



ELECTRICAL PRODUCTS ACT, 1988

No. 59 of 1988

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A.D. 1988

No. 59 of 1988

An Act to provide for the labelling of certain electrical products; to provide for prohibition of the sale or use of unsafe electrical products; to repeal the Electrical Articles and Materials Act, 1940; and for other purposes.

[Assented to 15 September 1988]

The Parliament of South Australia enacts as follows:

Short title

1. This Act may be cited as the *Electrical Products Act, 1988*.

Commencement

2. Subject to the transitional provisions in the schedule, this Act will come into operation on a day to be fixed by proclamation.

Repeal

3. The *Electrical Articles and Materials Act, 1940*, is repealed.

Interpretation

4. (1) In this Act, unless the contrary intention appears—

“authorized person” means a person authorized in writing by the Trust to exercise the powers of an authorized person under this Act:

“corresponding law” means a law of another State or of a Territory of the Commonwealth declared by proclamation to be law corresponding to this Act:

“domestic appliance” means an electrical product designed or sold for domestic use:

“electrical product” means—

- (a) any appliance operated by electricity;
- (b) any wire, cable, insulator or fitting designed for use in connection with the transmission of electricity;
- (c) any meter or instrument for measuring the consumption of electricity, potential difference, or any other characteristic of an electrical circuit:

“label” includes a stamp or mark:

“public notice” means a notice published in—

(a) the *Gazette*,

or

(b) a newspaper circulating generally in the State:

“to sell” includes—

(a) to let on hire;

(b) to advertise for sale or hire;

(c) to offer or expose for sale or hire;

and “sale” has a corresponding meaning:

“trader” means a person who sells electrical products in the course of a trade or business:

“the Trust” means the Electricity Trust of South Australia.

(2) The Governor may, by proclamation—

(a) declare a law of another state, or of a Territory of the Commonwealth to be a corresponding law for the purposes of this Act;

(b) declare a specified class of electrical products to be a prescribed class of electrical products;

(c) declare a specified class of domestic appliances to be a prescribed class of domestic appliances;

(d) vary or revoke a proclamation previously made under this subsection.

Labelling of electrical products

5. (1) A trader must not sell an electrical product of a prescribed class unless—

(a) it is labelled under the authority of the Trust, in accordance with the regulations;

or

(b) it is labelled, in pursuance of an authority conferred by a corresponding law, in accordance with the requirements of that corresponding law.

Penalty: \$5 000.

(2) A trader must not sell a domestic appliance of a prescribed class unless—

(a) it is labelled so as to indicate its energy efficiency, under the authority of the Trust, in accordance with the regulations;

or

(b) it is labelled so as to indicate its energy efficiency, in pursuance of an authority conferred by a corresponding law, in accordance with the requirements of that corresponding law.

Penalty: \$5 000.

(3) No offence is committed under subsection (1) or (2)—

(a) if the sale takes place within six months after the relevant prescribed class of products or appliances is constituted;

or

(b) if the sale takes place within six months after a change in the requirements as to the form or contents of the label occurs and the product or appliance is labelled in accordance with the requirements formerly applicable to it.

(4) A person—

- (a) must not, without proper authority, affix a label to which this section applies, or which could be reasonably taken to be such a label, to an electrical product;
- (b) must not sell an electrical appliance to which a label has been affixed contrary to paragraph (a) knowing that the label was affixed without proper authority.

Penalty: \$10 000.

(5) The Trust may, by public notice—

- (a) declare that a label of a specified kind, affixed in pursuance of a corresponding law, will not be recognized in this State;
- (b) vary or revoke a notice previously published under this subsection.

(6) While a notice remains in force under subsection (5), a label to which the notice applies will, for the purpose of determining whether a product or appliance is labelled as required by this Act, be disregarded.

(7) This section does not apply to the sale of second-hand goods.

Prohibition of sale or use of unsafe electrical products

6. (1) If, in the Trust's opinion, an electrical product of a particular class is or is likely to become unsafe in use, the Trust may prohibit the sale or use (or both sale and use) of electrical products of the relevant class.

(2) If, in the Trust's opinion, an electrical product of a particular class is, or is likely to become unsafe in use, the Trust may require traders who have sold the product in the State—

- (a) to take specified action to recall the product from use;

and

- (b) (i) to take specified action to render the product safe;

or

- (ii) if it is not practicable to render the product safe or the trader chooses not to do so—to refund the purchase price on return of the product.

(3) A prohibition or requirement is imposed under this section—

- (a) by notice in writing given personally or by post to the person to whom it is addressed;

or

- (b) if addressed to a class of persons, or the public generally—by public notice,

and may be varied or revoked in the same way.

(4) A person who contravenes or fails to comply with a prohibition or requirement under this section is guilty of an offence.

Penalty: \$10 000.

(5) Subject to subsection (6), an authorized person who suspects on reasonable grounds that a trader has, on particular premises, stocks of an electrical product prohibited from sale under this section—

- (a) may enter and search the premises;

and

- (b) may seize and remove any stocks of the electrical product found on the premises.

(6) An authorized person may not enter a private dwelling under subsection (5) except in pursuance of the warrant of a justice.

(7) A justice may issue a warrant authorizing entry of a private dwelling under subsection (5) if satisfied that the warrant is, in the circumstances of the case, reasonably required for the purposes of the administration or enforcement of this Act.

(8) A court of summary jurisdiction may on the application of the Trust, order that electrical products seized under subsection (5) be forfeited to the Trust and disposed of as the Trust thinks fit.

(9) If—

(a) no application for forfeiture is made within one month after the date of seizure;

or

(b) such an application is made but does not result in an order for forfeiture,

electrical products seized under subsection (5) must be returned to the person from whom they were seized.

Summary offences

7. An offence against this Act is a summary offence.

Regulations

8. (1) The Governor may make such regulations as are contemplated by this Act or as are necessary or expedient for the purposes of this Act.

(2) Without limiting the generality of subsection (1), those regulations may—

(a) provide for the examination and testing of electrical products;

(b) provide for the labelling of electrical products of a prescribed class or domestic appliances of a prescribed class;

(c) prescribe, and provide for the payment of, fees and charges;

(d) provide for the granting of exemptions from any provision of this Act;

(e) prescribe penalties (not exceeding \$2 000) for breach of, or non-compliance with, a regulation.

(3) A regulation may incorporate, or operate by reference to, any code or standard (as in force at the date of the regulation or as in force from time to time) referred to in the regulation.

SCHEDULE

Transitional Provisions

1. The repeal of the *Electrical Articles and Materials Act, 1940*, will not take effect until the expiration of six months from the commencement of this Act.
2. Contravention of, or non-compliance with, a provision of this Act during the period of six months from the date of its commencement will not attract any civil or criminal liability.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor