

## ENERGY EFFICIENCY BILL

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### EXPLANATORY NOTE

Energy efficiency provides both cost savings and environmental benefits, by maintaining energy services while purchasing less energy and reducing environmental impact. It offers the least-cost way to implement our commitment under the Framework Convention on Climate Change to reduce emissions of carbon dioxide. Many cost-effective opportunities to improve energy efficiency have been identified but for various reasons they are not adopted by the market. That imposes an overall cost on the New Zealand economy and delays meeting our climate change objectives.

This bill creates a framework for improving the energy efficiency of the New Zealand economy by establishing a statutory authority, a process for developing a national strategy, and the power to set performance standards.

The Energy Efficiency and Conservation Authority (EECA) was established in 1992 within the Ministry of Commerce. Since 1994, its primary role has been to implement the Climate Reduction Action Programme, consisting of education, voluntary agreements, technical assistance and market development programmes, including both energy efficiency and renewable energy. However, it has no statutory basis and its future is currently under review.

This bill gives the EECA formal establishment, broader functions, and powers to enable it to play a major role in New Zealand's strategy to meet our climate change obligations. To be consistent with government legislation it draws on the establishment provisions for the Environmental Risk Management Authority, the Land Transport Safety Authority, and the Building Industry Authority. Some of its functions are monitoring, advice, education, research, demonstration, and implementing programmes.

The Government has signalled to the International Energy Agency its intention to legislate for energy performance standards for certain types of energy-using equipment. This bill provides that statutory power to the Minister on the advice of the EECA, but sets it in a wider context of measures within a national energy efficiency and conservation strategy. The process by which the EECA will develop the strategy, after public consultation, is modelled on the National Land Transport Strategy.

*Clauses 23 to 25* provide for the EECA to develop market transformation plans to address market failures within various sectors of the energy market. These may include educational activities, partnerships, and recommendations to the Minister

for performance standards and/or price control as appropriate, and may form part of the Energy Efficiency and Conservation Strategy.

*Clauses 30 and 31* amend the Building Act 1991 to allow local authorities to require energy efficient performance in new buildings.

*Clause 33* amends the Electricity Act 1992 to reinstate the Minister's powers to limit domestic line or energy charges. This power lapsed on 1 April 1997 by way of a sunset provision and at present the Minister's only power is through the Commerce Act 1986. The power is still necessary because the expected competition in domestic electricity supply has not eventuated, high fixed-line charges discourage energy efficiency.

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## ENERGY EFFICIENCY

### ANALYSIS

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*Amendments to Land Transport Act 1993*  
 34. Rules relating to safety and licensing  
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SCHEDULE  
 Provisions Relating to Energy Efficiency and  
 Conservation Authority

A BILL INTITULED

**An Act to promote the more efficient use of energy  
 within New Zealand**

BE IT ENACTED by the Parliament of New Zealand as follows:

- 1. Short Title and commencement**—(1) This Act may be cited as the Energy Efficiency Act 1998. 5  
 (2) Except as provided in section 27 (2), this Act comes into force on 1 April 1998.
- 2. Interpretation**—In this Act, unless the context otherwise requires,— 10
- “Authority” means the Energy Efficiency and Conservation Authority established under section 5:  
 “Building” has the same meaning as in the Building Act 1991:  
 “Building code” has the same meaning as in the Building Act 1991: 15  
 “Conservation of energy” means the managing of the extraction, transformation, production, distribution, and use of fuels and the appropriation of energy in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being, while recognising and providing for— 20  
 (a) The reasonably foreseeable needs of future generations; and 25  
 (b) The safeguarding of the life-supporting capacity of air, water, soil, and ecosystems; and  
 (c) The avoiding, remedying, or mitigating of adverse effects on the environment:  
 “Draft strategy” means the draft national energy efficiency and conservation strategy: 30  
 “Effects” has the same meaning as in section 3 of the Resource Management Act 1991:  
 “Energy conservation performance standard” means an energy conservation performance standard for any energy-using product, or class of energy-using products, or building, or class of buildings: 35

“Energy-using product” means any manufactured product or class of manufactured products which uses or can use any fuel or any other form or source of energy; and includes all vehicles:

5 “Environment” has the same meaning as in the Resource Management Act 1991:

“Fuel” means any source of energy; and includes, without limitation, electricity, gas, oil, coal, and other liquid, solid or gaseous material, including geothermal energy, which can act as a source of energy:

10 “Geothermal energy” has the same meaning as in the Resource Management Act 1991:

“Minister” means the Minister of Energy:

15 “National energy efficiency and conservation strategy” means a national energy efficiency and conservation strategy prepared under **sections 13 and 14**:

“Strategy” means the national energy efficiency and conservation strategy prepared in accordance with this Act.

20 **3. Act to bind the Crown**—This Act binds the Crown.

**4. Purpose**—The purpose of this Act is to promote the conservation of energy in New Zealand.

#### PART 1

#### ESTABLISHMENT OF ENERGY EFFICIENCY AND CONSERVATION AUTHORITY

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**5. Establishment of Authority**—(1) There is established an Authority to be called the Energy Efficiency and Conservation Authority.

30 (2) The Authority is a body corporate with perpetual succession and a common seal, and has and may exercise all the rights, powers, and privileges, and may incur all the liabilities and obligations, of a natural person of full age and capacity.

35 (3) The Authority is deemed to be a Crown entity for the purposes of the Public Finance Act 1989.

(4) The common seal of the Authority is to be judicially noticed in all courts and for all purposes.

40 **6. Membership of Authority**—The Authority is to consist of no fewer than 6 and no more than 8 members who are to be appointed by the Minister.

**7. Eligibility for appointment as member of Authority**—When considering whether a person is suitable to be appointed as a member of the Authority, the Minister must ensure that the membership includes a balanced mix of knowledge and experience in the following areas: 5

- (a) Commercial aspects of energy conservation:
- (b) Social aspects of energy conservation:
- (c) Environmental aspects of energy conservation.

*Principal Objective and Functions of Authority*

**8. Principal objective**—The principal objective of the Authority is to undertake activities which further the purpose of this Act. 10

**9. Functions**—The Authority must implement and promote the national energy efficiency and conservation strategy for the time being in force under **section 16**, and may— 15

- (a) Advise the Minister on any matter relating to the purpose of this Act:
- (b) Develop, implement, and promote programmes and policies for achieving the Authority's principal objective: 20
- (c) Promote energy conservation through—
  - (i) The provision of energy conservation information and advice; and
  - (ii) The fostering of energy conservation education programmes: 25
- (d) Conduct, or co-operate with persons conducting, research, tests, demonstrations, and studies into energy conservation:
- (e) Monitor and review the state of energy conservation in New Zealand including, without limitation, the use of existing and potential fuels, and the effect of any other influences on the use of these fuels: 30
- (f) Publish information, research, test results, and any other material as the Authority deems appropriate:
- (g) Carry out such other energy conservation functions, and such energy conservation duties, as the Minister may from time to time prescribe by notice in the *Gazette*: 35
- (h) Carry out any powers, functions, and duties conferred on it by or under this Act or any other enactment.

**10. Delegation by Authority**—(1) The Authority may, in writing, delegate to any person, any of the Authority's 40

functions, powers, or duties under this Act on such conditions as the Authority thinks fit, except—

- (a) Any decision-making power or power to make recommendations; and
  - 5 (b) This power of delegation.
- (2) Every person purporting to act under a delegation under this section is presumed to be acting in accordance with its terms in the absence of evidence to the contrary.
- (3) A delegation under this section is revocable at will, and no
- 10 such delegation prevents the performance or exercise of any function, power, or duty of the Authority.

**11. Authority to comply with policy directions—**(1) In the exercise of its functions and powers, the Authority must have regard to the policy of the Government in relation to

15 energy conservation, and must comply with any directions relating to that policy given to it in writing and signed by the Minister.

(2) As soon as is practicable after any such direction is given, the Minister must publish in the *Gazette* and present to the

20 House of Representatives a copy of that direction.

(3) The Minister must not give any direction under **subsection (1)** which—

- (a) Requires the Authority to do, or to refrain from doing, a particular act, or bring about a particular result, in
- 25 respect of any particular person or persons, or body corporate; or
- (b) Relates to a recommendation of the Authority in respect of any draft energy efficiency and conservation strategy prepared under **section 14** or a national energy
- 30 efficiency and conservation strategy for the time being in force under **section 16**.

**12. Further provisions in respect of Authority—**The provisions of the **Schedule** apply in relation to the Authority.

## PART 2

### 35 PREPARATION OF NATIONAL ENERGY EFFICIENCY AND CONSERVATION STRATEGY

#### *Preparation of Strategy*

**13. National energy efficiency and conservation strategy—**(1) The Minister must, on behalf of the Crown,

40 ensure that a national energy efficiency and conservation strategy is completed within 12 months of this Act coming into force.

- (2) In order to achieve the purpose of this Act, the strategy must state—
- (a) The Crown's goals in relation to energy conservation in New Zealand; and
  - (b) The policy objectives to be pursued to achieve the Crown's goals in relation to energy efficiency in New Zealand; and
  - (c) The measurable targets to be met to achieve those policy objectives; and
  - (d) The means by which such objectives and targets are to be achieved, including market transformation plans prepared in accordance with **Part 3**;
  - (e) Such other matters as may be necessary to achieve the purpose of this Act.
- (3) The national energy efficiency and conservation strategy must not be inconsistent with any national policy statement for the time being in force under the Resource Management Act 1991.

**14. Procedure for completing national energy efficiency and conservation strategy**—(1) Before completing a national energy efficiency and conservation strategy, the Minister must, in writing, request the Authority to prepare a draft national energy efficiency and conservation strategy for approval by the Minister and must publish that request in the *Gazette*.

(2) Before presenting a draft strategy for the Minister's approval, the Authority must—

- (a) Publish a notice of its proposal to prepare a draft strategy in the daily newspapers published in Auckland, Hamilton, Wellington, Christchurch, and Dunedin, respectively, and publish the notice in the *Gazette*; and
- (b) Give interested persons a reasonable time, which must be specified in the notice published under **paragraph (a)**, to make submissions on the proposal; and
- (c) Consult with—
  - (i) Representatives of industry and commerce:
  - (ii) Environmental and community organisations:
  - (iii) Maori:
  - (iv) Territorial authorities:
  - (v) The general public:
  - (vi) The Building Industry Authority, in relation to building issues:
  - (vii) The Land Transport Safety Authority, in relation to land transport issues:



- (viii) Such other persons, representative groups, Government departments, and Crown entities as the Authority in each case considers appropriate; and
- 5 (d) Take the results of consultation in **paragraph (c)** into account in preparing a draft strategy for submission to the Minister.
- (3) The Authority must approve a draft strategy, or a revised draft strategy under **subsection (7)**, for presentation to the Minister together with a report on the results of consultation
- 10 undertaken in its preparation.
- (4) The Minister must present a copy of a draft strategy submitted by the Authority under **subsection (3)** to the House of Representatives as soon as is reasonably practicable after receiving it.
- 15 (5) Within 28 working days of receiving a draft strategy under **subsection (3)**, the Minister must, in furtherance of the purpose of this Act, either—
- (a) Approve the draft strategy as a completed national energy efficiency and conservation strategy; or
- 20 (b) Refer the draft strategy back to the Authority for reconsideration.
- (6) Where the Minister refers a draft strategy back to the Authority under **subsection (5)**, the Minister must—
- (a) Give reasons in writing for her or his decision, indicating
- 25 the changes required to enable her or him to approve the draft strategy; and
- (b) Present a copy of her or his decision to the House of Representatives as soon as is reasonably practicable after conveying it to the Authority.
- 30 (7) Where a draft strategy is referred to the Authority under **subsection (5)**, the Authority must consult such parties as it deems appropriate before presenting a revised draft strategy to the Minister under **subsection (3)**.

- 15. Notification of national energy efficiency and**
- 35 **conservation strategy**—Where the Minister completes a national energy efficiency and conservation strategy by approving and signing the draft strategy, she or he must, as soon as possible after signing the strategy,—
- (a) By notice in the *Gazette*, state that the strategy has been
- 40 made and specify the place or places where the strategy is available to members of the public for inspection free of charge and for purchase at a reasonable price; and

- (b) Present a copy of the strategy to the House of Representatives; and
- (c) Give a copy of the strategy to the Authority and to every territorial authority.

**16. Currency of national energy efficiency and conservation strategy**—(1) The national energy efficiency and conservation strategy takes effect on the 28th day after the date of its notification in the *Gazette* or on any later date specified in the strategy, and remains current for 10 years or any lesser period specified in the strategy. 5  
10

(2) The Minister must ensure that, at all times after the completion of the first national energy efficiency and conservation strategy, there is a current strategy. 10

**17. Effect of strategy**—The Authority must ensure that, in exercising its functions, duties, and powers, its actions are not inconsistent with any national energy efficiency and conservation strategy that is for the time being in force. 15

#### *Review of Strategy*

**18. Regular reviews to be undertaken**—After a period of not less than 3 years, and not more than 5 years, of any national energy efficiency and conservation strategy coming into force, the Minister must initiate a review of the strategy by requesting the Authority in writing to review the strategy. 20

**19. Authority or Minister may initiate review at other times**—(1) The Minister may at any time request the Authority in writing to review the national energy efficiency and conservation strategy or any of its components. 25

(2) The Authority may at any time initiate a review of the national energy efficiency and conservation strategy or any of its components. 30

**20. Review to be conducted using due process**—Sections 13 to 17, with all necessary modifications, apply to a review under section 18 or section 19.

**21. Scope of review**—A review under section 18 or section 19 may include consideration of revoking the strategy or any additions, deletions, or other modifications to the strategy, or any part of the strategy, as the Minister or the Authority sees fit in order to better achieve the purpose of this Act. 35

**22. Existing strategy to remain in force while review under way**—For the avoidance of doubt, the existing strategy remains in force until the date on which a new strategy takes effect under **section 16**.

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PART 3

MARKET TRANSFORMATION PLANS

**23. Authority may prepare market transformation plans**—In the exercise of its functions, the Authority may from time to time prepare market transformation plans.

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**24. Purpose of market transformation plan**—The purpose of a market transformation plan is to give effect to the purpose of this Act within a market, or group of markets, as defined by the Authority.

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**25. Contents of market transformation plan**—A market transformation plan may contain such policies, programmes, and measures as are necessary to achieve its purpose, and must state—

(a) The goals and objectives of the market transformation plan; and

20 (b) The means by which the effectiveness of the market transformation plan will be monitored and assessed—

and may, without limitation, include—

25 (c) The preparation of energy performance standards and other rules for approval by the Minister; and

(d) Educational and promotional activities; and

(e) Partnerships and voluntary agreements; and

(f) Provision for financial assistance on such terms and conditions as the Authority deems appropriate.

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PART 4

ENERGY PERFORMANCE STANDARDS

**26. Minister may make rules regarding energy efficiency and conservation**—(1) On the recommendation of the Authority, the Minister may make rules—

35 (a) Prescribing energy performance standards; and

(b) Prescribing the form and manner of labelling energy-using products or their packaging with respect to the effect on energy conservation of energy-using products; and

- (c) Providing for the provision of information regarding the effect on energy conservation of actual and proposed buildings; and
- (d) Prescribing the form and manner of testing of energy-using products or buildings to determine the effect on energy conservation for the purposes of **paragraphs (a) to (c)**; and 5
- (e) Requiring persons, including bodies corporate, to file with the Authority in the prescribed form and manner, at the prescribed time and for each prescribed reporting period, a report setting out prescribed statistics and information relating to— 10
- (i) The value, quantity, type, and use of fuels purchased, consumed, or used by that person; and
- (ii) The expenditure of that person on the research, development, acquisition, and operation of energy-using products and related technology; and 15
- (iii) The sales of prescribed energy-using products including the revenue from, and geographic distribution of, the sales; and 20
- (f) Providing for the control of the production, importation, distribution, sale, use, or disposal of energy-using products and the design, construction, and use of buildings as are necessary to ensure compliance with any matters prescribed under **paragraphs (a) to (e)**. 25
- (2) Any rule made under **subsection (1)** may apply generally throughout New Zealand or within any specified part or parts of New Zealand.
- (3) The commencement of any rule may be wholly suspended until it is applied by the Minister by notice in the *Gazette*. 30
- (4) No rule is invalid because it confers any discretion upon, or allows any matter to be determined or approved by, the Authority, or allows the Authority to impose requirements as to the performance of any activities. 35
- (5) Every rule is deemed to be a regulation for the purposes of the Regulations (Disallowance) Act 1989, but is not a regulation or an instrument for the purposes of the Acts and Regulations Publication Act 1989.
- (6) So far as the bylaws of any territorial authority are inconsistent with or repugnant to any rules made under this Act in force in the same locality, the bylaws are to be construed subject to the rules. 40

(7) Notwithstanding section 28 of the State Sector Act 1988, the Minister must not delegate her or his power to make rules under this Act.

(8) Every rule made under **subsection (1)** must—

- 5 (a) Be signed by the Minister; and  
(b) Contain a statement specifying the objective of the rule and its role in achieving the purpose of this Act; and  
(c) Set out fully the requirements of the rule, except where, by reason of size or length, certain information is  
10 incorporated in the rule by reference under **subsection (9)**.

(9) The following matters may be incorporated by reference into a rule made by the Minister under **subsection (1)**:

- 15 (a) Standards, requirements, or recommended practices of international organisations;  
(b) Any other written material or document that, in the opinion of the Minister, is too large or impractical to be printed as part of the rule.

(10) Any material incorporated in a rule by reference under **subsection (1)** is deemed for all purposes to form part of the rule, and, unless otherwise provided in the rules, every amendment to any material so incorporated by reference that is made by the person or organisation originating the material, is deemed to be part of the rule.

25 (11) The Director must make available for inspection free of charge or for purchase at a reasonable price, at the head office of the Authority, copies of all material incorporated in a rule by reference under **subsection (1)** and copies of all amendments deemed to be part of any rule.

30 (12) No amendment to any material incorporated in a rule by reference under **subsection (9)** has effect until it is made available for inspection or purchase in accordance with **subsection (11)**.

**27. Making of rules**—(1) The Minister must not make a  
35 rule under **section 26 (1)** unless—

- (a) A proposal for the recommended rule is contained in a draft national energy efficiency and conservation strategy; or  
(b) A current national energy efficiency and conservation  
40 strategy proposes development of an energy performance standard or other rule which is given effect to by the recommended rule; or  
(c) A rule is recommended by the Authority as necessary to maintain the effectiveness of a market

transformation plan currently in force as part of a national energy efficiency and conservation strategy;  
or

- (d) The Authority, in relation to a rule that deals with energy performance standards of buildings, has advised the Minister that it has— 5
- (i) Consulted relevant parties, including the Building Industry Authority; and
  - (ii) Concluded, following consultation under **subparagraph (i)**, that the standard is best implemented as a rule under this Act; or 10
- (e) The Authority, in relation to a rule that deals with land transport energy performance standards, has advised the Minister that it has— 15
- (i) Consulted relevant parties, including the Land Transport Safety Authority and the Minister of Transport; and
  - (ii) Concluded, following consultation under **subparagraph (i)**, that the standard is best implemented as a rule under this Act. 20

(2) **Subsection (1)** comes into force 12 months after this Act comes into force.

**28. Rule not to be implemented**—(1) Where the Authority is considering a rule relating to energy performance standards in buildings and— 25

- (a) Has consulted in accordance with **section 27 (1) (d)**; and
- (b) As a result of the consultation under **paragraph (a)**, has concluded that the standard would be best implemented as a regulation under **section 48 (1)** of the Building Act 1991,— 30

the Authority must prepare a written notice to that effect, signed by the Minister, printed in the *Gazette*, and sent to the Building Industry Authority.

(2) Where the Authority is considering a rule relating to energy performance standards in the land transport sector and— 35

- (a) Has consulted in accordance with **section 27 (1) (d)**; and
- (b) As a result of the consultation under **paragraph (a)**, has concluded that the standard would be best implemented as an ordinary rule under **section 5 (e) (v)** of the Land Transport Act 1993,— 40

the Authority must prepare a written notice to that effect to be—

- (i) Signed by the Minister; and

- (ii) Printed in the *Gazette*; and
- (iii) Sent to the Minister of Transport.

**29. Duty to consider alternative, and assess costs and benefits, etc**—In achieving the purpose of this Act, and before  
5 recommending any rule under **section 26**, the Authority must—

(a) Have regard to—

(i) The extent (if any) to which any such rule is necessary in achieving the purpose of this Act; and

10 (ii) Other means in addition to or in place of such rule, which, under this Act or any other enactment, may be used in achieving the purpose of this Act, including the provision of information, services, or incentives; and

15 (iii) The reasons for, and against, adopting the proposed rule and the principal alternative means available, or of taking no action where this Act does not require otherwise; and

(b) Carry out an evaluation, which the Authority is satisfied is appropriate to the circumstances, of the likely  
20 benefits and costs of the principal alternative means, including the extent to which the rule is likely to be effective in achieving the objective or policy and the likely implementation and compliance costs; and

(c) Be satisfied that any such rule—

25 (i) Is necessary in achieving the purpose of this Act; and

(ii) Is the most appropriate course of action having regard to its efficiency and effectiveness relative to other options available to the Authority.

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## PART 5

### AMENDMENTS TO OTHER ACTS

#### *Amendments to Building Act 1991*

**30. All building work to comply with building code**—

35 Section 7 of the Building Act 1991 is amended by repealing subsection (2), and substituting the following subsection:

40 “(2) Except as expressly provided for in national policy statements, national environmental standards, New Zealand coastal policy statements, regional policy statements, regional plans, and district plans for the time being in force under the Resource Management Act 1991, or as specifically provided to the contrary in any other Act, no person, in undertaking any building work, is required to achieve performance criteria

additional to or more restrictive in relation to that building work than the performance criteria specified in the building code.”

**31. Regulations**—(1) Section 48(1) of the Building Act 1991 is amended by inserting, after the words “ requirements for buildings”, the words “, including the prescription of energy performance standards, as defined in the Energy Efficiency Act 1998.” 5

(2) Section 48 of the Building Act 1991 is amended by inserting, after subsection (3), the following subsection: 10

“(3A) Despite subsection (3), the Authority may only recommend the making of a regulation for the prescription of energy performance standards under **subsection (1)** if it has received a notice from the Energy Efficiency Authority under **section 28 (1)** of the Energy Efficiency Act **1998**.” 15

*Amendments to Resource Management Act 1991*

**31. Interpretation**—Section 2 of the Resource Management Act 1991 is amended by inserting, in its appropriate alphabetical order, the following definition:

“‘Fuel’ has the same meaning as in the Energy Efficiency Act 1998.” 20

**32. Preparation of national policy statement on energy**—The Resource Management Act 1991 is amended by inserting, after section 55, the following section:

“55A. (1) There must at all times be at least 1 national policy statement on energy prepared and recommended by the Minister in the manner set out in sections 46 to 55. 25

“(2) All references to a national policy statement in this or any other enactment are deemed to include a national policy statement on energy prepared in accordance with this section. 30

“(3) For the purposes of section 45(1) in relation to this section, the purpose of a national policy statement on energy is to state policies in order to achieve the purpose of the Energy Efficiency Act 1998 in relation to the extraction, transformation, production, distribution, and use of all fuels and the appropriation of energy within New Zealand.” 35

*Amendment to Electricity Act 1992*

**33. New Part inserted**—The Electricity Act 1992 is amended by inserting the following new Part:



“PART 6A

“MINISTER MAY CONTROL PRICES OF DOMESTIC ELECTRICITY

“62A. **Regulations relating to price of electricity—**

5 (1) The Governor-General may from time to time, by Order in Council, make regulations imposing or providing for the imposition of price control in respect of electricity conveyed or supplied to domestic premises.

10 (2) Price control imposed by or pursuant to regulations made under this section may specify any matter relating to the level, manner, or form of any charge for electricity conveyed or supplied to domestic premises, including charges relating to the cost of supplying line function services, and may, in particular, but without limiting the generality of the foregoing provisions of this section,—

15 “(a) Control, in relation to charges for electricity conveyed or supplied to domestic premises,—

“*(i)* The amount of any such charge:

“*(ii)* The amount of any component of any such charge:

20 “*(iii)* The proportion that any component of any such charge may bear to the total charge or to any part of the charge:

“*(b)* Control the frequency with which any such charge, or any component of any such charge, may be increased:

25 “*(c)* Control the amount of any increase in any such charge, or any component of any such charge.

30 “62B. **Definition of domestic premises—**For the purposes of **section 62A**, ‘domestic premises’ means any premises that are used or intended for occupation by any person principally as a place of residence.

35 “62C. **Offences—**(1) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$200,000 who, without lawful justification or excuse, acts in contravention of, or fails to comply in any respect with, any provision of any regulations made under **section 62A**.

“*(2)* Where—

“*(a)* A person is convicted of an offence against this section; and

40 “*(b)* The offence consists of or includes charging for the conveyance or supply of electricity to domestic premises at a price that is more than the price that is authorised or permitted by regulations made under **section 62A**,—

the Court, in addition to or instead of passing any other sentence or making any other order, may make an order for the payment by the defendant of an amount not exceeding the difference (to be ascertained and specified by the Court) between the price charged for the electricity so conveyed or supplied and the price so authorised or permitted. 5

“(3) All money payable pursuant to an order made under **subsection (2)** is recoverable, in accordance with the Summary Proceedings Act 1957, in the same manner as fines are recoverable. 10

“(4) Where, in any case to which **subsection (2)** applies, the Court is satisfied that the whole or any part of the price has been paid to the defendant by any other person, the Court, if it considers that it is just and equitable, may make an order authorising the payment to that other person of the whole or such part of any amount paid by the defendant under that subsection, as the Court thinks fit. 15

“(5) An order under **subsection (4)** is sufficient authority to the Registrar of the Court to pay the amount so authorised.

“62D. **Other Acts relating to price control not affected**—Nothing in this Part limits or affects Part IV of the Commerce Act 1986 (which relates to the control of prices) or any other enactment relating to price restraint or price control.” 20

*Amendments to Land Transport Act 1993* 25

**34. Rules relating to safety and licensing**—Section 5 (e) of the Land Transport Act 1993 is amended by adding the following subparagraph:

“(v) The setting of energy performance standards as defined by the Energy Efficiency Act 1998 to apply within the land transport sector.” 30

**35. Procedure relating to ordinary rules**—Section 8 of the Land Transport Act 1993 is amended by adding the following subsection:

“(2) Despite subsection (1), the Minister must not make an ordinary rule under **section 5 (e) (v)** unless he or she has received a notice from the Energy Efficiency Authority made under **section 28 (2)** of the Energy Efficiency Act 1998.” 35

SCHEDULE

Section 12

PROVISIONS RELATING TO ENERGY EFFICIENCY AND CONSERVATION  
AUTHORITY

*Membership*

1. The Minister must appoint 1 of the members of the Authority as the Chairperson and another member as the Deputy Chairperson, and those appointees hold office until removed by the Minister.

2. If the Chairperson or Deputy Chairperson vacates office as a member or is removed by the Minister as Chairperson or Deputy Chairperson, the Minister may appoint any existing member or any new member as Chairperson or Deputy Chairperson. If the Deputy Chairperson is appointed as Chairperson, he or she must vacate office as Deputy Chairperson.

3. Every member holds office for a term not exceeding 5 years, and may from time to time be reappointed.

4. Every member, unless removed from office under **clause 6** continues in office until her or his successor comes into office, notwithstanding that her or his term of office may have expired.

5. Any member may at any time resign from office by written notice to the Minister.

6. Any member may at any time be removed from office by the Minister for inability to perform the duties of office, bankruptcy, neglect of duty, or misconduct, proved to the satisfaction of the Minister.

7. If any member dies or resigns or is removed from office, the vacancy must, as soon as practicable, be filled by the appointment of another member, and, if the term of the vacating member has not expired at the time of the appointment, the member appointed to fill the vacancy holds office by virtue of that appointment for the residue of the term of the vacating member. In making any appointment under this clause, the Minister must maintain on the Authority the balance of representation referred to in **section 7**.

8. The powers of the Authority are not affected by any vacancy in its membership.

*Remuneration and Expenses of Authority Members*

9. There must be paid to the members of the Authority such remuneration by way of fees, salary, or allowances, and such travelling allowances and expenses, as are from time to time agreed between members of the Authority and the Minister.

*Meetings*

10. Meetings of the Authority are to be held at such times and places as the Authority or the Chairperson or the Deputy Chairperson from time to time appoints.

11. The Chairperson presides at each meeting of the Authority. In the event of the absence of the Chairperson from any meeting of the Authority, the Deputy Chairperson presides at that meeting and, if she or he is also absent, the meeting is to be presided over by a member appointed by the members present.

12. At all meetings of the Authority, the quorum necessary for the transaction of business is—

- (a) Four members; or

SCHEDULE—*continued*PROVISIONS RELATING TO ENERGY EFFICIENCY AND CONSERVATION  
AUTHORITY—*continued**Meetings—continued*

(b) Five members, should the members of the Authority exceed 6.

13. At all meetings of the Authority, it must strive to reach consensus on matters before it. In the event that consensus cannot be reached, a majority of 75% or more is required to pass a matter.

14. A resolution in writing signed, or assented to in writing, by every member is as valid and effective as if it had been passed at a meeting of the Authority duly called and constituted. Any such resolution may consist of several documents in like form each signed, or purporting to have been signed, by 1 or more members.

15. The contemporaneous linking together by telephone or other means of communication of a number of members, whether or not 1 or more of the members is out of New Zealand, is deemed to constitute a meeting of the Authority if the following conditions are met:

- (a) Notice must have been given to every member for the time being entitled to receive notice of a meeting of the Authority:
- (b) The number of members taking part in the meeting by telephone or other means of communication must not be fewer than the quorum provided by **clause 12** and each of the members taking part must—
  - (i) Be linked by telephone or such other means for the purposes of the meeting; and
  - (ii) At the commencement of the meeting, acknowledge, to the other members taking part, that member's presence for the purpose of a meeting of the Authority; and
  - (iii) Be able throughout the meeting to hear each of the other members taking part; and
  - (iv) On any vote, individually express her or his vote to the meeting—
 and the following conditions apply to teleconference meetings:
- (c) A member must not leave a meeting held under this clause by disconnecting the member's telephone or other means of communication unless the member has previously obtained the express consent of the Chairperson of the meeting:
- (d) A member must be conclusively presumed to have been present, and to have formed part of the quorum, at all times during the meeting by telephone or other means of communication unless the member has previously obtained the express consent of the Chairperson to leave the meeting:
- (e) The Chairperson of the Authority must call the roll of members at the end of any meeting conducted in accordance with this clause.

16. Subject to this Act, the Authority may regulate its procedure in such manner as it thinks fit.

*Disclosure of Interest*

17. A member who, otherwise than as a member, has, directly or indirectly, any pecuniary interest in—

SCHEDULE—*continued*

PROVISIONS RELATING TO ENERGY EFFICIENCY AND CONSERVATION  
AUTHORITY—*continued*

*Disclosure of Interest*—*continued*

- (a) The Authority's performance of any function or exercise of any power; or
- (b) Any arrangement, agreement, or contract, made or entered into, or proposed to be made or entered into by the Authority,—

must, as soon as practicable after the relevant facts have come to the member's notice, disclose the nature of the interest in accordance with **clause 19**.

18. For the purposes of **clause 17**, a member has a pecuniary interest if that pecuniary interest is one to which section 6 of the Local Authorities (Members' Interests) Act 1968 would apply if he or she were a member of a local authority.

19. (1) A member required by **clause 17** to disclose the nature of an interest must disclose it—

- (a) To the Minister, if—
  - (i) The person is the Authority's Chairperson; or
  - (ii) For the time being the Authority has no Chairperson; and
- (b) To the Authority's Chairperson in any other case.

(2) The Chairperson of the Authority must inform the Minister of any conflict of interest disclosed in accordance with **subclause (1) (b)**.

20. Following disclosure of the nature of an interest under **clause 17**, a member must—

- (a) Disclose to the members present at any meeting of the Authority at which any deliberation or decision of the Authority relating to the matter takes place or is made that the member has an interest in the matter; and
- (b) Not take part in any deliberation or decision of the Authority relating to the matter in which the member has the interest.

21. A member required by **clause 17** to disclose the nature of an interest in any matter is to be disregarded in determining whether or not there is a quorum of the Authority present for any part of a meeting of the Authority during which a deliberation or decision of the Authority relating to the matter takes place or is made.

22. The Minister may by written notice to the Authority waive or modify any of the provisions of **clauses 17 to 21** in respect of any particular member or matter, or class of matters that, in the Minister's opinion, does not constitute a direct or indirect material interest.

23. The Minister must present to the House of Representatives a copy of any notice issued under **clause 22** within 12 sitting days after the date on which the Minister issues the notice.

*Execution of Documents*

24. The Authority may from time to time, in writing, authorise any 1 or more members or employees of the Authority to execute any deeds, instruments, contracts, or other documents on behalf of the Authority, and may at any time in the same manner revoke any such authority.

SCHEDULE—*continued*PROVISIONS RELATING TO ENERGY EFFICIENCY AND CONSERVATION  
AUTHORITY—*continued**Execution of Documents—continued*

25. Any authority given under **clause 24** to any employee of the Authority may be given to—

- (a) The chief executive; or
- (b) Any specified employee; or
- (c) Any employee of a specified class; or
- (d) The holder for the time being of any specified office or of any office of a specified class.

26. Every person purporting to execute any document on behalf of the Authority pursuant to any such authority, in the absence of evidence to the contrary, is presumed to be acting in accordance with such an authority.

*Powers to Borrow, etc*

27. The Authority may borrow money subject to the approval of the Minister of Finance.

*Chief Executive*

28. The Authority must appoint a chief executive, who must not be a member of the Authority, to be responsible for the efficient and effective administration of the affairs of the Authority, on such terms and conditions as are to be determined by the Authority.

29. The Authority must not, in determining terms and conditions under **clause 28**, agree to any conditions of employment for the chief executive of the Authority without—

- (a) Consulting the State Services Commissioner; and
- (b) Having regard to all recommendations the Commissioner makes to the Authority about them within a reasonable time of being consulted.

*Appointment of Staff*

30. The chief executive may appoint such employees, including employees on secondment from other organisations, as she or he thinks necessary for the efficient performance of the Authority's functions.

31. Subject to the terms and conditions of employment, the chief executive may at any time terminate or suspend the employment of any of the Authority's employees.

32. Before entering into any collective employment contract under the Employment Contracts Act 1991, the Authority must consult with the State Services Commissioner about the conditions of employment to be included in the collective employment contract.

*Liability of Members and Employees*

33. No member or employee of the Authority is personally liable for any liability of the Authority, or for any act done or omitted by the Authority, or by the chief executive or any other employee of the Authority in good faith in pursuance or intended pursuance of the functions or powers of the Authority or of the chief executive.

SCHEDULE—*continued*

PROVISIONS RELATING TO ENERGY EFFICIENCY AND CONSERVATION  
AUTHORITY—*continued*

*Personnel Policy*

34. The Authority must operate a personnel policy containing provisions generally accepted as necessary for the fair and proper treatment of employees in all aspects of their employment, including provisions requiring—

- (a) Good and safe working conditions; and
- (b) The impartial selection of suitably qualified people for appointment; and
- (c) Recognition of—
  - (i) The aims and aspirations of Maori; and
  - (ii) The employment requirements of Maori; and
  - (iii) The need for greater involvement of Maori as employees of the Authority; and
- (d) Opportunities for the enhancement of the abilities of individual employees; and
- (e) Recognition of the aims and aspirations, and the cultural differences, of ethnic and minority groups; and
- (f) Recognition of the employment requirements of women; and
- (g) Recognition of the employment requirements of people with disabilities.

35. In each financial year, the Authority must—

- (a) Develop and publish an equal employment opportunities programme for the Authority; and
- (b) Ensure that the programme is complied with.

36. For the purposes of **clause 35**, an equal employment opportunities programme is a programme aimed at identifying and eliminating all aspects of policies, procedures, and other institutional barriers, that cause or perpetuate, or tend to cause or perpetuate, inequality in respect of the employment of any persons or group of persons.

*Superannuation or Retiring Allowances*

37. The Authority may from time to time establish superannuation schemes in accordance with the provisions of sections 84A to 84D of the State Sector Act 1988.

38. Notwithstanding anything in this Act, a person who, immediately before becoming an employee of the Authority, is a contributor to the Government Superannuation Fund under Part II or Part IIA of the Government Superannuation Fund Act 1956 is, for the purposes of that Act, deemed to be employed in the Government service so long as that person continues to be an employee of the Authority; and that Act applies to that person in all respects as if that person's service as an employee of the Authority is Government service.

39. Nothing in **clause 38** entitles any person to become a contributor to the Government Superannuation Fund after that person has once ceased to be a contributor.

SCHEDULE—*continued*PROVISIONS RELATING TO ENERGY EFFICIENCY AND CONSERVATION  
AUTHORITY—*continued**Superannuation or Retiring Allowances—continued*

40. For the purposes of applying the Government Superannuation Fund Act 1956, in accordance with **clause 38**, to an employee of the Authority who is a contributor to the Government Superannuation Fund, the term “controlling authority”, in relation to that employee, means the Authority.

41. Subject to **clause 38**, no person is deemed to be employed in the service of the Crown for the purposes of the State Sector Act 1988 or the Government Superannuation Fund Act 1956 by reason only of that person’s appointment or co-option as a member, or appointment as an employee of the Authority.

*Consultants, Agents, etc*

42. The Authority or the chief executive may from time to time appoint consultants, agents, specialists, and advisory committees to advise it or her or him in relation to the exercise of its or her or his functions and powers, and to exercise such functions and powers as may be delegated under this Act to such persons or committees.

*Funding*

43. The funds of the Authority consist of—

- (a) All money appropriated by Parliament and paid to the Authority; and
- (b) All money lawfully contributed, donated, or bequeathed to the Authority or otherwise lawfully payable to it; and
- (c) All money received by the Authority by way of fees, rent, or otherwise in respect of any real or personal property vested in or controlled by the Authority, or in respect of the performance or exercise of any of the functions or powers of the Authority; and
- (d) All money received by the Authority from the sale or other disposal of any of its real or personal property; and
- (e) All accumulations of income derived from any such money.

44. (1) The Authority must open at any bank or banks such accounts as are necessary for the exercise of its functions and powers.

(2) All money received by the Authority, or by any member or employee of the Authority for the purposes of the Authority is, as soon as practicable after it has been received, to be paid into such bank accounts of the Authority as the Authority from time to time determines.

45. The Audit Office is the auditor of the Authority, and for that purpose the Audit Office has and may exercise all of its functions, powers, and duties under the Public Finance Act 1977.