

AUSTRALIAN CAPITAL TERRITORY

Electricity (Amendment) Ordinance 1985

No. 20 of 1985

TABLE OF PROVISIONS

Section

1. Short title
2. Commencement
3. Principal Ordinance
4. Repeal of Part VII and substitution of new Part—

PART VII—PROHIBITION OR REGULATION OF THE SALE, HIRING, INSTALLATION OR CONNECTION OF ARTICLES OF ELECTRICAL EQUIPMENT

Division —Preliminary

32. Interpretation
- 32A. Application of Part
- 32B. Declaration of corresponding law

Division 2—Prohibition or regulation of articles of electrical equipment

- 32C. Prohibition of sale, installation, & c., of certain articles
- 32D. Prescribed articles of electrical equipment
- 32E. Sale, installation, &c., of prescribed articles
- 32F. Sale, &c., of articles not complying with standards
- 32G. Registration as approved first seller
- 32H. Application for registration of declaration of compliance
- 32J. Registration of declaration of compliance
- 32K. Suspension or cancellation of registration of declaration of compliance
- 32L. Transfer of registration of declaration of compliance
- 32M. Safety registration mark
- 32N. Approved testing laboratories
- 32P. Registers
- 32Q. Examination and testing of articles
- 32R. Unsafe articles
- 32S. Public statements by Authority

Section

Division 3—Inspection, search and seizure

- 32T. Inspectors
- 32U. Return of identity card
- 32V. Powers of inspectors
- 32W. Interpretation
- 32X. Entry and search, &c.
- 32Y. Search warrants
- 32Z. Search warrants may be granted by telephone
- 32ZA. Entry, &c., in emergencies
- 32ZB. Obstruction of inspectors
- 32ZC. Review of inspector's direction

Division 4—Miscellaneous

- 32ZD. Review by Administrative Appeals Tribunal
- 32ZE. Notification of decisions
- 32ZF. False representation
- 32ZG. Evidence of registration of declaration of compliance
- 32ZH. Service of documents
- 32ZJ. Determination of fees

AUSTRALIAN CAPITAL TERRITORY

Electricity (Amendment) Ordinance 1985

No. 20 of 1985

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 23 May 1985.

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 1985*.¹

Commencement

2. This Ordinance shall come into operation on such date as is fixed by the Minister of State for Territories by notice in the *Gazette*.

Principal Ordinance

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

4. Part VII of the Principal Ordinance is repealed and the following Part substituted:

**“PART VII—PROHIBITION OR REGULATION OF THE SALE,
HIRING, INSTALLATION OR CONNECTION OF ARTICLES OF
ELECTRICAL EQUIPMENT**

“Division 1—Preliminary

Interpretation

“32. (1) In this Part—

‘approved first seller’ means a person registered under sub-section 32G (2);

‘corresponding law’, in relation to a State or another Territory, means a law of that State or Territory specified in a notice under section 32B;

‘declaration of compliance’, in relation to a prescribed article of electrical equipment, means a declaration that the article complies with—

- (a) prescribed standards; or
- (b) standards specified in a corresponding law of a State or another Territory;

‘determined fee’ means the fee determined under section 32ZJ for the purposes of the provision in which the expression occurs;

‘prescribed article of electrical equipment’ means—

- (a) an article of electrical equipment—
 - (i) of a description or type specified in a notice under sub-section 32D (1); or
 - (ii) included in a class of articles specified in a notice under sub-section 32D (1); or
- (b) an article of electrical equipment included in a class of electrical articles specified in an order in force under section 21 of the Electricity Development Act, 1945 of the State of New South Wales, not being an article of a description or type specified in, or included in a class of articles specified in, a notice under sub-section 32D (4);

‘regulatory authority’, in relation to a State or another Territory, means—

- (a) in the case of the State of New South Wales—the Energy Authority of New South Wales;

- (b) in the case of the State of Victoria—the State Electricity Commission of Victoria;
- (c) in the case of the State of Queensland—the Queensland Electricity Commission;
- (d) in the case of the State of South Australia—the Electricity Trust of South Australia;
- (e) in the case of the State of Western Australia—the State Energy Commission of Western Australia;
- (f) in the case of the State of Tasmania—the Hydro-electric Commission, Tasmania; and
- (g) in the case of the Northern Territory of Australia—the Northern Territory Electricity Commission;

‘relevant prescribed standards’, in relation to an article of electrical equipment, means the safety standards specified in a notice referred to in sub-section 32D (3) in respect of articles of a description or type, or of a class, in which the article is included;

‘Tribunal’ means the Administrative Appeals Tribunal established under the *Administrative Appeals Tribunal Act 1975*.

“(2) In this Part, a reference to articles of the same brand and model shall be read as a reference to articles of the same design constructed to identical specifications by the same manufacturer.

“(3) Where a declaration of compliance in respect of a prescribed article of electrical equipment has been registered under section 32J or under a corresponding law of a State or another Territory, that declaration shall, for the purpose of this Ordinance, be taken to relate to each prescribed article of electrical equipment—

- (a) of the same brand and model as the first-mentioned article; and
- (b) manufactured in or imported into the Territory or Australia, as the case requires, by the approved first seller or other person who made that declaration.

Application of Part

“32A. (1) Subject to sub-section (2), this Part does not apply in relation to an article of electrical equipment included in a class, description or type of electrical article that was, on the date of commencement of this Part—

- (a) specified in a proclamation under section 21 of the Electrical Development Act, 1945 of the State of New South Wales; and
- (b) approved for the purposes of that section by the Energy Authority of the State of New South Wales or by an approving authority in another State within the meaning of that section.

“(2) The Minister may, by notice in the *Gazette*, declare that a specified article of electrical equipment, being an article referred to in sub-section (1), is an article in relation to which the provisions of this Part apply, and where such a declaration has been made in relation to an article of electrical equipment, sub-section (1) ceases to have effect in relation to that article.

Declaration of corresponding law

“32B. The Minister may, by notice in the *Gazette*, declare a specified law of a State or another Territory, being a law that contains provisions substantially similar to this Part, to be a corresponding law for the purposes of this Part.

“Division 2—Prohibition or regulation of articles of electrical equipment

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

“32C. (1) Subject to sub-section (2), the Authority may, by notice in the *Gazette*, declare that—

- (a) an article of electrical equipment of a specified description or type is a prohibited article of electrical equipment for the purposes of this section; or
- (b) a specified class of articles or electrical equipment is a prohibited class of articles of electrical equipment for the purposes of this section.

“(2) The Authority shall not make a declaration under sub-section (1) in respect of an article or class of articles unless the Authority is satisfied that there are reasonable grounds for believing that—

- (a) by reason of its design or construction, the article, or an article included in the class of articles, is, or is likely to become, unsafe to use; and
- (b) by reason of the risk of death or injury to persons or the risk of damage to property, the article or class should be so declared.

“(3) A person who—

- (a) sells or lets on hire;
- (b) exposes or advertises for sale or hire; or
- (c) installs in, or connects to, an electrical installation,

a prohibited article of electrical equipment is guilty of an offence punishable, on conviction, by a fine not exceeding—

- (d) in the case of a body corporate—\$10,000; or
- (e) in the case of a natural person—\$2,000.

“(4) Where a person suffers loss or damage by reason of an article sold to him or her being a prohibited article, an amount equal to the amount of the loss or damage so suffered is payable to him or her by the person who sold that article to him or her.

“(5) In this section, ‘prohibited article of electrical equipment’ means an article of electrical equipment—

- (a) of a description or type specified in a notice under sub-section (1); or
- (b) included in a class of articles specified in a notice under sub-section (1).

Prescribed articles of electrical equipment

“32D. (1) The Authority may, by notice in the *Gazette*, declare that—

- (a) an article of electrical equipment of a specified description or type is a prescribed article of electrical equipment for the purposes of the Part; or
- (b) a specified class of articles of electrical equipment is a prescribed class of articles of electrical equipment for the purposes of this Part.

“(2) The Authority shall not make a declaration under sub-section (1) in respect of an article or class of articles unless the Authority is satisfied that there are reasonable grounds for believing that—

- (a) by reason of its design or construction, the article, or an article included in the class of articles, is, or is likely to become, unsafe to use; and
- (b) by reason of the risk of death or injury to persons or the risk of damage to property, the article or class should be so declared.

“(3) Where the Authority makes a declaration under sub-section (1), the Authority shall, in the notice containing the declaration, specify the safety standards with which an article of a description or type, or an article included in the class of articles, specified in the notice is to comply.

“(4) The Authority may, by notice in the *Gazette*, declare that—

- (a) an article of electrical equipment of a specified description or type is not a prescribed article of electrical equipment for the purposes of this Part; or
- (b) a specified class of articles of electrical equipment is not a prescribed class of articles of electrical equipment for the purposes of this Part.

Sale, installation, &c., of prescribed articles

“32E. (1) An approved first seller shall not—

- (a) sell or let on hire;
- (b) expose or advertise for sale or hire; or
- (c) install in, or connect to, an electrical installation,

a prescribed article of electrical equipment where—

- (d) a declaration of compliance in relation to that article is not registered under section 32J or under the corresponding law of a State or another Territory; or
- (e) a notice under section 32R has been given to that seller in relation to articles of the same brand and model.

“(2) A person, other than an approved first seller, shall not—

- (a) sell or let on hire;
- (b) expose or advertise for sale or hire; or
- (c) install in, or connect to, an electrical installation,

a prescribed article of electrical equipment where—

- (d) a declaration of compliance in relation to that article had not at any time been registered under section 32J or under the corresponding law of a State or another Territory; or
- (e) the person has received from any other person a notice under sub-section 32R (2) in relation to the recall of articles of the same brand and model.

“(3) A person who contravenes sub-section (1) or (2) is guilty of an offence punishable, on conviction, by a fine not exceeding—

- (a) in the case of a body corporate—\$5,000; or
- (b) in the case of a natural person—\$1,000.

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

“32F. A person who—

- (a) sells or lets on hire;
- (b) exposes or advertises for sale or hire; or
- (c) installs in, or connects to, an electrical installation,

a prescribed article of electrical equipment that does not comply with the standards referred to in the relevant declaration of compliance is guilty of an offence punishable, on conviction, by a fine not exceeding—

- (d) in the case of a body corporate—\$5,000; or
- (e) in the case of a natural person—\$1,000.

Registration as approved first seller

“32G. (1) A person who—

- (a) manufactures prescribed articles of electrical equipment in the Territory; or
- (b) imports prescribed articles of electrical equipment into the Territory from outside Australia,

may apply in writing to the Authority to be registered as an approved first seller in relation to those articles.

“(2) Subject to sub-section (3), the Authority shall, upon receiving an application under sub-section (1) together with payment of the determined fee, register the applicant as an approved first seller in relation to the prescribed articles of electrical equipment specified in the application by causing the prescribed particulars in relation to the applicant and those articles to be entered in the register referred to in paragraph 32P (1) (b).

“(3) The Authority may refuse to register an applicant as an approved first seller if the Chairman is satisfied that the applicant—

- (a) is insolvent;

- (b) has been refused registration as a first seller or an approved applicant, or equivalent registration, under the corresponding law of a State or another Territory;
- (c) has been registered as a first seller or an approved applicant or has equivalent registration under the corresponding law of a State or another Territory and that registration has been cancelled otherwise than at the request of the applicant;
- (d) has been convicted of an offence under this Part, under Part VII of this Ordinance as in force immediately before the commencement of this Part or of a similar offence under the law of a State or another Territory; or
- (e) has not complied with such other requirements (if any) as are prescribed.

“(4) The Authority may cancel the registration of a person as an approved first seller where—

- (a) the chairman is satisfied that—
 - (i) the person is insolvent;
 - (ii) the person has been refused registration as a first seller or approved applicant, or equivalent registration, under a corresponding law of a State or another Territory;
 - (iii) the registration of the person as a first seller or approved applicant, or equivalent registration of the person, under the corresponding law of a State or another Territory has been cancelled otherwise than at the request of the person;
 - (iv) the person has been convicted of an offence under this Part, under Part VII of this Ordinance as in force immediately before the commencement of this Part or of a similar offence under the law of a State or another Territory; or
 - (v) the person has supplied an article of electrical equipment in breach of an undertaking referred to in paragraph 32H (3) (d); or
- (b) the approved first seller requests in writing that the registration be cancelled; or
- (c) the approved first seller—

- (i) being a body corporate, is dissolved; or
- (ii) being a natural person, dies.

“(5) For the purposes of this section, a person shall be taken to be insolvent if—

- (a) in the case of a body corporate—a resolution for the winding up of the body has been passed or an application for the winding up of the body has been filed in a court; or
- (b) in the case of a natural person—the person becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit.

“(6) An approved first seller who fails to notify the Authority in writing of any change in the relevant particulars referred to in sub-section (2), within 7 days after the change occurs, is guilty of an offence punishable, on conviction, by a fine not exceeding—

- (a) in the case of a body corporate—\$2,500; or
- (b) in the case of a natural person—\$500.

“(7) The Authority shall cause particulars of any change notified in pursuance of sub-section (6) to be entered in the register referred to in sub-section (2).

Application for registration of declaration of compliance

“32H. (1) An approved first seller may apply to the Authority for the registration of a declaration of compliance made by that seller in relation to a prescribed article of electrical equipment by lodging with the Authority—

- (a) an application in writing together with the determined fee;
- (b) the declaration of compliance;
- (c) a report prepared by a testing laboratory approved for the purposes of this Ordinance to the effect that the article has been tested and found to comply with the relevant prescribed standards; and
- (d) subject to sub-section (2), the article or another article of the same brand and model.

“(2) Where it is impracticable to lodge an article with the Authority in pursuance of paragraph (1) (d), the approved first seller shall give the Authority or its officers or employees reasonable access to such an article.

“(3) A declaration of compliance lodged under this section shall be in such forms as the Authority requires and shall contain—

- (a) the name and business address of the approved first seller;
- (b) a description of the article of electrical equipment to which it relates, identifying the article by the manufacturer’s model or catalogue number or by such other means as the Authority determines;
- (c) a declaration by the applicant that the article complies with the relevant prescribed standards;
- (d) an undertaking by the applicant that, while the declaration of compliance is in force, the applicant will not supply an article of electrical equipment of the same description, type or class imported or manufactured by the applicant to any person unless—
 - (i) the article of electrical equipment complies with the relevant prescribed standards;
 - (ii) the article of electrical equipment is marked, stamped or labelled as prescribed; and
 - (iii) if the article of electrical equipment has been modified in any manner, details of the modification have been recorded in the register referred to in paragraph 32P (1) (c) or a new declaration of compliance in relation to that article has been registered; and
- (e) such other information as is required by the Authority.

Registration of declaration of compliance

“32J. (1) Subject to sub-section (2), where the Authority is satisfied that a prescribed article of electrical equipment in respect of which a declaration of compliance has been lodged under section 32H complies with the requirements of the relevant prescribed standards, the Authority shall register the declaration of compliance in the name of the approved first seller who lodged it by causing the prescribed particulars in relation to that declaration to be entered in the register referred to in paragraph 32P (1) (c).

“(2) A declaration of compliance in relation to an article of electrical equipment shall not be registered under this section if registration of a

declaration of compliance in relation to an article of the same brand and model has been refused under the corresponding law of a State or another Territory.

“(3) Subject to this Ordinance, registration of a declaration of compliance under this section shall remain in force for such period (being not less than 1 year and not more than 5 years) as the Authority determines, but that registrations shall be renewed by the Authority from time to time, upon payment of the determined fee, for a period not exceeding 5 years.

Suspension or cancellation of registration of declaration of compliance

“32K. (1) The Authority may cancel, or suspend for such period as the Authority thinks fit, the registration of a declaration of compliance if—

- (a) the Chairman of the Authority is satisfied that an article of electrical equipment to which the declaration relates has been found not to comply with the relevant prescribed standards in a respect which is likely to be characteristic of articles of the same brand and model;
- (b) the approved first seller who lodged the declaration has, in the opinion of the Chairman, made, by advertisement or otherwise, representations as to the significance of—
 - (i) the registration of the declaration; or
 - (ii) any mark, stamp or label affixed to the article in pursuance of section 32M,

that are intended or likely to mislead any person;

- (c) the person who lodged the declaration ceases to be an approved first seller; or
- (d) the approved first seller who lodged the declaration so requests in writing.

“(2) Where a declaration of compliance is suspended or cancelled under sub-section (1), the Authority shall cause written notification of that fact and of the reason for the suspension or cancellation to be given to each regulatory authority for a State or another Territory.

“(3) Where a declaration of compliance has been suspended, under sub-section (1) the Authority may, by notice in writing given to the approved first seller who lodged the declaration, at any time reduce the period of suspension or rescind the remainder of the suspension.

“(4) The Authority shall rescind the suspension of a declaration of compliance where the Authority is satisfied that the ground for the suspension no longer exists.

Transfer of registration of declaration of compliance

“32L. (1) The registration of a declaration of compliance under section 32J may be transferred to the name of another approved first seller in accordance with this section.

“(2) An application for a transfer under this section shall be made in writing to the Authority, shall be signed by the transferor and the transferee and shall contain—

- (a) the names and addresses of the transferor and the transferee;
- (b) particulars of the relevant declaration of compliance; and
- (c) an undertaking on the part of the transferee to comply with the undertakings already specified in that declaration of compliance.

“(3) Subject to sub-section (4), the Authority shall, upon receiving an application under sub-section (2) together with payment of the determined fee, transfer the registration of a declaration of compliance by entering the name and address of the transferee in the register referred to in paragraph 32P (1) (c) in relation to that declaration.

“(4) A transfer of the registration of a declaration of compliance shall not be made under this section if a transfer of the registration of a declaration of compliance in relation to an article of the same brand and model as the article to which the declaration relates to the same transferee as the transferee referred to in the application under this section has been refused under the corresponding law of a State or another Territory.

Safety registration mark

“32M. (1) Where a declaration of compliance has been registered under this Ordinance, the approved first seller shall, from time to time as necessary, ensure that, as soon as practicable, each article of electrical equipment to which the declaration relates that is manufactured or imported by him is marked, stamped or labelled as prescribed.

“(2) A person who—

- (a) sells or lets on hire;
- (b) exposes or advertises for sale or hire; or

(c) installs in, or connects to, an electrical installation, a prescribed article of electrical equipment that has not been marked, stamped or labelled in accordance with sub-section (1) or a corresponding law of a State or another Territory is guilty of an offence punishable, on conviction, by a fine not exceeding—

(d) in the case of a body corporate—\$5,000; or

(e) in the case of a natural person—\$1,000.

Approved testing laboratories

“32N. (1) If the Authority is satisfied that premises are suitable to be so used, the Authority may, on the application of the proprietor of premises, by instrument in writing, approve those premises to be used as a testing laboratory for the purposes of this Ordinance.

“(2) If the Authority is satisfied that those premises are no longer suitable to be used as a testing laboratory for the purposes of this Ordinance, the Authority may, by instrument in writing given to the proprietor of those premises, cancel an approval under sub-section (1) in respect of those premises.

“(3) In determining whether premises are suitable to be used as a testing laboratory for the purposes of this Ordinance, the Authority shall have regard to—

- (a) whether the premises have been approved or refused approval as a testing laboratory under a corresponding law of a State or another Territory;
- (b) the facilities at the premises for testing articles of electrical equipment;
- (c) any previous record of accuracy or otherwise in the testing of articles of electrical equipment on the premises;
- (d) in the case of premises within Australia—whether the premises have been accredited or refused accreditation for the testing of electrical goods by the body known as the National Association of Testing Authorities;
- (e) in the case of premises outside Australia—whether the premises have been accredited or refused accreditation by a body or authority with functions at the place where the premises are situated similar to the functions of the body known as the National Association of Testing Authorities; and

- (f) such other information as the Authority considers relevant.

Registers

“32P. (1) The Authority shall cause to be kept in its office—

- (a) a register to be called the ‘Register of Prescribed Articles of Electrical Equipment’ which shall contain the particulars specified in each notice referred to in section 32D and such further information as the Authority thinks fit;
- (b) a register to be called the ‘Register of Approved First Sellers’ which shall contain—
 - (i) the full name and address of each approved first seller;
 - (ii) the principal place of business in the Territory of each approved first seller;
 - (iii) the date of registration of each approved first seller;
 - (iv) particulars of any cancellations of registration under sub-section 32G (4); and
 - (v) such other particulars as are prescribed;
- (c) a register to be called the ‘Register of Declarations of Compliance’ which shall contain, in respect of each declaration of compliance registered under section 32J—
 - (i) the full name and address of the declarant;
 - (ii) a description of the prescribed article of electrical equipment to which the declaration relates;
 - (iii) a description of the mark, stamp or label applicable to the article in accordance with sub-section 32M (1);
 - (iv) the date of registration of the declaration;
 - (v) the period of registration of the declaration and of any renewal of that registration;
 - (vi) where details of a modification have been furnished pursuant to an undertaking referred to in paragraph 32H (3) (d)—those details;
 - (vii) particulars of any suspension or cancellation of registration under section 32K; and

- (viii) such further particulars as the Authority thinks fit; and
- (d) a register to be called the ‘Register of Approved Testing Laboratories’ which shall contain, in respect of each of the premises approved under section 32N as a testing laboratory for the purposes of this Ordinance—
 - (i) the name and address of the proprietor;
 - (ii) the address of those premises; and
 - (iii) the date of approval.

“(2) Each register shall be available for public inspection during normal working hours and any person may, upon payment of the determined fee, inspect a register and may obtain copies of entries in a register.

Examination and testing of articles

“32Q. (1) The Authority may, from time to time, cause prescribed articles of electrical equipment to be examined and tested for the purpose of determining whether or not those articles are safe to use.

“(2) For the purposes of sub-section (1), where a declaration of compliance has been registered under this Ordinance or under the corresponding law of a State or another Territory, the Authority may, by notice in writing given to the approved first seller, require the approved first seller, within such period as is specified in the notice—

- (a) to furnish to the Authority a prescribed article of electrical equipment to which the declaration relates; or
- (b) if it is impracticable to furnish such an article, to give the Authority or its officers or employees reasonable access to such an article,

and to furnish to the Authority such information in respect of the article as is specified in the notice.

“(3) An approved first seller who, without reasonable excuse, refuses or fails to comply with a requirement of a notice given to the approved first seller under sub-section (2) is guilty of an offence punishable, on conviction, by a fine not exceeding—

- (a) in the case of a body corporate—\$5,000; or
- (b) in the case of a natural person—\$1,000.

“(4) The Authority shall ensure that an article furnished to it in pursuance of sub-section (1) is returned to the person who so furnished it within 2 months after the date on which it was so furnished.

“(5) Where an article furnished to the Authority in pursuance of sub-section (1) is destroyed or damaged while it is in the possession of the authority (not being destruction or damage that was necessary for the purpose of the examination and testing by the Authority of the article), the person who furnished the article is entitled to such amount from the Authority as will reasonably compensate that person for the loss suffered by him as a result of that destruction or damage.

Unsafe articles

“32R. (1) Where, after the examination and testing of an article of electrical equipment in pursuance of section 32Q, the Authority is satisfied that the article fails to comply with the relevant prescribed standards or is otherwise defective in a respect that is, or is likely to be, characteristic of articles of the same brand and model, the Authority may, by notice in writing given to the approved first seller who lodged the declaration of compliance in relation to that article, require the approved first seller to—

- (a) advertise, in the manner specified in the notice, warnings about the risks associated with the use of the articles of the same brand and model;
- (b) refrain from—
 - (i) selling or letting on hire;
 - (ii) exposing or advertising for sale or hire; or
 - (iii) installing in, or connecting to, an electrical installation, an article of the same brand and model; and
- (c) recall any article sold or let on hire by him and specified in the notice, being an article of the same brand and model.

“(2) Where an approved first seller is required under sub-section (1) to recall an article he or she shall cause written notice of that fact to be given to any person to whom the approved first seller has sold articles of the same brand and model or to whom he or she has reasonable grounds for believing that articles of the same brand and model have been sold.

“(3) A person who fails to comply with a requirement given to him under sub-section (1) is guilty of an offence punishable, on conviction, by a fine not exceeding—

- (a) in the case of a body corporate—\$5,000; or
- (b) in the case of a natural person—\$1,000.

“(4) Where a person suffers loss or damage by reason of an article being recalled in pursuance of paragraph (1) (c), an amount equal to the amount of the loss or damage so suffered is payable to that person by the person who sold him or her that article.

Public statements by Authority

“32S. (1) The Authority may cause to be published warnings or information designed to increase public awareness concerning risks associated with the use of articles of electrical equipment.

“(2) Without limiting the generality of sub-section (1), where the Authority has given notice to an approved first seller under sub-section 32R (1), the Authority may cause to be published a statement containing advice to the public in relation to the use of a prescribed article of electrical equipment to which the notice relates.

“(3) An action or proceedings, civil or criminal, does not lie against the Authority, or against an officer or employee of the Authority personally, for or in respect of anything done in good faith in pursuance of this section.

Division 3—Inspection, search and seizure

Inspectors

“32T. (1) The Chairman of the Authority may appoint such inspectors as he or she considers necessary for the purposes of this Ordinance.

“(2) The Chairman shall cause to be issued to each person appointed under sub-section (1) and identity card that specifies the name and appointment of the person and to which is attached a recent photograph of the person.

Return of identity card

“32U. A person who was appointed under sub-section 32T (1) shall not, upon ceasing to be an inspector, fail or refuse, without reasonable excuse, to return to the Authority the identity card issued to him or her under sub-section 32T (2).

Penalty: \$100.

Powers of inspectors

“32V. (1) Where an inspector has reasonable grounds for believing that prescribed articles of electrical equipment are on commercial premises for the purpose of sale, hire or installation in or connection to an electrical installation, the inspector may, at any time during normal business hours, enter those premises and may—

- (a) inspect a prescribed article of electrical equipment found on the premises;
- (b) inspect and make copies of, or take extracts from, any accounts, books, documents or other records found on the premises relating to the sale or hire of prescribed articles of electrical equipment;
- (c) seize and remove for the purpose of testing a prescribed article of electrical equipment found on the premises; and
- (d) by notice in writing given to the proprietor of the premises, direct the proprietor to refrain from—
 - (i) selling or hiring;
 - (ii) exposing or advertising for sale or hire; or
 - (iii) installing in or connecting to an electrical installation,

any prescribed article of electrical equipment found on the premises (being an article which the inspector believes on reasonable grounds is or is likely to become unsafe to use or does not comply with the relevant prescribed standards) until the article has been repaired so as to render it safe to use or so that it complies with those standards.

“(2) An inspector who enters commercial premises in pursuance of sub-section (1) is not authorized to remain on the premises if the inspector does not produce an identify card issued to him or her under section 32T for inspection by the proprietor of the premises.

“(3) A person who, without reasonable excuse, contravenes or fails to comply with a direction given to the person under paragraph (1) (d) is guilty of an offence punishable, on conviction, by a fine not exceeding—

- (a) in the case of a body corporate—\$2,000; or
- (b) in the case of a natural person—\$400.

“(4) In this section—

‘commercial premises’ means premises in which a business, trade, profession or calling is carried on, other than any part of the premises that is used for residential purposes;

‘proprietor’, in relation to commercial premises, includes an occupier or person apparently in charge of the premises.

Interpretation

“32W. (1) For the purposes of this Division, a thing is connected with a particular offence if it is—

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

“(2) A reference in this Division to an offence shall be read as including a reference to an offence that there are reasonable grounds for believing has been, or is to be, committed.

Entry and search, &c.

“32X. (1) An inspector may enter upon any land, or upon or into any premises, vessel or vehicle, and may search for, and exercise his or her powers under sub-section (2) in relation to—

- (a) any thing that he believes on reasonable grounds to be connected with an offence against this Ordinance; or
- (b) any electrical article that he believes on reasonable grounds is unsafe or does not comply with the safety standards specified under sub-section 32D (3) for such an article,

if, and only if, the search is made and the powers are exercised—

- (c) in pursuance of a warrant under section 32Y;
- (d) in circumstances of seriousness and urgency, in accordance with section 32ZA;
- (e) after obtaining the consent of the occupier of the land or premises or of the person in charge of the vessel or vehicle; or
- (f) in accordance with an order made by a court.

“(2) Where an inspector enters upon any land, or upon or into any premises, vessel or vehicle in accordance with sub-section (1), he or she may—

- (a) inspect any article of electrical equipment or any book or record relating to the sale, hire, installation or connection of such an article;
- (b) test, or seize for the purpose of testing, any article of electrical equipment;
- (c) seize any thing that he or she believes on reasonable grounds to be connected with an offence against this Ordinance; and
- (d) seize any article of electrical equipment that he or she believes on reasonable grounds is unsafe or does not comply with the safety standards specified in sub-section 32D (3) for such an article.

Search warrants

“32Y. (1) Where an information on oath is laid before a Magistrate alleging that there are reasonable grounds for suspecting that there may be upon any land or upon or in any premises, vessel or vehicle—

- (a) a thing of a particular kind connected with a particular offence against a provision of this Ordinance; or
- (b) an article of electrical equipment which is unsafe or does not comply with the safety standards specified under sub-section 32D (3) for such an article,

and the information sets out those grounds, the Magistrate may issue a search warrant authorizing an inspector named in the warrant, with such assistance as the inspector so named thinks necessary and if necessary by force—

- (c) to enter upon the land or upon or into the premises, vessel or vehicle;
- (d) to search the land, premises, vessel or vehicle for things of that kind; and
- (e) to exercise any of his powers under sub-section 32X (2) in regard to an article of electrical equipment or any book or record relating to the sale, hire, installation or connection of such an article.

“(2) A magistrate shall not issue a warrant under sub-section (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 or the lack of safety or compliance in relation to which the entry and search are authorized;
- (b) whether entry is authorized to be made at any time of the day or night or during specified hours of the day or night;
- (c) a description of the kind of things in relation to which the powers under sub-section 32X (2) may be exercised; and
- (d) a date, not being later than one month after the date of issue of the warrant, upon which the warrant ceases to have effect.

“(4) If, in the course of searching, in accordance with a warrant issued under this section, for things connected with a particular offence, being things of a kind specified in the warrant, an inspector finds any thing that he or she believes on reasonable grounds to be connected with the offence, although not of a kind specified in the warrant, or to be connected with another offence against this Ordinance, and he or she believes on reasonable grounds that it is necessary to seize that thing in order to prevent its concealment, loss or destruction, or its use in committing, continuing or repeating the offence or in committing the other offence, the warrant shall be deemed to authorize the inspector to seize that thing.

“(5) If, in the course of searching, in accordance with a warrant issued under this section, for articles of electrical equipment which are unsafe or do not comply with the safety standards specified under sub-section 32D (3) for such articles, being articles of a kind specified in the warrant, an inspector finds any article of electrical equipment that he or she believes on reasonable grounds is unsafe or does not comply with the safety standards so specified for such an article, although not of a kind specified in the warrant, and he or she believes on reasonable grounds that it is necessary to seize that article in order to prevent its—

- (a) concealment, loss or destruction;
- (b) sale or letting on hire;
- (c) being exposed or advertised for sale or hire; or
- (d) being installed in, or connected to, an electrical installation,

the warrant shall be deemed to authorize the inspector to seize that article of electrical equipment.

Search warrants may be granted by telephone

“32Z. (1) Where, by reason of circumstances of urgency, an inspector considers it necessary to do so, the inspector may make application for a search warrant to a Magistrate, by telephone, in accordance with this section.

“(2) Before making such an application, the inspector shall prepare an information of a kind referred to in sub-section 32Y (1) that sets out the grounds on which the issue of the warrant is being sought, but may, if it is necessary to do so, make the application before the information has been sworn.

“(3) Where a Magistrate is, upon application made under sub-section (1), satisfied—

- (a) after having considered the terms of the information prepared in accordance with sub-section (2); and
- (b) after having received such further information (if any) as he or she requires concerning the grounds on which the issue of the warrant is being sought,

that there are reasonable grounds for issuing the warrant, the Magistrate shall complete and sign such a search warrant as he or she would issue under section 32Y if the application had been made to the Magistrate in accordance with that section.

“(4) Where a Magistrate signs a warrant under sub-section (3)—

- (a) the Magistrate shall inform the inspector of the terms of the warrant so signed and the date on which and the time at which it was signed, and record on the warrant his or her reasons for granting the warrant; and
- (b) the inspector shall complete a form of warrant in the terms furnished to the inspector by the Magistrate and write on it the name of the Magistrate and the date on which and the time at which the warrant was signed.

“(5) Where an inspector completes a form of warrant in accordance with sub-section (4), the inspector shall, not later than the day next following the date of expiry of the warrant, forward to the Magistrate who signed the warrant the form of warrant so completed and the information duly sworn in connection with the warrant.

“(6) Upon receipt of the documents referred to in sub-section (5), the Magistrate shall attach to them the warrant signed by him or her and deal with the documents in the manner in which he or she would have dealt with the information if the application for the warrant had been made to the Magistrate in accordance with section 32Y.

“(7) A form of warrant duly completed by an inspector in accordance with sub-section (4) is, if it is in accordance with the terms of the warrant signed by the Magistrate, authority for any search, entry or seizure that the warrant so signed authorizes.

“(8) Where it is material, in any proceedings, for a court to be satisfied that a search, entry or seizure was authorized in accordance with this section, and the warrant signed by a Magistrate in accordance with this section authorizing the search, entry or seizure is not produced in evidence, the court shall presume, unless the contrary is proved, that the search, entry or seizure was not authorized by such a warrant.

Entry, &c., in emergencies

“32ZA. An inspector may enter upon any land, or upon or into any premises, vessel or vehicle, on or in which he or she has reasonable grounds for believing is situated—

- (a) any thing connected with an offence against this Ordinance; or
- (b) any article of electrical equipment which is unsafe or does not comply with the safety standards specified under sub-section 32D (3) for such an article,

and may search for and exercise all or any of his or her powers under sub-section 32X (2) in relation to such a thing or article if the inspector believes on reasonable grounds that it is necessary to do so—

- (c) to prevent the concealment, loss or destruction of any thing connected with an offence; or
- (d) to prevent the—
 - (i) concealment, loss or destruction;
 - (ii) sale or letting on hire;
 - (iii) exposing or advertising for sale or hire; or
 - (iv) installing in, or connecting to, an electrical installation,

of any article of electrical equipment which is unsafe or does not comply with the safety standards specified under sub-section 32D (3) for such an article,

and the search or entry is made in circumstances of such seriousness and urgency as to require and justify immediate search or entry and immediate exercise of the powers under sub-section 32X (2) without the authority of an order of a court or a warrant issued under this Part.

Obstruction of inspectors

“32ZB. A person shall not hinder or obstruct an inspector in the exercise of his or her powers or the performance of his or her duties under this Ordinance.

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

Review of inspector’s direction

“32ZC. Where an inspector has given a direction in pursuance of paragraph 32 V (1) (d), the Authority shall, as soon as is practicable, review the direction and shall—

- (a) if the Authority is satisfied that the article of electrical equipment to which the direction relates is or is likely to become unsafe to use or does not comply with the relevant prescribed standards—confirm the direction; or
- (b) if it is not so satisfied—cancel the direction.

Division 4—Miscellaneous

Review by Administrative Appeals Tribunal

“32ZD. Application may be made to the Tribunal for a review of a decision of the Authority—

- (a) refusing to register a person as an approved first seller;
- (b) cancelling the registration of an approved first seller;
- (c) refusing to register a declaration of compliance;
- (d) suspending or cancelling the registration of a declaration of compliance;
- (e) refusing to approve premises as a testing laboratory for the purposes of this Ordinance;

- (f) cancelling the approval of premises as a testing laboratory for the purposes of this Ordinance;
- (g) giving a notice under section 32R;
- (h) under section 32ZC confirming a direction under paragraph 32V (1) (d) by an inspector;
- (j) determining the period of registration of a declaration of compliance under sub-section 32J (3); or
- (k) not to reduce a period of suspension or to rescind the remainder of a suspension.

Notifications of decisions

“32ZE. (1) Where the Authority makes a decision referred to in section 32ZD, the Authority shall cause a notice in writing to be given to the person whose interests are adversely affected by the decision—

- (a) setting out the decision, the findings on material questions of fact, referring to the evidence or other material on which those findings were based, and giving the reasons for the decision; and
- (b) including a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1975*, the person is entitled to apply to the Tribunal for a review of the decision.

“(2) The validity of a decision referred to in section 32ZD shall not be taken to be affected by a failure to include in a notice for the purpose of sub-section (1) a statement in accordance with paragraph (1) (b).

False representation

“32ZF. A person who falsely represents that a declaration of compliance is registered under this Ordinance or the corresponding law of a State or another Territory is guilty of an offence punishable, on conviction, by a fine not exceeding—

- (a) in the case of a body corporate—\$5,000; or
- (b) in the case of a natural person—\$1,000.

Evidence of registration of declaration of compliance

“32ZG. In any proceedings for an offence against this Part, a certificate purporting to be signed for or on behalf of the Authority or the regulatory authority for a State or another Territory to the effect that at a particular time a

declaration of compliance was or was not registered under this Ordinance or the corresponding law of that State or Territory, as the case may be, is evidence of the facts stated in the certificate.

Service of documents

“32ZH. (1) A document that is required by this Ordinance to be given to a body corporate may be so given—

- (a) by delivering the document to a director, manager or secretary of the body corporate;
- (b) by leaving the document at the registered office in the Territory of the body corporate;
- (c) by leaving the document at an office or place of business of the body corporate in the Territory with a person apparently employed at that office or place; or
- (d) by sending the document by post addressed to the body corporate at its registered office in the Territory.

“(2) A document that is required by this Ordinance to be given to a natural person may be so given—

- (a) by delivering the document to the person personally;
- (b) by leaving the document at the last-known place of residence or business of that person with a person apparently over the age of 16 years and apparently resident or employed at that place; or
- (c) by sending the document by post addressed to the person concerned at the last-known place of residence or business of that person.

Determination of fees

“32ZJ. The Minister may, by notice in writing published in the *Gazette*, determine fees for the purposes of this Part.”.

NOTES

1. Notified in the *Commonwealth of Australia Gazette* on 30 May 1985.
2. No. 30, 1971 as amended by No. 27, 1972; No. 65, 1977; No. 46, 1978; No. 61, 1982.