaration is in force, the Authority may, by direction published in the *Gazette* or in a daily newspaper circulating in the Territory, or

both, prohibit, ration, control or otherwise regulate the use or the use for a particular purpose of electricity or water, or the provision of sewerage services, in accordance with the emergency plan.

(2) A direction shall come into operation on such date as is specified in the direction, being a date not earlier than the date on which the direction is published.

Expiration of directions

64. (1) Subject to subsection (2) and unless it is sooner revoked, a direction ceases to have effect when the declaration to which it relates ceases to be in force.

(2) Where—

- (a) a declaration ceases to be in force; and
- (b) a further declaration is made immediately upon the expiration of the first-mentioned declaration in relation to the same matters;

a direction made while the first-mentioned declaration was in force remains in force as if it had been made after the second-mentioned declaration was made.

Offences

65. A person shall not, without reasonable excuse, contravene a direction.

Penalty:

- (a) in the case of a natural person—\$5,000;
- (b) in the case of a body corporate—\$25,000.

Authorised persons—emergency powers

66. (1) Where an authorised person has reasonable grounds for believing that an offence has been or is being committed on any premises to which electricity or water is supplied, or sewerage services are provided, by the Authority, the authorised person may, at any time, without warrant, enter the premises if the entry is made with the consent of the occupier of those premises, for the purposes of—

- (a) inspecting the premises;
- (b) searching for and seizing any thing that the authorised person believes on reasonable grounds is connected with an offence; or
- (c) exercising any of the powers referred to in section 56.

(2) Where an authorised person enters premises pursuant to subsection (1), the authorised person is not authorised to exercise his or her powers under the subsection if, on request by or on behalf of the person apparently in charge of the premises, the authorised person does not produce his or her identity card.

Consent to entry

67. (1) Before obtaining the consent of a person for the purposes of section 66, an authorised person shall inform that person that he or she may refuse to give consent.

(2) Where the authorised person obtains the consent of a person for the purposes of section 66, the authorised person 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 authorised person under section 66 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 66 and an acknowledgement, in accordance with subsection (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

68. (1) Where an information on oath is laid before a Magistrate alleging that there are reasonable grounds for believing that an offence has been or is being committed on any premises and the information sets out those grounds, the Magistrate may issue a search warrant authorising an authorised person named in the warrant, with such assistance and by such force as is necessary and reasonable to enter the premises for the purpose of—

- (a) inspecting the premises;
- (b) searching for and seizing any thing that the authorised person believes on reasonable grounds is connected with an offence; or
- (c) exercising any of the powers referred to in section 56.

(2) A Magistrate shall not issue a warrant under subsection (1) unless—

- (a) the informant or some other person has given to the Magistrate, either orally or by affidavit, such further information (if any) as the Magistrate requires concerning the grounds on which the issue of the warrant is being sought; and
 - (b) the Magistrate is satisfied that there are reasonable grounds for issuing the warrant.
- (3) There shall be stated in a warrant issued under this section—
- (a) a statement of the purpose for which the warrant is issued, which shall include a reference to the nature of the offence in relation to which the entry is authorised;
 - (b) whether the entry is authorised to be made at any time of the day or night or during specified hours of the day or night; and
 - (c) a date, not being later than 1 month after the date of issue of the warrant, upon which the warrant ceases to have effect.

Emergency plans

69. The Authority shall, as soon as practicable after the date of commencement of this Ordinance, prepare an emergency plan.

Contents of emergency plan

70. (1) An emergency plan prepared under section 69 shall set out a description of the manner in which it is proposed to prohibit, ration, control or otherwise regulate the supply of electricity or water, or the provision of sewerage services, during the period for which a declaration remains in force.

(2) The Authority shall submit an emergency plan prepared under section 69 to the Minister.

(3) The Minister may, in relation to a plan submitted under subsection (2),—

- (a) accept the plan without alteration or with such alterations as the Minister thinks fit; or
- (b) reject the plan.

(4) Where an emergency plan has been accepted by the Minister under this section, the Minister shall, by notice published in the *Gazette*, adopt the emergency plan.

(5) A notice under subsection (4) shall specify an address or addresses at which copies of the plan may be inspected or may, on payment of the determined fee, be purchased.

Commencement of emergency plans and notices

71. (1) A notice under subsection 70 (4), 72 (3) or 74 (1) does not take effect unless and until the notice comes into operation in accordance with subsection 73 (4).

(2) An emergency plan adopted under section 70 comes into force for the purposes of this Ordinance on the day on which the notice adopting the plan comes into operation in accordance with subsection 73 (4).

Emergency plan—tabling requirements

72. (1) The Minister shall, as soon as practicable after the publication of a notice under subsection 70 (4), cause a copy of the notice and the emergency plan to which the notice relates to be laid before both Houses of the Parliament.

(2) If either House of the Parliament, within 15 sitting days of that House after a copy of the emergency plan has been laid before that House, passes a resolution recommending amendments of the emergency plan, the Minister may, after giving due consideration to the recommendations contained in that resolution, amend the emergency plan.

(3) Where, pursuant to subsection (2), the Minister amends an emergency plan, the Minister shall, by notice published in the *Gazette*, adopt the plan as so amended.

(4) The Minister shall, as soon as practicable after publication of a notice under subsection (3), cause a copy of the notice and the emergency plan to which the notice relates to be laid before both Houses of the Parliament.

Emergency plan—disallowance or commencement

73. (1) If the House of the Parliament, within 15 sitting days of that House after a copy of a notice referred to in subsection 70 (4), 72 (3) or 74 (1) has been laid before that House, passes a resolution disallowing the adoption, revocation or amendment, as the case may be, to which the notice relates—

- (a) in the case of a notice referred to in subsection 70 (4)—the adoption shall cease to have any force or effect; and
- (b) in the case of a notice referred to in subsection 72 (3) or 74 (1)—the adoption, revocation or amendment shall have no force or effect.

(2) If, before the expiration of 15 sitting days of a House of the Parliament after a copy of a notice referred to in subsection 70 (4), 72 (3) or 74 (1) has been laid before that House—

- (a) that House is dissolved or, being the House of Representatives, expires or the Parliament is prorogued; and
- (b) a resolution for the disallowance of the adoption, revocation or amendment to which the notice relates has not been passed by that House;

the notice shall, for the purposes of this section, be deemed to have been laid before that House on the first sitting day of that House after the dissolution, expiry or prorogation, as the case may be.

(3) If either House of the Parliament passes a resolution in accordance with subsection (1) in respect of a notice adopting an emergency plan, the Minister shall direct the Authority to prepare a fresh emergency plan and, for the purposes of the preparation of that plan, section 70 applies in the same manner as that provision applies in relation to the preparation of an emergency plan under section 69.

(4) If neither House of the Parliament passes a resolution—

- (a) in accordance with subsection 72 (2) in relation to an emergency plan that has been laid before that House pursuant to subsection 72 (1); or
- (b) in accordance with subsection (1) in relation to a notice referred to in 70 (4), 72 (3) or 74 (1);

the notice adopting the emergency plan or the notice under the subsection referred to in paragraph (b) comes into operation on the day immediately following the last day upon which such a resolution could have been passed by either House.

Amendment or revocation of emergency plan

74. (1) The Minister may, by a notice published in the *Gazette*—

- (a) amend an emergency plan in force under this Division; or
- (b) revoke an emergency plan in force under this Division by a new emergency plan.

(2) Section 70 applies in relation to an amendment of an emergency plan, other than an amendment made pursuant to subsection 72 (2), in the same manner as it applies in relation to an emergency plan.

(3) Where an emergency plan is revoked by a new emergency plan, the revocation does not take effect until the new emergency plan comes into force.

PART IX—MISCELLANEOUS

Offences by body corporate

75. (1) Where it is necessary, for the purposes of this Ordinance, to establish the state of mind of a body corporate in respect of conduct engaged in, or deemed by subsection (2) to have been engaged in, by the body corporate, it is sufficient to show that a director, servant or agent of the body corporate, 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 body corporate—

- (a) by a director, servant or agent of the body corporate 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 body corporate, where the giving of the 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 also by the body corporate.

(3) Where it is necessary, for the purposes of this Ordinance, to establish the state of mind of a person in relation to conduct deemed by subsection (4) to have been engaged in by the person, it is sufficient to show that a servant or agent of the person, being a 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.

(4) Conduct engaged in on behalf of a person other than a body corporate—

- (a) by a servant or agent of the person 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 servant or agent of the first-mentioned person where the giving of the direction, consent or agreement is within the scope of the actual or apparent authority of the servant or agent;

shall be deemed, for the purposes of this Ordinance, to have been engaged in by the first-mentioned person.

(5) A reference in subsection (1) to the state of mind of a person shall be read as including 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.

Interference with apparatus etc.

76. A person shall not, without reasonable excuse, interfere with any apparatus, equipment or installation the property of the Authority.

Penalty:

- (a) in the case of a natural person—\$2,000 or imprisonment for 6 months;
- (b) in the case of a body corporate—\$10,000.

Recovery of charges

77. Charges under this Ordinance are a debt due and payable to the Authority and may be recovered by action in a court of competent jurisdiction.

Refund of charges

78. The Authority may refund or remit any charges or a portion of any charge under this Ordinance if the Authority considers it just and equitable to do so.

Evidentiary certificates

79. In proceedings under this Ordinance, a certificate purporting to be signed by the Chief Executive Officer stating that a quantity of electricity or water was supplied by the Authority to a specified person or premises during a specified period or that sewerage services were provided to a specified person or premises during a specified period is evidence of the matters stated in the certificate.

Power of Minister to determine fees

80. The Minister may, by notice in writing published in the *Gazette*, determine fees for the purposes of this Ordinance.

Fees payable to Authority

81. Fees determined under section 80 shall be paid to the Authority.

Regulations

82. The Minister may make regulations, not inconsistent with this Ordinance, prescribing matters—

- (a) required or permitted by this Ordinance to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Ordinance;

and, in particular, may make regulations prescribing, for offences against the regulations, penalties not exceeding a fine of—

- (c) if the offender is a body corporate—\$2,500; or
- (d) if the offender is a natural person—\$500.

PART X—TRANSITIONAL

Interpretation

83. In this Part—

“commencement date” means the date of commencement of this Ordinance;

“former Authority” means the Australian Capital Territory Electricity Authority constituted under the Act;

“the Act” means the *Australian Capital Territory Electricity Supply Act 1962*.

Transfer of assets, liabilities etc.

84. On the commencement date—

- (a) any rights, property or assets that, immediately before that date, were vested in the former Authority are, by force of this section, vested in the Authority;
- (b) the Authority becomes, by force of this section, liable to pay or discharge any debts, liabilities or obligations of the former Authority that existed immediately before that date; and
- (c) the Minister may, by notice in writing published in the *Gazette*, direct that rights, property or assets held by the Commonwealth for the supply of water or the provision of sewerage services be transferred to the Authority.

Employees of Authority

85. (1) A person who, immediately before the commencement date, was appointed or engaged by the former Authority shall, on and from the commencement date, be deemed to be appointed or engaged, as the case requires, by the Authority under section 31 and shall be deemed to be so appointed or engaged on the same terms and conditions as the terms and conditions on which the person was appointed or engaged immediately before the commencement date.

(2) The Authority has, in relation to a person to whom subsection (1) applies, the same rights and obligations in relation to that person and in relation to that person's appointment or engagement as the former Authority had in relation to that person and in relation to that person's employment immediately before the commencement date.

Determinations in relation to electricity, water or sewerage services

86. A determination in force under section 19 of the Act immediately before the commencement date shall, on that date, have effect as if it were a determination made by the Authority under section 48 of this Ordinance.

Contracts, agreements and arrangements

87. (1) A contract, agreement or arrangement entered into by the former Authority as a party and in force immediately before the commencement date continues in force and has effect, on and after that date, as if—

- (a) the Authority were substituted for the former Authority as a party to the contract, agreement or arrangement; and
- (b) any reference in the contract, agreement or arrangement to the former Authority were (except in relation to matters that occurred before that date) a reference to the Authority.

(2) A contract, agreement or arrangement continued in force by virtue of section 35 of the Act and in force immediately before the commencement date continues in force and has effect on and after that date, as if—

- (a) the Authority were substituted for the former Authority as a party to the contract, agreement or arrangement; and
- (b) any reference in the contract, agreement or arrangement that, by virtue of paragraph 35 (c) of the Act, was to be taken to be a reference to the former Authority were (except in relation to matters that occurred before that date) a reference to the Authority.

(3) The Minister may, by notice in writing published in the *Gazette*, declare that a specified agreement or arrangement relating to the supply of water or the provision of sewerage services to which the Commonwealth is a party and in force immediately before the commencement date, shall continue in force as if—

- (a) the Authority were substituted for the Commonwealth or the Commonwealth Government, as the case may be, as a party to the agreement or arrangement; and
- (b) any reference in the agreement or arrangement to the Commonwealth or the Commonwealth Government were (except in relation to matters that occurred before the commencement date) a reference to the Authority;

and where the Minister makes such a declaration, it has effect accordingly.

References in instruments

88. (1) A reference to the former Authority in any instrument made, granted or issued before the commencement date and in force immediately before that date has effect, on and after that date, as if that reference were (except in relation to matters that occurred before that date) a reference to the Authority.

(2) The Minister may, by notice in writing published in the *Gazette*, declare a specified instrument relating to the supply of water or the provision of sewerage services in which there is a reference to the Commonwealth or the Commonwealth Government and in force immediately before the commencement date, shall have effect as if that reference to the Commonwealth or the Commonwealth Government, as the case may be, were (except in relation to matters that occurred before the commencement date) a reference to the Authority, and, where the Minister makes such a declaration, it has effect accordingly.

Authority deemed to have done certain things

89. An act or thing done by or on behalf of the former Authority under the *Electricity Ordinance 1971* before the commencement date shall, for the purposes of the operation of that Ordinance after the commencement date, be deemed to have been done by or on behalf of the Authority.

Legal proceedings

90. (1) Where, before the commencement date, a cause of action by or against the former Authority had arisen but proceedings in respect of that cause

of action had not been instituted before that date, proceedings in respect of that cause of action may be instituted by or against the Authority.

(2) Where, before the commencement date, proceedings by or against the former Authority had been instituted in a court, tribunal, commission or other body and those proceedings had not been completed before that date, the Authority is, by force of this section, substituted for the former Authority as a party to the proceedings and those proceedings may be continued by or against the Authority.

(3) In proceedings instituted or continued pursuant to this section each party to the proceedings has the same rights, and is subject to the same obligations, as if the Authority were the former Authority and the proceedings had been instituted or continued by or against the former Authority.

Registration of changes to title to land etc.

91. Where, by reason of the operation of section 84, any interest in land situated in the Territory becomes vested in the Authority, the Australian Government Solicitor may lodge with the Registrar of Titles a notice, signed by the Australian Government Solicitor or by an officer of the Attorney-General's Department authorised by the Australian Government Solicitor, stating that that interest in land is vested in the Authority by virtue of the operation of section 84 and the Registrar shall make such entries in the relevant registers kept by the Registrar, and do such other things, as are necessary to reflect the operation of section 84 in relation to that interest in land.

NOTES

1. Notified in the *Commonwealth of Australia Gazette* on 30 June 1988.