

SOUTH AUSTRALIA

ELECTRICAL PRODUCTS ACT 1988

This Act is reprinted pursuant to the Acts Republication Act 1967 and incorporates all amendments in force as at 1 July 1995.

It should be noted that the Act was not revised (for obsolete references, etc.) by the Commissioner of Statute Revision prior to the publication of this reprint.

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LEGISLATIVE HISTORY

ELECTRICAL PRODUCTS ACT 1988

being

Electrical Products Act 1988 No. 59 of 1988
[Assented to 15 September 1988]¹

as amended by

Electrical Products (Administration) Amendment Act 1994 No. 71 of 1994 [Assented to 24 November 1994]²

¹ Came into operation 1 June 1990: *Gaz.* 10 May 1990, p. 1275.

² Came into operation 1 July 1995: *Gaz.* 29 June 1995, p. 2978.

NOTE:

- *Asterisks indicate repeal or deletion of text.*
- *For the legislative history of the Act see Appendix.*

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.

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 The *Electrical Articles and Materials Act 1940* is repealed.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—

"**authorised person**" means a person authorised in writing by the Minister to exercise the powers of an authorised 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.

(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 Minister, 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 Minister, 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 Minister may, by public notice—
- (a) declare that a label of a specified kind, affixed in pursuance of a corresponding law, will not be recognised 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 Minister's opinion, an electrical product of a particular class is or is likely to become unsafe in use, the Minister may prohibit the sale or use (or both sale and use) of electrical products of the relevant class.

(2) If, in the Minister's opinion, an electrical product of a particular class is, or is likely to become unsafe in use, the Minister 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 authorised 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 authorised 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 authorising 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 Minister, order that electrical products seized under subsection (5) be forfeited to the Minister and disposed of as the Minister 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.

Ministerial arrangements in relation to testing and labelling electrical products

6A. (1) The Minister may make an arrangement with a person conferring on the person a specified role in relation to testing, and authorising the labelling of, electrical products for the purposes of section 5(1) or (2), if the Minister is satisfied—

- (a) that the person, or its agents or contractors, can provide a satisfactory and efficient service; and
- (b) that the testing will be carried out by suitably qualified persons using appropriate equipment.

(2) The arrangement—

- (a) must be in writing and executed by the Minister and the person; and
- (b) may contain a delegation by the Minister of a function or power under this Act; and
- (c) may require that the Minister be indemnified for any liability arising from an act or omission of the person under a delegation; and
- (d) may provide for the termination of the arrangement by the person; and
- (e) may provide for the variation of the arrangement by the Minister and the person; and

(f) may provide for a procedure for complaints against the person to be referred to, and determined by, the Minister.

(3) The Minister may terminate the arrangement at any time.

(4) A delegation by the Minister for the purposes of the arrangement—

(a) may be subject to conditions specified in the arrangement; and

(b) may be varied or revoked by the Minister in accordance with the terms of the arrangement; and

(c) does not prevent the Minister from acting in any matter.

(5) The Minister must, within six sitting days after execution of an arrangement, cause a copy of the arrangement to be laid before both Houses of Parliament.

Evidence

6B. In any proceedings, a certificate executed by the Minister certifying as to a matter relating to—

(a) an arrangement under this Act; or

(b) a delegation under this Act; or

(c) the appointment of an authorised person under this Act; or

(d) a notice given or published under this Act,

constitutes proof, in the absence of proof to the contrary, of the matters so certified.

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) fix, or provide for the Minister to fix, administration or application fees and provide for the waiver or refund of such fees;

(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.

Electrical Products Act 1988

APPENDIX

LEGISLATIVE HISTORY

Transitional Provisions

(Transitional provision from Electrical Products (Administration) Amendment Act 1994, s. 8)

8. An authority or notice given or published by the Electricity Trust of South Australia and in force under the principal Act immediately before the commencement of this Act continues in force as an authority or notice given or published by the Minister under the principal Act as amended by this Act.

Legislative History

Section 4(1):	definition of "authorised person" amended by 71, 1994, s. 3(a) definition of "the Trust" repealed by 71, 1994, s. 3(b)
Section 5(1):	amended by 71, 1994, s. 4(a)
Section 5(2):	amended by 71, 1994, s. 4(b)
Section 5(5):	amended by 71, 1994, s. 4(c)
Section 6(1):	amended by 71, 1994, s. 5(a)
Section 6(2):	amended by 71, 1994, s. 5(b)
Section 6(8):	amended by 71, 1994, s. 5(c)
Sections 6A and 6B:	inserted by 71, 1994, s. 6
Section 8(2):	amended by 71, 1994, s. 7